


## The Patent Regulation Board and the Trade Mark Regulation Board

### Agenda

Thursday 12 January 2023 at 1 pm

Gatehouse Chambers: Gray's Inn, 1 Lady Hale Gate, London WC1X 8BS

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1. Apologies
  2. Notification of any conflicts of interest

#### Items for decision/discussion

3. Minutes of December 2022 meeting and matters arising
4. Feedback from strategy discussion (Chair)
5. Governance Action Plan implementation – no paper (FG)
6. Review of Regulatory Arrangements – update on rule change application – no paper (FG)
7. Complaints update – no paper (SE)
8. Consumer empowerment – action plan (FG)
9. Ongoing Competence – analysis (FG)
10. Patent Examination Board Final Diploma Examinations – Accreditation Decisions (VS, CS)
11. CEO's Report (FG)
12. Sanctions update (FG) – this paper and Annexes will not be published – regulatory action being considered
13. Annual staff pay review – no paper (Chair)

#### Items to note

14. Action Log (FG)
15. Risk register - red risk (FG)

16. Annual declaration of interests review (FG)

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17. Regulatory Statement

Confirmation that, except where expressly stated, all matters are approved by the Patent Regulation Board and the Trade Mark Regulation Board.

## Board Meeting 12 January 2023

### LSB statement of policy – empowering consumers

Agenda Item: 8

Author: Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

This paper is for discussion.

### Summary

1. On 11 April 2022 the LSB published its [Statement of Policy on empowering consumers](#). This paper provides the Board with an update (**Annex A**) on our work to develop how IPReg takes into account that Statement of Policy when exercising its own regulatory functions.

### Recommendation(s)

2. The Board:
  - a. Notes the updated analysis; and
  - b. Agrees that the related actions are a targeted and proportionate response.

### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	There are no specific financial risks	N/A
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	There is a risk that the LSB will criticise us for the decision not to make compulsory the provision of information	We published <a href="#">Guidance</a> in May 2019 on transparency matters. To date this approach has never been questioned by the LSB; that

	about price and quality on firms' websites.	<p>Guidance will remain after the new arrangements come into force.</p> <p>Evidence gathered from the Call for Evidence and consultation on the Review of regulatory arrangements indicates that the key area of consumer detriment in relation to transparency is the lack of information about hidden costs such as foreign exchange uplifts and referral arrangements. This is the reason we have introduced compulsory transparency requirements on this matter.</p>
<b>Resources</b>	Work can be managed within existing resources.	N/A

## Background

3. The IPReg Board considered an initial gap analysis (requested by the LSB) at its meeting in July 2022. That set out the actions that IPReg should take. It was submitted to the LSB on 18 July and discussed with the LSB on 5 October. Progress across the sector was discussed at the LSB's Market Transparency Coordination and Oversight Group on 2 December.
4. In its 3 January queries on the regulatory arrangements review rule change submission, the LSB has raised three questions:
  - a. What consideration has IPReg given to how its proposed arrangements take account of the LSB policy statement on consumer empowerment? In particular, the expectations around information on quality and service?
  - b. Please set out IPReg's rationale for limiting mandatory transparency information to the point of engagement (rather than requirements for websites etc).
  - c. How does IPReg plan to monitor and enforce its proposed transparency requirements?

An update on our response will be provided orally at the Board meeting.

## Options

5. The Board agreed the Action Plan in July 2022 and it is currently being implemented. No other options are considered necessary as part of the implementation.

## Discussion

6. The issue of transparency and consumer empowerment is a key focus for the LSB. Its draft Business Plan for 2023/24 states:

- a. We will monitor the regulators' performance through our revised regulatory performance framework with increased resource dedicated to this as we implement the new approach. We will conduct our first set of assessments under the new framework and ensure regulators' delivery against our policy statements on ongoing competence and consumer empowerment.
7. IPReg has had [Guidance](#) in place since May 2019 on price transparency following the CMA report into the legal sector. Our decision to introduce mandatory provision of information about what are often hidden charges (e.g. foreign exchange uplifts) results from identification of this issue as a key issue of potential consumer detriment in the IP sector. We do not currently have any evidence that the type of consumers who need IP advice (where evidence from the LSB's small business survey shows they are better able to deal with IP-related legal matters than the general small business community) need regulatory intervention requiring compulsory provision of information about price and quality. We will review the emerging findings of the research currently being conducted by the SRA, CLC and CILEx Regulation into quality indicators when it is published in early 2023 to see if there are any relevant findings for the IP sector.

## Next steps

8. The IPReg Team will continue to take forward the Action Plan.

## Supporting information

### Links to strategy and business plan

9. Developing and implementing the new requirements on transparency is identified as a key area of work in our [Business Plan](#). In addition to the work related to their introduction, we will be developing our approach to reviewing the effectiveness of new transparency requirements. This is likely to take the form of a thematic review around 18 months after the requirements have come into force.

### Supporting the regulatory objectives and best regulatory practice

10. The LSB's statement of policy states that it is relevant to all the regulatory objectives, and in particular:
  - a. Improving access to justice;
  - b. Protecting and promoting the interests of consumers;
  - c. Promoting competition in the provision of legal services;
  - d. Encouraging an independent, strong, diverse and effective legal profession; and
  - e. Increasing public understanding of the citizen's legal rights and duties.

11. IPReg's introduction of mandatory transparency requirements on the area of most significant consumer detriment in the IP sector (hidden charges) is a targeted and proportionate response. The existing Guidance on other aspects of transparency will remain on the website.

## **Impacts**

12. The mandatory requirements on transparency in the new regulatory arrangements will impact all firms and sole traders.

## **Communication and engagement**

13. We will conduct webinars (with the help of CIPA and CITMA) to explain the new arrangements.

## **Equality and diversity**

14. There are no specific equality and diversity factors to consider.

## **Evidence/data and assumptions**

15. We will be gathering evidence about the effectiveness of the new arrangements once they are introduced.

16. Information from the analysis of the small business needs survey reinforces the fact that those with an IP need are generally more knowledgeable/confident in terms of seeking legal advice:

- a. In the IP sector, not one firm in the survey chose to do nothing. In contrast 52% of those in the wider survey did not proactively attempt to solve their legal issue. In the 2021 survey just 19% sought independent advice. However, for the IP respondents of 2021, 84% used an independent advisor (either to help with their issue, or to manage it for them entirely). The remainder mostly received help from external business colleagues/friends;
- b. On shopping around - 28% shopped around for an advisor, which compares to 22% in the wider survey. Interestingly 16% said they wanted to shop around but did not know how to; this may be something that we want to consider in more depth in relation to the work on transparency.

**This document sets out how we take into account the LSB's Statement of Policy on consumer empowerment.**

The IPReg Board considered an initial gap analysis (requested by the LSB) at its meeting in July 2022. ~~The~~ That set out the actions that IPReg ~~should~~ planned to take. It was submitted to the LSB on 18 July and discussed with the LSB on 5 October. Progress across the sector was discussed at the LSB's Market Transparency Coordination and Oversight Group on 2 December.

**The LSB expects regulators to:**

a. Pursue the following outcomes:

- i. Consumers have the knowledge and capability to recognise when their problem is a legal issue and know how to get legal assistance where necessary;
- ii. Consumers have the knowledge and capability to engage effectively with the legal services market;
- iii. When choosing a legal services provider, consumers can access, as a minimum, useful information about a provider's services, price, quality, regulatory status and access to resolution of complaints that enables them to make an informed choice as to the provider most suited to meet their needs.

b. Ensure compliance by those they regulate with the regulatory arrangements they put in place to pursue these outcomes, including through effective measures to address non-compliance;

c. Have appropriate mechanisms in place to evaluate and report on the effectiveness of the steps they have taken in pursuit of these outcomes and make changes where these have not been met.

**Our strategy** to achieve these outcomes:

The new rule (1.1 in the Code of Conduct) imposes an obligation on firms and attorneys to provide the best available information to clients and prospective clients and to keep this information updated as the work progresses. We have explained in more detail in our guidance what this means in practice, making it clear that it is context and client specific.

In relation to financial benefits, the new rule (1.2 in the Code of Conduct) requires that the firm provides an appropriate explanation of any financial benefits, including but not limited to any commission, foreign exchange uplifts, discount or rebate received as a result of their instructions.

In relation to any referral arrangements that are in place, the new rule (1.3 of the Code of Conduct) places a requirement on firms to provide information about these, including any referral fees and fee sharing arrangements.

More generally, our [guidance](#) encourages firms proactively to publish general costs information on their website to help prospective users make informed choices.

The Table below sets out the actions that Board considers are a targeted and proportionate approach to rectify the gaps that it identified. The Board will keep this under review.

Action	Progress at 18 July 2022	Updates
Consider what would be appropriate follow up work to the analysis of small business data already undertaken.	The analysis has been updated to provide comparisons with the LSB’s 2021 survey. An updated report will be considered at the December Board meeting.  IPReg will discuss with its external research adviser over the next 3-4 months what further work might be undertaken.	<a href="#">January 2023: The December Board noted the updated slides and agreed to consider what further research might be needed following its discussions about strategy in January 2023.</a>
Shopping around – review consumer information on the IPReg website as part of wider website update in 2023.	This work will be undertaken in 2023; it is dependent on the timescale for the proposed website redevelopment.	<a href="#">January 2023: the approach to website redevelopment (full migration from Drupal 7 to Drupal 9) is under consideration</a>
Transparency requirements being put in place as part of Review includes developing a ‘client guide’.	This will be developed in time for the implementation of this aspect of the new regulatory arrangements.	<a href="#">January 2023: ongoing</a>
We are considering a thematic review of compliance with the transparency requirements as part of the post-implementation work associated with the Review.	Timing of this will depend on when the new regulatory arrangements are implemented. We anticipate that the review would be conducted 18-24 months after implementation.	<a href="#">January 2023: in our rule change application to the LSB, we stated: IPReg will gather information from various sources to assess whether registrants are meeting IPReg’s requirements for cost transparency and will</a>



		<a href="#">report on our findings in the final quarter of 2024/first quarter of 2025.</a>
The transparency leaflet will be targeted at individual consumers and micro/small businesses	This will be developed in time for the implementation of this aspect of the new regulatory arrangements.	<a href="#">January 2023: ongoing</a>
Transparency requirements put in place by the Review will target the main area of consumer detriment in the IP sector – “hidden” charges such as foreign exchange uplifts. This should help consumers to compare this aspect of providers approaches.	This will be implemented after the LSB has agreed the rule change application. We will need to consider how much notice firms require to implement this change.	<a href="#">January 2023: ongoing</a>
A proportionate approach for IPReg is through funding Legal Choices. There is also information on our website which we will review as part of the website redevelopment.	Completed – IPReg will continue to contribute to the Legal Choices website.	<a href="#">Completed</a>
We will continue to contribute to the funding of Legal Choices and increased our contribution to help cover the shortfall following the BSB’s withdrawal.	Completed – IPReg will continue to contribute to the Legal Choices website.	<a href="#">Completed</a>
Our evidence is that the potential for consumer detriment is on “hidden” costs rather than the price of a specific service. Consumers most likely to be affected will have an information leaflet available on the IPReg website with signposting option for firms as part of the transparency requirements in the Review.	This will be implemented after the LSB has agreed the rule change application. We will need to consider how much notice firms require to implement this change.	<a href="#">January 2023: ongoing</a>
The publication policy for disciplinary information is being reviewed as part of Review.	A new, comprehensive Disciplinary Publications Policy has been drafted to align with the new disciplinary rules and processes and will be rolled out once the new rules have been agreed by the LSB.	<a href="#">January 2023: ongoing</a>  <a href="#">Note that information about disciplinary cases is already published on the website</a>

		<a href="https://ipreg.org.uk/if-things-go-wrong/disciplinary-findings">https://ipreg.org.uk/if-things-go-wrong/disciplinary-findings</a> .
Consider whether we should make changes to the categories of first tier complaint data that we collect as part of the Annual Return process to split the “Costs information deficient/costs excessive” category. Note that this may not be possible until the 2024 fee collection process in order to allow firms sufficient time to change their monitoring/categorisation systems.	Anticipated 2024/25.	<a href="#">Anticipated 2024/25</a>
Continue to analyse first tier complaints data submitted as part of the Annual Return process to identify any trends where regulatory action/guidance may be required.	This is undertaken after submission of data by firms as part of the annual renewal process in January each year.	<a href="#">January 2023: ongoing</a>  <a href="#">Note that first tier complaints statistics for the reporting year ended 31 December 2021 that IPReg collected from its regulated firms show that the most frequently reported complaint is about “costs information deficient/costs excessive”. Increased transparency about costs should help to reduce the number of first tier complaints. We will update this evidence when we have analysed the data for the year ended 31 December 2021 which is provided as part of firms’ Annual Returns.</a>
Keep transparency guidance under review.	This will be done after the new regulatory arrangements are in place if queries to IPReg or the planned thematic review indicate that we need to change the guidance.	<a href="#">January 2023: ongoing</a>

<p>Publish any Ombudsman decisions; continue to publish disciplinary records.</p>	<p>There are no Ombudsman decisions. Disciplinary <a href="#">findings</a> are published on the IPReg website.</p>	<p><a href="#">No Ombudsman decisions to date</a></p>
<p>If asked for data we will direct the Digital Comparison Tools (DCT) provider to our website where they can obtain publicly available information. If a DCT sets up a comparison website for IP services we will consider whether it is appropriate for us to signpost this on our website.</p>	<p>No request has been made to date.</p>	<p><a href="#">No request has been made to date</a></p>

## Board Meeting 12 January 2023

### LSB Statement of Policy: ongoing competence

Agenda Item: 9

Author: Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

This paper is for discussion.

### Summary

1. In July 2022 the LSB published its [Statement of Policy](#) on ongoing competence. The Statement of Policy sets outcomes and expectations that the LSB expects regulators to meet. On 3 November the LSB wrote to IPReg asking for a progress report of work to date and an action plan for 12 months to 31 January 2024 (**Annex A**); the progress report has to be submitted to the LSB by 31 January.
2. A draft progress report for the Board to consider is at **Annex B**.

### Recommendation(s)

3. The Board agrees to submit the progress report to the LSB.

### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	There are no specific financial risks	N/A
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	There is a risk that IPReg's approach to a targeted and proportionate interpretation of the required Outcomes and Expectations will not be accepted by the LSB. Particular concern	Continue to explain our approach to the LSB in relationship management meetings. Ensure we discuss CIPA and CITMA concerns at CEO and Regulatory Forum meetings.

	has been expressed by stakeholders about the LSB’s requirement for regulators to consider “reaccreditation models (i.e. requiring periodic proof of competence to maintain a practising certificate)” (see paragraph 26(e) of the Statement of Policy).	
<b>Resources</b>	Work can be managed within existing resources.	N/A

## Background

4. The LSB’s website sets out the [background](#) to its work on this issue. This started in January 2020 with a call for evidence and the final Statement of Policy was published in July 2022. The Statement of Policy attracted some criticism, for example from [Professor Stephen Mayson](#) and at least one [representative body](#).
5. In its 3 January queries on the regulatory arrangements review rule change submission, the LSB has raised two questions:
  - a. What consideration has IPReg given to how its proposals take account of the LSB policy statement on ongoing competence?
  - b. Please can IPReg share further detail on how it will determine the efficacy of an individual's CPD, and what it will do if it considers the recorded CPD activity is not effective?

An update on our response will be provided orally at the Board meeting.

## Options

6. We have considered the following options:
  - a. All outcomes - do nothing – this is not appropriate given that the LSB will take into account our approach to ongoing competence when it exercises its functions such as considering rule change applications and its performance management framework;
  - b. Outcome C - bring forward the start of random sampling of CPD records. We stated in our rule change submission that we are planning a post-implementation review of the new continuing competence requirements. We stated (at paragraph 158):
    - i. towards the end of the transitional period (expected to end late 2024), we plan to conduct a random sample of training records to monitor compliance and to obtain general feedback to all attorneys. Areas of good practice can also be

shared with the wider regulated community. We will also review the introduction of the new approach once it has been in place for a reasonable length of time to make sure that it is meeting its objective and also to reflect any change in policy or direction following publication of the LSB's Statement of Policy on ongoing competence. We expect to report on this in the 2024 Annual Report which will be published in 2025.

We consider that this approach is targeted and proportionate given the level of concern in the regulated community about the changes to CPD. Changing out timetable now would be inconsistent with our public messaging about the need for a relatively long transitional process to allow firms and individuals to adjust to the new requirements.

- c. Outcome D - develop a detailed framework now for remedial action when standards of competence are not met. We do not consider that this would be an appropriate use of IPReg's resources. There is no evidence from first tier complaints, complaints to IPReg or complaints to the Ombudsman that any significant level of remedial action is required. The new regulatory arrangements provide for conditions to be imposed on an individual's practice and this power could be used in the event that a significant issue with an individual's competence is identified. The best use of IPReg's resources at the moment is to focus on explaining the new approach through webinars and meetings with stakeholders; that approach is the most likely one to ensure high standards of competence going forward.

## Discussion

7. Please see above for a discussion of the options that have been considered. The proposed approach is targeted and proportionate given that the complaints data (first tier complaints, complaints to IPReg, complaints to the Ombudsman, IPO) does not indicate any concerns about competence in the regulated IP-sector.

## Next steps

8. The next steps are:
  - a. Submit the report to the LSB;
  - b. Implement the actions once the LSB has approved the proposed rule changes.

## Supporting information

**Links to strategy and business plan**

9. Developing and implementing the transition to new CPD arrangements is identified as a key area of work in our [Business Plan](#). We said in the Business Plan that we consider it likely that we will have transitional arrangements in place for 18 – 24 months in order to give attorneys and firms sufficient time to become familiar with the new arrangements.

#### **Supporting the regulatory objectives and best regulatory practice**

10. The LSB's Statement of Policy says that it is relevant to all the regulatory objectives and in particular the following:
  - a. Protecting and promoting the public interest;
  - b. Supporting the constitutional principle of the rule of law;
  - c. Protecting and promoting the interests of consumers;
  - d. Encouraging an independent, strong, diverse and effective legal profession; and
  - e. Promoting and maintaining adherence to the professional principles.

#### **Impacts**

11. The new CPD arrangements will impact all attorneys and firms.

#### **Communication and engagement**

12. We will conduct webinars (with the help of CIPA and CITMA) to explain the new arrangements.

#### **Equality and diversity**

13. The current CPD requirements provide flexibility about where and when CPD training can be undertaken. The new arrangements are expected to enhance that flexibility. Our approach to CPD waivers takes into account equality and diversity factors such as attorneys who are on maternity/parental/paternity leave.

#### **Evidence/data and assumptions**

14. We will be gathering evidence about the effectiveness of the new arrangements once they are introduced. There is no evidence from the data we currently have from first tier complaints, complaints to IPReg, complaints to the Ombudsman, IPO of any current problems.

*By e-mail only*

Fran Gillon  
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3 November 2022

Dear Fran

### **Ongoing Competence – Progress updates**

In July 2022, we issued our new [statement of policy](#) on ongoing competence. In our [consultation response document](#), we set out that we expected regulators to meet the outcomes and expectations in the statement by 31 January 2024.

We also set out that by 31 January 2023, we expected each regulator to provide the LSB with a progress report (of work to date) and action plan for the following 12 months, setting out how and when they will meet the outcomes and expectations in the statement. I am writing to you to clarify what we are expecting from regulators' submissions.

We would be grateful if you could please set out the following in your submissions:

1. Which expectations and outcomes you consider that you already meet and why
2. The work done and progress made to date in meeting the expectations and outcomes
3. Planned work between February 2023 and January 2024 to meet the expectations and outcomes, including milestones and timeframes
4. Whether you consider you will have met all the outcomes and expectations by 31 January 2024, and if not all of them, what further work will be needed and is planned from 2024 onwards

We have attached an optional template, in case this is helpful to structure your submission.

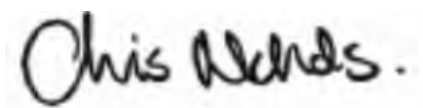
Please provide us with this information by **31 January 2023**. We will assess the interim action plans in early 2023 and monitor regulators' progress through our regulatory performance framework.

We will be publishing regulators' submissions online. If this causes any issues, you are welcome to provide confidential versions as well or ask for certain information to be redacted from publication.

If you have any questions, please get in touch. We are very happy to review draft submissions provided in good time before 31 January to help inform final submissions.



Yours Sincerely,

A handwritten signature in black ink that reads "Chris Nichols." The signature is written in a cursive, slightly slanted style.

Chris Nichols

Director of Policy, Legal Services Board

**Annex 1**

Response template

<b>1. Which expectations and outcomes the regulator already meets</b>

<b>2. The work done and progress made to date in meeting the expectations and outcomes</b>

<b>3. Planned work between February 2023 and January 2024 to meet the expectations and outcomes, including milestones and timeframes</b>

<b>4. Whether you consider you will have met all the outcomes and expectations by 31 January 2024, and if not all of them, what further work will be needed and is planned from 2024 onwards</b>

## Board Meeting 12 January 2023

### IPReg Accreditation – Patent Examination Board Final Examinations

Agenda Item: 10

**Lead Board Member:** Caroline Seddon, Chair of Education Working Group

**Author:** Victoria Swan, Director of Policy ([victoria.swan@ipreg.org.uk](mailto:victoria.swan@ipreg.org.uk))

*This paper will be published*

#### 1. Summary

1.1 This paper concerns the accreditation application for the Final Diploma patent attorney qualifying pathway examinations, as provided by the Patent Examination Board (hereafter, PEB):

- Final Diploma (FD) 1 – Advanced IP Law and Practice;
- Final Diploma (FD) 2 – Drafting of Specifications;
- Final Diploma (FD) 3 – Amendment of Specifications; and
- Final Diploma (FD) 4 – Infringement and Validity.

1.2 As with all accreditation exercises, IPReg appointed 2 independent specialists to undertake the assessment. Their assessor report (Annex A) proposes accreditation of these examinations, subject to the PEB taking forward 19 Mandatory Requirements (MRs), to meet the requirements set out in the [IPReg Accreditation Handbook](#), and 2 Recommendations that are thought beneficial for the PEB to consider.

1.3 The Education Working Group (EWG)<sup>1</sup> of the IPReg Board endorses the assessor report and its proposal to accredit the Final Diploma examinations for the standard period of 5 years (subject to extenuating circumstances as at item 2.1c) below).

#### 2.1 Recommendation(s)

2.1 The Board agrees:

- a. to endorse the independent assessment report and its 19 Mandatory Requirements and 2 Recommendations;
- b. to approve (re)accreditation, for the typical 5 years timeframe, of the PEB Final Diploma Examinations as an Advanced Level Qualification pathway for the patent attorney professions, subject to provision of a satisfactory implementation plan by 31 March 2023

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<sup>1</sup> The EWG is a working group of IPReg Board members who consider and make recommendations to the IPReg Board. It is chaired by Caroline Seddon, and its members are Lord Smith, Alan Kershaw, Emma Reeve (and Nigel Robinson until the recent end of his tenure), with executive attendance from Victoria Swan and Shelley Edwards. The EWG makes recommendations, and reports, to Board, it does not have delegated authority of its own.



which provides IPReg with assurance that the Mandatory Requirements and Recommendations will be met;

- c. to approve that the PEB is advised, as with all accreditations, that in extenuating circumstances, such as significant concerns being raised or other aggravating factors, the accreditation status may be subject to review prior to the end of the standards 5-year accreditation timeframe;
- d. to approve that the PEB is advised that IPReg will review progress of the implementation plan (including possibility of a formal, independent, specialist review at 2 years, should there be concerns that insufficient progress is being made) and will continue to monitor very carefully through annual reporting mechanism; and may exercise the right to scrutinise more intensely elements of the implementation, additional to the standard annual reporting and implementation plan update requirements, should concerns arise.

### 3. Risks and mitigations


	Risk	Mitigation
<b>Financial</b>	<p>There would be a risk of an unnecessary cost to the profession should attorney practising fees pay for accreditation assessments.</p> <p>A prohibitive accreditation application cost could deter potential applications.</p>	<p>As with all standard accreditation exercises, the costs of review of the application, by both the independent specialist consultants, and the IPReg office, are re-charged to the accreditation applicant body.</p> <p>The accreditation costs to be recharged to the PEB stand at less than £15,000 (£14,219.72):</p> <ul style="list-style-type: none"> <li>• £9758.58 (70.8 hours and £48.86 expenses) - lead assessor</li> <li>• £2044 (36.5 hours) - practitioner assessor</li> <li>• £2466 (63 hours) - IPReg office.</li> </ul> <p>A potential applicant is advised of the daily charge of both the assessors and IPReg office, the average review time spent by those parties, and the more targeted, transparent and accountable the application, the more cost effective the charge<sup>2</sup>.</p>

<sup>2</sup> The [3 September 2020 meeting of the IPReg Board](#) reviewed average time and cost of accreditation assessments and at that time envisaged a likely £10,000 costs threshold based upon a targeted, transparent

	<p>The PEB's 2020 Annual Report to IPReg identified that a number of individuals had taken the FD4 examination more than 5 times. The cost of taking a Final Diploma Examination is currently £480, which if taken a number of times could be a large outlay for a self-funding individual or small firm.</p>	<p>The IPReg response to the Mercer Review welcomed all of the recommendations relating to improvements to the FD4 examination such as shortening (to 4 hours) and simplifying, removing overlap of subjects with other examinations, examiners taking a holistic approach, determining a candidate's overall competence rather than hanging marks on particular items; and providing transparency on what an individual needs to do in broad terms to pass the examination. IPReg's response was shared with the PEB at the time of its submission and it is proposed that the letter which advises the PEB of the accreditation decision will endorse again the suggested improvements as above.</p> <p>The broader assessment improvements proposed by the assessor report should aid the PEB's Mercer Review action plan.</p>
<p><b>Legal</b></p>		

*and accountable application. Whilst both the recent Queen Mary University London accreditation assessment (£11,636.71 so far, to be followed up with a March 2023 assessment) and this assessment will exceed £10,000, this is proportionate to the time spent on review of the respective applications and attempting to gain the necessary information and assurance sought.*



		
<p><b>Reputational</b></p>	<p>There is a reputational risk should the accreditation process not lead to the improvements sought.</p>	<p>The assessment is authored by independent specialist assessors. The accreditation application requires a comprehensive range of evidence sources as set out in the <a href="#">IPReg Accreditation Handbook</a> – please also see item 13 for information on these – and is accompanied by an assessor visit (26 September) with relevant PEB staff and team members, as well as a feedback session with examination candidates (28 September). For purposes of transparency and accountability, accreditation assessor reports are published on the IPReg website, as are the corresponding implementation plans of the accreditation applicant body. The annual reporting process requires an update on implementation of accreditation requirements and recommendations. Given the fundamental improvements needed, the EWG proposes early conversations with the PEB about the amount of distance which needs to be travelled and potentially intensive oversight, if there are concerns, of delivery of the implementation plan, including reserving the right to apply a formal, independent,</p>

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	<p><u>FD4 – Infringement and Validity</u>: the long standing reputation of the FD4 examination is challenging, it is a long examination (5 hours) - handwritten, until the pandemic triggered online examinations - with a historically and consistently low pass rate. Its reputation was all the more pronounced when candidate success was even lower than typical in the 2018 cycle, triggering the PEB to lower the pass rate in response (even then, only a third of candidates passed). The announcement of this “borderlining process” triggered much social media discontent and concern<sup>4</sup>, ultimately prompting CIPA to announce the Mercer Review, a review of patent attorney examinations, education and training. CIPA’s response to the stakeholder feedback it sought at the end of 2021 has not yet been published.</p> <p>There is a risk, with only one ALQ pathway provider for the patent attorney route<sup>6</sup> – as opposed to a number of pathway provider options (the universities of Bournemouth, Brunel, and Queen Mary London, as well as the PEB) for the Foundation Level Qualifications – of perception that accreditation must necessarily be afforded to the PEB Final Diploma examinations irrespective of assessment findings.</p>	<p>specialist review at 2 years (January-March 2024).</p> <p>The Mercer Review report<sup>7</sup> includes a number of recommendations regarding FD4 and the wider FD examinations. Please see response to the FD4 Financial Risk above.</p> <p>The independent assessors are charged with reviewing each pathway provision in isolation, on its own merits, and irrespective of whether there is an alternative qualification offer. The provision, as with all accreditation applications, needs to meet the accreditation standards, or be able to, upon implementation of Mandatory Requirements and Recommendations. IPReg would not seek to accredit any provision which did not, nor could not, meet the standards, and would itself look</p>
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<sup>6</sup> As there is with the Registered Trade Mark Attorney ALQ offer provided by Nottingham Trent University.

<sup>7</sup> Please see item 7 of the [2 November 2022 IPReg Board Meeting Papers](#) for a summary of the Mercer Review Report.

		to implement a programme of support or intensive oversight to enable the pathway provider to improve, or, ultimately, withdraw accreditation as per the <a href="#">IPReg Accreditation Withdrawal Procedure</a> and arrange for alternative provision.
<b>Resources</b>	<p>There is a risk to the accreditation process should there not be the appropriate specialist and independent resources to consider an application.</p> <p>There is a risk to the accreditation process should an application prove too resource intensive for would be applicants.</p>	<p>The independent, specialist resources of [REDACTED] lead consultant, qualified solicitor, Associate Professor, professional legal education consultant) and [REDACTED] (professional practitioner input, previous IPReg Board and EWG member) were appointed as the assessment team to review the PEB application. [REDACTED] was an assessor on the accreditation assessment of the Foundation Certificate Examinations of the PEB.</p> <p>Additionally, the IPReg office provides administrative support to both the application and assessment process, as well as reviewing both the application and the assessor report and reporting to the EWG which holds a dedicated meeting to review the independent assessment.</p> <p>Whilst an accreditation application is necessarily comprehensive (typically c2000 pages), the evidence sources (please see item 13), as standard quality assurance, pedagogical and operational arrangements, should be typically readily available to a provider applicant.</p>

## 4. Background

4.1 Origins of the PEB: the PEB operates from the CIPA office, its staff are employed by CIPA and its website is part of CIPA's. IPReg requires the PEB to have independent governance<sup>8</sup> and financial control to remove the conflict of interest inherent in a professional membership body overseeing

<sup>8</sup> The PEB was established as a Committee of CIPA.



the examinations (particularly given the independent recommendation<sup>9</sup>, and enactment, of disbandment of the historic Joint Examination Board<sup>10</sup> on this basis).

4.2 Timing of the accreditation assessment: whilst the Foundation Certificate examinations of the PEB were subject to IPReg accreditation assessment in 2018, IPReg and the PEB agreed to defer the accreditation of the Final Diploma (FD) Examinations. This was agreed, pending the 2017, IPReg/CIPA/PEB jointly commissioned Middlesex University research, into the consistently low pass rate of the FD4 Infringement and Validity examination. The university's research report recommended the following<sup>3</sup>: preparing mentors and trainees; shadowing a real life infringement and validity opinion; reviewing the appropriateness of hand writing for examinations; whether a conventional exam is sufficient to judge the desired learning outcomes; reviewing the marking design scheme; and aligning learning outcomes to the assessment criteria. IPReg endorsed the report and its findings to both CIPA and the PEB. It was agreed that the accreditation of the FD examinations would be scheduled for a time that allowed a period of consideration of these, with a hope that implementation might begin in 2018-2019.

4.3 Then the 2018 FD4 success rate was even lower than typical, prompting the PEB to reduce the pass threshold, from 50% to 47% (even then, only a third of candidates passed). This “borderlining process” triggered much social media discussion and concern<sup>11</sup>, ultimately prompting CIPA to announce the Mercer Review. Given the scope of the review would likely impact upon the framing of the FD examinations, and would be one of the evidence sources to inform the accreditation assessment exercise, IPReg and the PEB again, agreed, to defer accreditation. This decision was based upon an anticipated much earlier publication of the Mercer Review:- the initial consultation closed on 14 February 2020, whilst the Mercer Review itself was not published until 13 October 2021. Upon its publication towards the end of 2021, 2022 was enabled as the year for IPReg accreditation<sup>12</sup>. Following a number of Zoom discussions<sup>13</sup> regarding scope and timing, the PEB submitted an accreditation application for the Final Diploma Examinations on 4 July 2022. The application included a response to the Mercer Review recommendations.

4.4 Accreditation applications are made using the IPReg template<sup>14</sup> which requires a broad range of evidence sources including:

- Programme Specification
- Quality Assurance Agency Institute Audit Review and any associated action plans

<sup>9</sup> *The A Sherr Review, 'Where Science meets Law', November 2002.*

<sup>10</sup> *The Joint Examination Board of both CITMA and CIPA.*

<sup>11</sup> [An example - FD4 - Infringement and Validity\) Pass Mark Reduced - The IPKat \(ipkitten.blogspot.com\)](http://ipkitten.blogspot.com)

<sup>12</sup> *Previously and currently having approved and inherited status, providing IPReg with Quality Assurance Agency (a quality body for Higher Education) reports and annual reports and its processes having been reviewed as part of the FLQ accreditation.*

<sup>13</sup> *Between Caroline Seddon - Chair of the IPReg EWG, Victoria Swan – IPReg Director of Policy, Damian Day – Chair of the Governance Board of the PEB, Angelina Smith – CIPA Head of Qualifications, Ruth Matthews – Qualification Consultant for CIPA*

<sup>14</sup> *Based upon the requirements of the [IPReg Accreditation Handbook](#).*

- External Examiners Report and related action plans
- Programme Admissions Policy
- Staff/student ratios
- Sample examination papers/essays/test/answers/scripts
- Pass and fail rates
- Admissions and Re-sits Policies
- Teaching/other staff info/membership of professional bodies/practitioner input
- Progression, awards and destination data
- Student/candidate satisfaction surveys and changes made.

4.5 Following the assessors' review of the PEB's initial application, they requested additional information in the form of Examination Committee Meetings Minutes and Action Plans, External Examiners Reports and Action Plans, individual Principal Examiners Reports, Student Survey Results (including quantitative and qualitative information), (anonymised) Student Script examples, Syllabus Mapping, and the written assessment strategy. These, where available, or where the PEB was willing to provide, were provided by the PEB on 22 August 2022.

4.6 The assessors met, in person and online (a train strike was planned, then cancelled, hence the hybrid meeting), with members of the PEB team, on 26 September, to discuss various elements of the application. The assessors then requested a number of items mentioned in that meeting – Competency Framework syllabus mapping document, awarding meeting monitoring form, Examination Committee Meeting Minutes, Online Examinations Report, and Mercer Review Response. The assessors then met, via Zoom, with a sample of recent examination candidates on 28 September, and 4 October, to gather feedback on candidate experiences.

4.7 The assessors had a first draft of the assessor report with the PEB, for fact checking, on 19 October. Additionally, IPReg requested that the PEB raise any significant objections or concerns with the proposed Mandatory Requirements or Recommendations. Given the timing<sup>15</sup> coincided with the PEB examinations, the PEB requested, and was granted, an additional month to review the report, providing their response on 5 December. The version of the assessor report provided as Annex A has been informed by the fact checking comments response of the PEB.

### Mandatory Requirements

4.8 The assessor report identifies a number of areas where improvements are needed to ensure the mandatory requirements of all attorneys qualification pathway offers, as set out in the [IPReg](#)

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<sup>15</sup> The accreditation timeframe has been longer than originally intended owing to a number of factors including the PEB-requested later timing of the assessor visit and student feedback session, which must inform the first draft of the report, and provision of a large number of documents for review which did not always ultimately provide the information sought.

[Accreditation Handbook](#), are met. There are 19 such [Mandatory Requirements](#) which cover the following areas:

a) [Examiners](#): review the roles of both the Chief Examiner and External Examiners, document the processes to be used to approve and engage external examiners, ensure appropriately briefed and robust nomination approval and engagement processes, collect external examiner feedback and inform of any changes their feedback has helped engineer;

b) [Board and Committees](#): meetings to be fully minuted, including a full recording of Principal Examiner discussions, review roles and responsibilities of each Board/Committee; and

c) [Assessments](#): a written and transparent assessment strategy, ensure threshold standards are consistent with the relevant national qualifications framework/assessments, measure both at, and beyond, the student achievement threshold so reasonably comparable with those of other equivalent qualifications, review the type of feedback candidates find constructive, retain scripts for an appropriate length of time for (re)accreditation, align assessment methods and criteria to learning outcomes, draft clearly articulated assessment criteria, weightings and level descriptors, create a process for regular review of the validity of the assessments, consider variety in assessments which would help develop a range of skills and competencies and assess a range of learning styles, review whether each candidate has an equal opportunity to demonstrate their achievement through the assessment process, clearly inform candidates of the purpose, requirements and expected standards of each assessment, feedback on the assessments must explicitly relate to the stated learning outcomes and assessment criteria, review the ways in which external experts are used/processes to approve and engage them/clarify their roles and responsibilities to relevant stakeholders.

4.8 Additionally, the assessor report makes 2 (lower-level) recommendations for PEB's consideration. These are items which are not specific requirements of the Handbook but are improvements from which the examinations would likely benefit and which cover:

[Recommendations](#) – actively progress enhancement of quality assurance/external examination/listening to feedback, enhance individual feedback on examinations so understandable, constructive and help them achieve.

4.9 The PEB provided 83 detailed comments on the draft Assessor Report. The Assessor Report provided at Annex A has been informed by those comments, where appropriate. Additionally, the PEB has provided a 12 page response to the Assessor Report's Mandatory Requirements and Recommendations. This is provided at Annex B.

### Mercer Review

4.10 Item 6.9 of the Assessor Report includes a summary of the assessor visit feedback in regard in to the Mercer Review,

“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”.

4.11 The assessor report does not contain any Requirements or Recommendations specific to the FD4 examination, given those made in the Mercer Review. The Mandatory Requirements relating to the approach to, and processes for, assessments, will obviously impact upon that examination, as will the IPReg Accreditation Handbook review and its specification of the Advanced Level Qualification syllabus. The EWG is proposing that the letter to the PEB which endorses accreditation of the Final Diploma examinations reiterates IPReg’s endorsement of the FD4 recommendations made in the Mercer Review (please see Item 3 Risks and Mitigations).

## 5. Discussion

5.1 The EWG of Board met on 16 December 2022 to review the Assessor Report (Annex A), the Assessors Reply to the PEB comments on the initial draft, and the PEB’s response to the Mandatory Requirements and Recommendations (Annex B). General comments included:

- a) The assessors have issued an unprecedented reply to the PEB, requiring the PEB to make it clear that they were not asked to breach data protection law as their comments suggested and noting that the CIPA privacy policy affords the PEB the opportunity to obtain permission to share complaints/other and that same policy allows for marked anonymised scripts to be saved for monitoring standards – this is the first time an accreditation applicant agency has not provided examination script samples;
- b) Assessor report appears to indicate that a root and branch review is necessary, which would require significant resources and infrastructure;
- c) PEB do not appear to have looked to engage fully with, or improve through, the process:- take forward accreditation, with a longer term objective to review PEB governance, to meet with Lee Davies and the PEB to give an indication of very real concern and to map a way forward over the next 2-3 years; IPReg and CIPA to have discussions regarding PEB governance concerns (IPReg has been approached by CIPA with its own PEB governance concerns);
- d) IPReg’s response to the Mercer Review was clear that a representative body should not provide the examinations.

5.2 The EWG comments on the PEB’s response (Annex B) included:

- a) The defining of learning outcomes is not dependent upon IPReg, all accredited bodies should have self-defined learning outcomes as well as any IPReg-defined (though the IPReg

Accreditation Handbook review may ultimately define other/additional learning outcomes, or indeed similar, outcomes)<sup>16</sup>;

- b) all of the Mandatory Requirements are essential, and some are of a very significant nature and which need to be implemented in full; a further discussion is required regarding structure, governance and purpose of the PEB:- clearly scope for a lot of discussion about how implemented, but ultimately have to happen;
- c) initial PEB response is insufficient, will require a detailed implementation plan for taking forward every Mandatory Requirement and Recommendation.

### 5.3 The EWG comments on the PEB implementation timeframe included:

- a) PEB likely to have to undertake a business review, and we will need a discussion with them on how it will be paid for, their resources capacity and how implementation will be supported;
- b) expectation for the PEB to promptly deliver all Mandatory Requirements and Recommendations, and to clearly justify where this is not the case, likely to benefit from early conversations to understand the challenges, but they will need to implement all, and to make a start as soon as possible, with a year or two to get to full implementation rather than waiting until 2025, as suggested at places in their initial response - need to see what can be done for the next cohort;
- c) to apply the standard c2 months timeframe for PEB to submit a detailed, time-framed, implementation plan for all Mandatory Requirements and Recommendations;
- d) whether to apply an accreditation period which is shorter than the standard 5 year cycle given the significance of the concerns identified through the report and to be provided with assurance that these are addressed sooner rather than later;
- e) whether to apply the standard 5 year accreditation period, which is a significant period of time, during which there could be a whole change of guard, perhaps to adopt a pick and mix approach where the right is reserved to review different parts of the implementation;
- f) whether to apply the standard 5 year accreditation period, and to provide for a potential 2 year period progress on implementation and if not made, may need to consider earlier/further assessment, reserve the right to intervene if a major concern remains, or arises;
- g) to ask assessors what their thoughts are on a timeframe,

*Lead assessor's email reply 19/12/2022 [REDACTED] and I have discussed a possible implementation schedule of the requirements and recommendations (if endorsed by the IPReg Board). We had assumed that PEB would start the process in January 2023, using the 2023 assessment session to review processes etc with appropriate improvements being implemented for the 2024 assessment session. We had hoped that they would be able to incorporate the requirements and recommendations into the PEB Three Year Operational*

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<sup>16</sup> The PEB, as all accredited agencies, was involved in the initial drafting of the IPReg Accreditation Handbook, and all will be involved in its independent, specialist, review.

*Plan (September 2022- September 2025). The Education Working Group idea of the right to reserve a 2 year formal independent specialist review (perhaps in September 2024 to tie in with the Operational Plan?) sounds a beneficial way of continuing the conversation between IPReg and PEB about enhancements made”.*

- h) The EWG agreed that the PEB need certainty if to allocate the significant resources needed to implement the Mandatory Requirements and Recommendations, and in likely undertaking a business reorganisation, they need the confidence to know they are doing it for a decent period of time:- agreed 5 years accreditation for the FD Examinations whilst reserving the right to review progress of implementation plan (including possibility of a formal, independent, specialist review at 2 years, should there be concerns that insufficient progress is being made) and will continue to monitor very carefully through annual reporting mechanism – next annual report expected July 2023;
- i) The EWG also agreed that IPReg may exercise the right to scrutinise more intensely elements of the implementation, additional to the standard annual reporting and implementation plan update requirements, should concerns arise;
- j) We reserve the right, in accordance with the [IPReg Accreditation Withdrawal Procedure](#), that in extenuating circumstances, such as significant concerns being raised or other aggravating factors, the accreditation status may be subject to review prior to the end of the standard 5-year accreditation timeframe;
- k) Alongside this, and presuming all of the above is endorsed by the Board, the EWG would look to begin early 2023 discussions with both CIPA and the PEB regarding the significant distance which needs to be travelled.

#### 5.4 Other things discussed by the EWG:

- a) There are some learning points here for IPReg regarding the review of the [IPReg Accreditation Handbook](#), application template and process, to inform the independent review to be commissioned by the new Education and Diversity role and the new education representative on Board;
- b) Whether to add another requirement or recommendation in light of online examinations uploading timeliness issues suggested by candidate feedback - this was raised with the PEB outside of the accreditation process with the EWG requesting a range of information from the PEB, which was provided and an element of assurance provided; the EWG agreed not to add another requirement/recommendation relating to this (or other).

5.5 The Board is asked to discuss whether to endorse the Assessor Report, its Mandatory Requirements, Recommendations, the 5 year accreditation timeframe and the proposed oversight approach.

## 6. Next step

6.1 Should the Board endorse the Recommendations as at item 2 of this paper, the next steps will be:

- a) issuing formal confirmation to the PEB of the Board’s accreditation decision – by 19 January 2023,
- b) issuing the invoice for recharging of the costs of the accreditation exercise to the PEB – by 19 January 2023,
- c) PEB to submit implementation plan for the Mandatory Requirements and Recommendations of the Assessor Report – by 31 March 2023,
- d) EWG review and feedback on the PEB implementation plan and communication – by 30 April 2023,
- e) Accreditation Assessor Report to be published on IPReg website upon publication of the minutes of this 12 January 2023 Board meeting, as considered at the 23 March 2023 Board meeting – 30 March 2023,
- f) PEB Accreditation Assessment Implementation Plan to be published on IPReg website upon receipt – by 7 April 2023
- g) Annual Report of the PEB to IPReg to include update on progress against the implementation plan – by 31 July 2023,
- h) Annual Report of the PEB to be considered by the EWG – by 31 August 2023,
- i) IPReg to review accreditation form and process – 2023/24, upon appointment of the dedicated Education and Diversity Officer,
- j) IPReg to commission an independent review of the IPReg Accreditation Handbook to include Core Subjects and Learning Outcomes (credits) – 2023/24, upon appointment the dedicated Education and Diversity Officer

## Supporting information

### 7. Links to strategy and business plan

7.1 The accreditation assessment is central to items a, b and d of item 9 “Education Work” of the [IPReg Business Plan 2022-23](#):

“9. We will continue to work on important issues concerning accredited attorney qualification providers:

- a. Working with providers to ensure accreditation recommendations are taken forward and quality assurance mechanisms are fit for purpose, including responding to student and client feedback. Where there are concerns, IPReg will raise these with the provider to ensure that action is taken,
- b. Working with providers to ensure that online delivery of courses meets the required standards (a change in the method of delivery as had been triggered as a result of the pandemic),
- c. Working with stakeholders and potential providers to encourage new qualification pathway options,
- d. We will continue to undertake reaccreditation assessments (typically every 5 years) of qualification providers. We will consider the outcomes of the European Qualifying Examination Modernisation Discussions and Proposals and the Mercer Review”.

- 7.2 With regard to the European Qualifying Examinations (EQEs), as at item d) above, the current exemptions to the FD2 'Drafting of Specifications' and FD3 'Amendment of Specifications' examinations afforded via passing of the EQE as a whole, or papers A and B respectively, are retained, for now. This to be subject to review pending the European Patent Institute's post-consultation final design.

## 8. Supporting the regulatory objectives and best regulatory practice

- 8.1 Regulatory Objective - Encouraging an independent, strong, diverse and effective legal profession – the [IPReg Accreditation Handbook](#) sets out the standards to be met to ensure qualification pathways are fit for purpose and contribute to an attorney profession which is appropriately qualified, competent and effective. An accreditation application which meets, or could meet, the accreditation standards is typically accredited for five years<sup>17</sup>. If, during that time, there is a verified significant risk to the accreditation standards, and thereby the regulatory objective, action would need to be taken as under the [IPReg Accreditation Withdrawal Procedure](#). By significant<sup>18</sup> risk we mean a serious, sustained and systemic issue, such as one reported by an entire student cohort or a professional membership body. Examples of a serious, sustained, systemic issue might be: not covering the IPReg syllabus, wholly and consistently inaccurate or out-of-date course materials, or inadequate assessment arrangements. Conceivably, it could even include wider-reaching significant risks, such as the broader institution's action/ inaction (e.g. losing accreditation status with another agency, or a financial issue which threatens the viability of the course or examination). A decision to withdraw accreditation would not be taken lightly, would be made by the IPReg Board, and would be reached only when all other remedies had been considered and/or pursued, and the significance of the risk(s) to the accreditation standards, and thereby the regulatory objective, were so pronounced that remedies were insufficient to address it.
- 8.2 Please note that the [IPReg Accreditation Handbook](#) now includes diversity policy and online delivery arrangements as part of the accreditation process. The assessment inadvertently used the accreditation assessment template which predates this. Diversity policies will be requested [REDACTED] from the PEB and online delivery arrangements is an ongoing monitoring issue through the annual reports, feedback, and all qualification providers being required to inform IPReg of any significant changes to previously agreed arrangements.

### Regulatory Principles

- 8.3 The Regulatory Principles as set out at item 21 of the [Legislative and Regulatory Reform Act 2006](#) states that:

<sup>17</sup>This is underpinned by an annual reporting requirement on accreditation standards within that timeframe.

<sup>18</sup> By contrast, for example, an issue reported by a single student or exam candidate would be considered a minor risk, and accordingly would be referred to the relevant qualification provider's complaint process.



*“regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, regulatory activities should be targeted only at cases in which action is needed.”*

The following items assess the accreditation process against these principles.

- 8.4 Transparent: the [IPReg Accreditation Handbook](#) sets out the purpose, process and principles of accreditation; the assessor report of the FD examinations is to be published on the IPReg website, accompanied in due course by the PEB’s related accreditation implementation plan.
- 8.5 Accountable: the PEB is required to provide an implementation plan as to how and when it will implement the Mandatory Requirements and Recommendations as set out in the accreditation assessor report, its progress against this will be monitored through its Annual Report to IPReg, as reviewed by the EWG.
- 8.6 Proportionate:
- a) The format of the annual reporting requirement seeks to aid assurance that the accreditation standards continue to be met whilst not being unnecessarily cumbersome for the accredited qualification provider to compile nor for the EWG to review.
  - b) Only the Mandatory Recommendations are compulsory for the qualification provider to take forward, the Recommendations are not.
  - c) The accreditation applicant body has the potential to raise an objection or a concern in relation to the Mandatory Requirements and Recommendations (Annex B), and these are considered by both the EWG and the wider IPReg Board.
- 8.7 Consistent:
- a) The [IPReg Accreditation Handbook](#) sets out the standards which an IPReg accredited qualification provider needs to meet, or is capable of meeting, and any organisation which considers it meets, or could meet, those standards, is welcome to make an application for accreditation.
  - b) All IPReg accredited qualification providers are required to submit an Annual Report to IPReg setting out its progress against its accreditation implementation plan (and other items as at c).
  - c) The Annual Report items are related to the evidence sources listed in the IPReg Accreditation Handbook and require a headline summary of: commentary on and the number of exam candidates and ratio to relevant staff, short staff biographies and % increase or decrease on exam candidate numbers since previous year, results breakdown and commentary, progression, awards and destination data and commentary, how any extreme cohorts were supported, diversity profile of cohort, online delivery of assessment quality assurance arrangements, exam candidate survey satisfaction survey results and

changes made as a result, other exam candidate feedback mechanisms and findings and any changes made as a result, quality assurance mechanisms and changes made as a result, External Examiner Reports, Student/Exam Candidate Liaison Committee and Programme/Examination Board findings and response, any areas for improvement, any areas of good practice, accreditation implementation plan update and other (free text for accredited qualification provider to complete).

- 8.8 Targeted: the accreditation assessor report, and the annual report mechanism which underpins it, seek to target activity at the risks that the accreditation standards are not met and which would benefit exam candidates in being taken forward.

## 9. Impacts

- 9.1 Impact on qualification pathway provider: implementation of specified suggested improvements will typically have a resource impact upon the accredited qualification provider. In the case of the Mandatory Requirements these are wholly necessary to ensure that the qualification meets the specified accreditation standards and does not have a negative impact on the learning and/or assessment of its students/examination candidates when compared with other accredited qualification offers.
- 9.2 Impact on examination candidates: the implementation of the Mandatory Requirements (and Recommendations) by the qualification pathway provider seeks to provide examination candidates with an improved offer, including, but not limited to, the FD4, Infringement and Validity examination.
- 9.3 Impact on firms: the implementation of the Mandatory Requirements (and Recommendations) together with the Mercer Review Recommendations relating to the FD4 examination, should see, in the longer term, a decrease in the number of candidates who sit the examination multiple times.

## 10. Communication and engagement

- 10.1 Early and ongoing communication with the PEB throughout 2020-22, including a series of Zoom discussions, regarding scope and timeframe of accreditation exercise.
- 10.2 The assessors met, in person and online (a train strike was planned, then cancelled, hence the hybrid meeting), with members of the PEB team, on 26 September, to discuss various elements of the application. The assessors then met, via Zoom, with a sample of recent examination candidates on 28 September, and 4 October, to gather feedback on candidate experiences.
- 10.3 The draft assessor report was shared with the PEB team for fact checking and the raising of any objections/concerns.
- 10.4 The PEB was informed of the endorsement by the EWG of the assessor report on 20 December.

- 10.5 The outcome of today’s discussion of Board will be communicated to the PEB within 5 working days.
- 10.6 The assessor report and the PEB’s corresponding implementation plan, when available, will be published<sup>19</sup> on the IPReg website.

**12. Equality and diversity**

- 12.1 The assessor report requires (Mandatory Requirement 14) the PEB to,
 

“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”.
- 12.2 This because the assessors determined “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 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”.
- 12.2 The PEB will be asked for its Equality, Diversity and Inclusion Policies for review by the EWG and diversity profiling information is sought through the annual reporting mechanism.

**13. Evidence and data**

- 13.1 As set out in the [IPReg Accreditation Handbook](#), the evidence and data requirements of an application for accreditation of a qualification pathway are:

Standard	Evidence Source
<b>Quality</b>	<ul style="list-style-type: none"> <li>• Programme Specification</li> <li>• Programme learning outcomes</li> <li>• How Professional Ethics is dealt with</li> <li>• Quality assurance arrangements inc. the most recent internal and external reports</li> <li>• Evidence that the programme is at the right level</li> <li>• External Examiners Report and related action plans</li> <li>• How previous accreditation recommendation and requirements have been dealt with</li> </ul>
<b>Student choice, access and teaching arrangements</b>	<ul style="list-style-type: none"> <li>• Programme Admissions Policy</li> <li>• Programme Specification</li> <li>• Modes of teaching provision</li> <li>• Assessment strategies employed</li> </ul>

<sup>19</sup> As communicated to all qualification pathway providers via letter dated 22 November 2019.

	<ul style="list-style-type: none"> <li>• Staff/student ratios</li> <li>• Equality, Diversity and Inclusion Policies</li> <li>• How the extremes of cohort entry will be supported</li> <li>• Academic and Examination Regulations (inc. in pandemic)</li> </ul>
<b>Assessment and appeals procedure</b>	<ul style="list-style-type: none"> <li>• Methods of assessment (how much by assignment, project, examination etc.)</li> <li>• Sample examination papers/essays/test</li> <li>• Sample answers/scripts</li> <li>• Pass and fail rates</li> <li>• Resits Policy</li> </ul>
<b>External assurance</b>	<ul style="list-style-type: none"> <li>• Teaching staff information/ membership of professional bodies/practitioner input</li> <li>• Most recent QAA Institution Audit Review (or equivalent) and any associated action plans</li> <li>• Student satisfaction surveys and any changes made as a result</li> <li>• Staff &amp; Student Liaison Committee information &amp; minutes of meetings</li> <li>• Progression, awards and destination data</li> </ul>

13.2 The Assessor Report identifies that the following evidence sources were not applicable to the PEB:

- How previous accreditation reports, recommendations and requirements have been dealt with (first IPReg accreditation assessment of the Final Diploma Examinations)
- Programmes Admission Policy
- Modes of teaching provision (examination body only)
- Staff/student ratios (examination body only).

13.3 The Assessor Report identifies that the PEB did not provide the following evidence sources an accreditation applicant would be expected to provide:

- External Examiners Report and related action plans from the last 3 years (only one provided)
- Sample answers/scripts for last year's examinations to include one example of each of the following – pass, borderline and distinction
- Information on staff/membership of professional bodies/practitioner input
- Progression, awards and destinations data.

13.4 The PEB raised concerns that some evidence requests, such as biographies of examiners, were asking it to breach the General Data Protection Regulations, and also cited that other documentation was confidential, such as the Governance Board minutes (this was sought to gain a sense of how decisions are made and assessment strategy determined given other

evidence sources had not provided the information they might be typically expected to). In the context of this, of meetings not being fully minuted and the number of requirements within the assessor report relating to reviewing roles, responsibilities, processes and strategies, and “it is not clear to the assessors as to how major change is driven forward” the assessment raise governance concerns (as well as IPReg’s other concerns regarding the principle of the examinations body being connected to the representative body and controlling access to the profession) that we will seek to discuss with CIPA.

## Accreditation of Examination Agencies - PEB Assessor Report

<b>Applicant organisation:</b>	The Patent Examination Board (PEB)
<b>Authors:</b>	██████████ and ██████████
<b>Date of visit:</b>	26 September 2022 at CIPA, 2nd floor, Halton House, 20-23 Holborn, London EC1N 2JD
<b>Examination Agency staff met with:</b>	<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>
<b>Date of report:</b>	V 14122022 response from assessors to PEBs comments
<b>Recommendation:</b>	<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 scripts<sup>1</sup> 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.

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<sup>1</sup> 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
<b>Quality</b>	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>	
<b>Student choice, access and teaching arrangements</b>	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>	
<b>Assessment and appeals procedures</b>	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>	
<b>External assurance</b>	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>	

<b>Other</b>	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'*

## Application for Accreditation of the PEB Final Diploma

### PEB Response to the IPReg Assessors' Draft Report

#### 1 General Comments

The Patent Examination Board (PEB) welcomes the opportunity to comment on IPReg's report on the initial accreditation of the CIPA PEB Final Diploma examination. The PEB has noted the accreditation team's comments and will address them in full. However, the PEB does have some prefatory comments, for IPReg's consideration:

- The PEB examinations are professional examinations not university ones, which means that they are approached in a different way. All PEB Governance Board lay members are highly experienced past or present university academics and have adapted their approach to the PEB context because it is appropriately different, meaning that applying higher education tests wholesale to professional examinations might not be the best approach;
- The PEB's approach to learning outcomes has been to set them for the suite of examinations rather than individual papers, the rationale being that the learning outcomes describe the professional skills holistically rather than a subset of practice, as would be the case for individual papers. This was a conscious decision;
- The PEB is clear that the Final Diploma examinations are firmly at master's level because the questions probe complex issues through scenarios with degrees of ambiguity appropriate to that level of study. PEB documents may not be peppered with references to the QAA but the level of the examinations is clear from the questions. The PEB GB did discuss this issue with the PEB examiners when they met for routine business after the accreditation visit;
- The PEB Governance Board agrees with the accreditation team that reviewing roles, remits and functions is entirely appropriate, as part of good practice, but was not clear why the observations had been made, given that those documents existed and were in the public domain;
- The PEB did find some document requests challenging. In some cases, the PEB sought advice on whether documents could be supplied (such as candidate scripts) and the advice was no, on grounds of confidentiality. The accreditors did not agree with the PEB's position, which is a matter for them, but the PEB's position was not capricious. In other cases, the document request appeared to be vicarious, such as the provision of CVs;
- Finally, in our response we have sought and hope to receive clarification about a number of points raised by the accreditors.

Once again, the PEB would like to thank the accreditors for their report.

## 2 PEB Response to the IPReg Requirements and Recommendations

Assessors' Requirements (Assessors noted that 1 – 16 relate to Appendix 1 of Assessor Report Candidate Feedback)	PEB Response	Suggested Target Date
<p>1. clarify role of External Examiner(s) to ensure fully involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience</p>	<p><b>Please remove or amend this Requirement.</b></p> <p><b>The PEB Final Diploma Chief Examiner</b> has advised that the point raised was that the process of circulating papers needed clarification, not that the role needed clarification.</p> <p><b>For information, the Finals External Examiner is contracted to</b> provide an external view, to help ensure the quality of:</p> <ul style="list-style-type: none"> <li>• Programme Specifications</li> <li>• Syllabi</li> <li>• Examination question paper and mark scheme content</li> <li>• Examination marking</li> <li>• Standards over time</li> </ul> <p><b>The Finals External Examiner</b> will, in line with the published schedule, for each of the Finals and Foundation qualifications:</p> <ul style="list-style-type: none"> <li>• review the finalised examination papers and mark schemes;</li> <li>• sample assessment briefs and marked scripts to ensure academic standards and achievements of candidates are comparable with those in UK higher education establishments and, where applicable, meet the requirements of the relevant QAA Level and/or the IPReg Accreditation Handbook;</li> <li>• provide informative comment and recommendations on whether the assessment process measures candidate achievement rigorously, consistently over time, and fairly against the intended outcomes of the qualification Programme, and is conducted in line with the relevant policies and regulations;</li> <li>• attend at least one Award meeting for each qualification per year;</li> </ul>	

		<ul style="list-style-type: none"> <li>comment on the Programme Specifications and Syllabi content;</li> <li>supply ad hoc advice when requested;</li> <li>submit annual reports to the PEB.</li> </ul>	
2.	<p>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.</p>	<p>PEB will review how discussions, decisions and actions are recorded for the following meetings:</p> <ul style="list-style-type: none"> <li>Governance Board</li> <li>QPEC</li> <li>Standardisation</li> <li>Awarding</li> <li>Examination Committee.</li> </ul> <p><b>Clarification sought:</b> There are a number of references in the report to insufficient information being recorded in minutes, but it is not clear which meetings are referred to. In some instances the documents relating to the meeting would have been monitoring reports not minutes. For example, Para 4.7 refers to “actual examination meetings”, but not which meetings. Para 4.53 just mentions “minutes”.</p>	<p>Ongoing from March 2023 as the 2024 cycle of meetings starts</p>
3.	<p>review roles, responsibilities etc. of each board/committee.</p>	<p><b>Clarification sought:</b> PEB is happy to review the roles and responsibilities of its boards and committees. It would helpful if the Assessors would specify which boards and committees they are recommending should be included in any such review.</p>	<p>Begin in late 2023</p>
4.	<p>clarify role of Chief Examiner to ensure fully</p>	<p>The previous Chief Examiner carried out the role for some years until resigning in early 2022. The role has been filled for the 2022 session.</p>	<p>For 2023 session</p>

	involved in the assurance of standards, maintenance and enhancement of the quality of the assessment experience.	PEB GB is in the process of reviewing the CE role requirements with a view to making a longer term appointment starting from the 2023 session. Please also refer to PEB's comments within the Assessors' report on paragraph 4.8.	
5.	Principal Examiner discussions are fully recorded in the minutes.	This appears to duplicate Requirement 2 above. Please see comments above against Requirement 2.	
6.	PEB ensures that the - threshold standard for the qualification and learning outcomes are consistent with the relevant national qualifications framework,	<p>There are many comments in the Assessors' report suggesting PEB should re-visit the FD learning outcomes.</p> <p>The Accreditation Handbook Section 2 Quality states the following Required Feature:          "For an Advanced Level Qualification, the course is aligned with the IPReg Advanced Level Qualification Learning Outcomes [when in place]."</p> <p>PEB will review the assessment model, Learning Outcomes and threshold standards as part of its planned qualification review.</p> <p>However, as IPReg's Learning Outcomes are not yet in place, it would seem counter-productive for PEB to pre-empt IPReg's work by re-visiting the Finals Learning Outcomes before the IPReg Learning Outcomes have been made available.</p> <p><b>Clarification sought:</b>          National qualifications framework          Which national qualifications framework is referred to here? We assume either The Framework for Higher Education Qualifications of Degree-Awarding Bodies in England, Wales and Northern Ireland or The UK Regulated Qualifications Framework (RQF) are possibilities. (UK RQF standards are the framework more relevant to professional awarding and examination boards.)          As part of the full review of the Qualifying Examinations, PEB will re-visit Learning Outcomes and map them against the relevant national qualifications framework.</p>	Dependent on IPReg making its Learning Outcomes available to qualification providers
	- assessments measure the extent to which	PEB will review the assessment model, Learning Outcomes and threshold standards as part of its planned qualification review.	Dependent on IPReg making its Learning



	<p>candidates achieve the learning outcomes both at, and beyond, the threshold level,</p>	<p>However, as IPReg’s Learning Outcomes are not yet in place, it would seem counter-productive for PEB to pre-empt IPReg’s work by re-visiting the Finals Learning Outcomes before the IPReg Learning Outcomes have been made available.</p>	<p>Outcomes available to qualification providers</p>
	<p>- 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).</p>	<p><b>Clarification sought</b> There are no specific references to external examining or external input in Appendix 1 of the Assessors’ report.</p> <p>PEB will review the assessment model, including threshold standards and comparability with other qualifications at the same level, as part of its planned qualification review.</p> <p>As regards comparability with equivalent qualifications and external examiner and other external input: Document 15a, the Finals External Examiner’s Report on the 2021 session, included under Standard of candidate performance the standard question 2.1 “In your view, are the standards of candidate performance comparable with similar programmes or subjects in UK higher education institutions with which you are familiar?” The External Examiner commented, “Yes (to the extent that there are any comparables).” Further external input to the qualification provision is currently provided as follows:</p> <ul style="list-style-type: none"> <li>• PEB Governance Board Members comprising: Head of Education at a professional examination body, two practising patent attorneys, and two lay members who hold senior academic posts in law departments (biographies provided as Document 27);</li> <li>• all examining personnel are practising patent attorneys;</li> <li>• QAA External Assurance reports (Documents 16a-c);</li> <li>• external consultants when need arises, including the Qualifications Consultant who provides assessment expertise to a number of chartered and professional qualification providers and has provided consultancy services to national qualification regulatory bodies.</li> </ul>	<p>Dependent on IPReg making its Learning Outcomes available to qualification providers</p>

7.	review the type of feedback candidates find constructive and developmental and involve relevant stakeholders in this process (Appendix 1).	As part of the full review of the Qualifying Examinations, PEB will liaise with stakeholders, particularly candidates, to investigate ways in which the provision of relevant and useful feedback to candidates might be enhanced.	2025
8.	a written and transparent assessment strategy (Appendix 1).	<b>Clarification sought:</b> There is no specific reference to assessment strategy in Appendix 1 of the Assessors' report. (Possibly this should refer to the Annex.) PEB is undertaking a full review of the Qualifying Examinations and development of a formal assessment strategy will form part of that review.	For 2025 session
9.	in future scripts are retained for accreditation and reaccreditation exercises (Appendix 1).	<b>Clarification sought:</b> There is no specific reference script retention in Appendix 1 of the Assessors' report. (Possibly this should refer to the Annex.) PEB will implement this from the 2022 examination session.	From 2022 session
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.	This will form part of PEB's full review of the Qualifying Examinations. PEB comments above against Requirement 6 also apply here.	Dependent on IPReg making its Learning Outcomes available to qualification providers
11.	Draft clearly articulated assessment criteria, weightings and level descriptors that can be	This will form part of PEB's full review of the Qualifying Examinations.	Dependent on IPReg making its Learning Outcomes available to qualification

	understood by candidates and examiners involved in the assessment process to ensure assessment is reliable, consistent, fair and valid.		providers since assessment criteria must link to Learning Outcomes.
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.	This will form part of PEB's full review of the Qualifying Examinations.	Dependent on IPReg making its Learning Outcomes available to qualification providers
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.	In undertaking its full review of the Qualifying Examinations PEB's objective is to develop an assessment model that encapsulates best practice i.e. that assesses professional competence by means of assessment methods that are valid, reliable and fit for purpose.  <b>Clarification sought:</b> The aim of assessment is to assess the candidates' knowledge, understanding and skills, not their learning styles. Please see PEB comments on Paragraph 4.44 of the Report.	Dependent on IPReg making its Learning Outcomes available to qualification providers
14.	Review whether each candidate has an equal opportunity to demonstrate their achievement through	PEB is committed to supporting equality and diversity through its qualification provision. Consideration of whether candidates have equal opportunity to demonstrate achievement through the assessment process will form an integral	2025 onwards

	<p>the assessment process. If not consider how to communicate openly with candidates as to what prior study/experience needed.</p>	<p>part of PEB's full review of the Qualifying Examinations and development of an assessment model.</p> <p><b>Clarification sought:</b></p> <p>As regards communicating prior study/experience requirements, the concern arises that it would be inappropriate for PEB to publish additional information beyond what is already on the PEB website. PEB's Eligibility Policy is based on the qualification and work experience requirements for admission to the Register that are specified by IPReg. It would be inappropriate (and potentially misleading for candidates) if PEB were to add to, or diverge from, the published IPReg requirements.</p>	
15.	<p>Candidates need to be clearly informed of the purpose and requirements of each assessment and standards expected. They cannot do this without access to failed scripts.</p>	<p><b>Clarification sought</b></p> <p>Paragraph 3.11 of the Assessors' report says that "candidates do not see failed scripts." Is this Requirement intended to mean that individual candidates wish to see their own failed script, or is it intended to mean that they would like to see sample failed scripts published on the PEB website?</p> <p>All candidates can access their unmarked script on the day that results are issued. See paragraph 3.10. They also receive a breakdown of their marks by question.</p> <p>Candidates who request access to examiners' annotations on their script are provided with a list of those annotations. In this respect, PEB complies fully with GDPR regulations and published guidance from the Information Commissioner's Office.</p> <p>If Requirements 7 and 15 are intended to mean that PEB should publish exemplar Fail scripts, PEB would need to assess the merits of any such step carefully. It is not generally considered good assessment practice to publish exemplar Fail scripts. They can be misleading because they commonly contain a mix of good, average and poor performance. Candidates fail in a wide variety of different ways. Even if published Fail scripts were anonymised, the candidates concerned are likely to view it as insensitive and/or inappropriate for PEB to publish their Fail scripts.</p>	

		PEB currently publishes mark schemes, Examiner reports and Pass scripts to help candidates understand what is required to achieve a Pass.	
16.	Feedback on the assessments must explicitly relate to the stated learning outcomes and assessment criteria.	Comments above against Requirements 6 and 13 also apply here. This will form part of PEB's full review of the Qualifying Examinations.	Dependent on IPReg making its Learning Outcomes available to qualification providers
17.	<p>PEB</p> <ul style="list-style-type: none"> <li>- review the ways in which they make use of external experts to contribute to their assessment practice,</li> <li>- consider what external experts they might use in future, the processes to approve and engage external experts and</li> <li>- ensure roles and responsibilities of external experts are clear and communicated to relevant stakeholders.</li> </ul>	Comments about external experts against Requirement 6 also apply here.	2025
18.	<p>PEB document what processes they will use to</p> <ul style="list-style-type: none"> <li>- approve and engage external examiners,</li> <li>- ensure that they are appropriately briefed and provided with access to necessary information,</li> </ul>	<p>PEB has no plans to appoint additional external examiners because the current arrangement means the sole External Examiner (for both Foundation and Finals) provides advice on the appropriateness and consistency of assessment standards across all units within the Final Diploma and on whether it offers appropriate progression from the Foundation Certificate.</p> <p>PEB's examiner recruitment processes are an internal operational matter and would appear to be outside the scope of the Accreditation Criteria.</p> <p>That said, the processes that PEB has put in place for recruitment and appointment to examiner roles, including the External Examiner role, have been</p>	March 2023 onwards

	<ul style="list-style-type: none"> <li>- ensure nomination, approval and engagement process robust and avoids conflicts of interest,</li> <li>- collect external examiner feedback and</li> <li>- inform them of any changes they have made because of their feedback.</li> </ul>	<p>designed to: meet good practice in recruitment; support equal opportunities and diversity; and avoid potential or actual conflicts of interest.</p> <p>The examiner recruitment process is already documented. It will be reviewed and updated as part of PEB's forthcoming review of its Working Instructions.</p> <p>Document 15a in the PEB submission is the External Examiner's Report on the 2021 session. Document 15b is the resultant Action Plan. PEB will in future include in its process the provision of feedback on the Actions to the External Examiner.</p>	
19.	<p>PEB set out</p> <ul style="list-style-type: none"> <li>- an approach to managing quality which expressly states not just that it intends to but how it intends to take account of external expertise.</li> <li>- 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).</li> </ul>	<p><b>Clarification sought:</b></p> <p>The phrase "development assurance and enhancement" is not clear. Perhaps a comma or an additional word is needed to make the meaning clear.</p> <p>PEB already makes considerable use of external expertise (see comments above on Requirement 6). The expectations of the Finals External Examiner are listed above in the comments against Requirement 1.</p> <p>PEB engages with candidates individually when they provide feedback and when they take part in the annual Candidate Survey (Documents 29a, 29b and 30a, 30b or the submission and Documents 3a, 3b, 4a and 4b of the additional documents).</p> <p>PEB engages with candidates collectively through the Candidate Consultative Committee (Documents 31a-d).</p>	
<b>Assessors' Recommendations</b>		<b>PEB Response</b>	
1.	<p>PEB actively progress the enhancement of quality assurance, external examination, listening to feedback and evolution of</p>	<p>This will form part of PEB's full review of the Qualifying Examinations.</p>	

	<p>the FD examinations as the UK patent profession advances (Appendix 1).</p>		
<p>2.</p>	<p>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).</p>	<p>Comments above against Requirement 15 also apply here. Consideration of means of providing better and more focused feedback on the assessments will form part of PEB's full review of the Qualifying Examinations. However, PEB's remit, as set out in its Constitution, is primarily the delivery of examinations. Fundamental change to the PEB Constitution and Terms of Reference would be necessary before PEB could becoming involved in providing formative assessment and the type of candidate support suggested in the Report.</p>	

### 3 PEB Feedback on the Accreditation Process

PEB welcomes IPReg's willingness to engage with feedback on the accreditation process. In the interests of continuous improvement, PEB would make the following comments:

- a. The Accreditation Application form is not designed or formatted in a way that makes it is easy to complete.
- b. Some parts of the form do not follow the same order as the Accreditation Criteria, which makes it unclear what exactly IPReg is asking for.
- c. The Accreditation Criteria, and thus the form, are based closely on the systems and processes that operate in higher education institutions.

It would enhance IPReg's regulatory practice if applicant organisations were able to focus on evidencing that they apply the principles and practice of qualification design and assessment and that they operate robust processes for delivering assessment. Instead, the focus is on submitting a great deal of documentation that is customary in higher education but not in professional awarding bodies, for example a programme admissions policy, destination data, staff/student liaison committee minutes etc.

- d. The Assessors' Report appeared to be a very early draft. Errors identified by PEB included incomplete sentences and typographical, grammatical and factual errors. In places it was not clear what point the report writers sought to make, for example paragraphs 3.19 and 4.8. For PEB, it would have been preferable to have waited a little longer for the Report rather than to have been asked to make factual corrections to an early draft.
- e. Again, many comments in the Assessors' Report seem to arise from an expectation that all qualification providers should replicate higher education systems and processes.
- f. It would be helpful (and engender greater confidence in the transparency and rigour of the accreditation process) if IPReg would provide the relevant Accreditation Criterion reference number(s) beside each Requirement and Recommendation in the Assessors' Report.

PEB would be willing to contribute to any process of review of the Accreditation Criteria and the Accreditation Form.



## Board Meeting 12 January 2023

### CEO report

Agenda Item: 11

Author: Fran Gillon, CEO ([fran.gillon@ipreg.org.uk](mailto:fran.gillon@ipreg.org.uk))

This paper is for discussion.

### Summary

1. This paper sets out the main issues to bring to the Board’s attention that are not subject of a full Board paper.

### Recommendation(s)

2. The Board:
  - a. Notes this paper.

### Risks and mitigations

	Risk	Mitigation
<b>Financial</b>	No specific financial risks	N/A
<b>Legal</b>	[REDACTED]	[REDACTED]
<b>Reputational</b>	No specific reputational risks.	N/A
<b>Resources</b>	No specific resourcing risks	N/A

### Background

3. This report sets out information about IPReg’s activities that are not covered elsewhere in today’s agenda. It is significantly shorter than usual due to the break over the festive period.

### Meetings held

#### *CIPA and CITMA*

4. The Regulatory Forum was held on 1 December. This is the quarterly meeting between CIPA, CITMA and IPReg held under the Delegation Agreement as part of implementation of the Internal Governance Rules.  
**An oral update will be provided by the Chair.**

#### *LSB engagement*

5. The LSB is consulting on its [Business Plan](#) and budget for 2023/24. The consultation closes on 3 February. Headline figures and activities are:
  - a. An increase in budget of 9.1% (£392k to £4.679m) of which £3.463m is the pay budget;
  - b. An increase in LSB FTE posts from 33.5 to 35.3 and an increase in LSB staff costs from £2,639k to £2,906k (10.12%);

- c. Consultations on:
  - i. Statement of Policy on equality, diversity and inclusion;
  - ii. Principles to underpin effective disciplinary and enforcement processes;
  - iii. Statutory guidance on “promoting technology for access”;
  - iv. Toolkit to ensure financial protection arrangements are fit for purpose;
  - v. Changes to LSB guidance on education and training;
  - vi. Changes to LSB guidance on first tier complaints;
  - vii. Evaluation of the operation and effectiveness of the Internal Governance Rules;
  - viii. Updating the Statement of Policy on the use of the LSB’s enforcement powers.
  
- d. Subject to any views from the Board, I do not propose to respond to the consultation given our other priorities at the moment and our experience in previous years is that there is almost no change from the initial consultation.

### *Conferences/webinars attended by Team and Board members*

- 6. None to report.

### **2023 Annual Renewal and fee collection process**

- 7. This started on Monday 5 December. **An oral update will be provided** at the meeting.

### **Regulatory Performance**

- 8. The LSB had planned to publish its annual assessment report in December. However, it now intends to do so in w/c 9 January. We returned our factual accuracy check to the LSB on 16 December (it was received on 12 December). The LSB provided a draft “narrative assessment” using its new framework:
  - a. Overall assessment on Well-led – Partial Assurance;
  - b. Overall assessment on Regulatory Approach – Partial Assurance;
  - c. Overall assessment on Authorisation – Sufficient Assurance;
  - d. Overall assessment on Supervision – Partial Assurance – I provided reasons why we consider that the LSB should assess this as “sufficient assurance”;
  - e. Overall assessment on Enforcement – Sufficient Assurance.
  
- 9. Please contact me if you would like to see a copy of the response. I will circulate the LSB’s final document when it is published.

### **Horizon scanning and research**

- 10. There is no update this month.

### **Contracts (commercially confidential information about contracts will be redacted)**

- 11. The licence with OSiT for the office has been renewed for 12 months from 1 April 2023.

### **Other matters**

#### *IPReg Finance Report*

- 12. This will be presented to the Board’s March meeting.

## *Legal Choices Annual Report*

13. This [report](#) will be published w/c 9 December and is confidential until then.

## *Press reports*

14. Board members may be interested in these articles:

- a. <https://www.legalfutures.co.uk/latest-news/new-association-aims-to-help-legal-academics-teach-technology>
- b. <https://www.legalfutures.co.uk/latest-news/scotland-shies-away-from-single-legal-regulator-but-backs-abss>
- c. <https://www.legalfutures.co.uk/latest-news/record-number-of-women-apply-for-silk-as-95-kcs-are-appointed>
- d. <https://www.legalfutures.co.uk/latest-news/law-firms-leading-the-charge-on-diversity-among-professions>

## IPReg Board Meeting Actions Log - New and Outstanding Actions

Date of Meeting in which action arose	Agenda Item	Action	Responsibility	Status	Notes/Update
December 2022 Board Meeting					
Dec-22	Website upgrade	CEO and Head of Registration to consider further what approach would be preferable in terms of budget and staff time.	FG/SE	Ongoing	
Dec-22	Governance Action Plan Implementation	CEO to make changes to the draft publication policy document and publish	FG	Ongoing	
Dec-22	Education Working Group	Review EWG terms of reference and the scheme of delegation	TBC		
November 2022 Board Meeting					
Nov-22	Speaking Up Policy	CEO to draw the policy to the attention of IPReg Team members	FG	Ongoing	
July 2022 Board Meeting					
Jul-22	Financial Statements (IPReg Ltd), Directors Report and Letter of Representation	Update financial procedures	KD	Ongoing	
Jul-22	Education Working Group Update	Arrange a meeting with QMUL senior staff	VS	Scheduled for 24 January 2023	
Jul-22	Governance and Transparency Working Group – Report on findings and recommendations	Take forward Action Plan including regular updates to Board Meetings	FG	Ongoing	

## IPReg Board Meeting Actions Log - New and Outstanding Actions

Jul-22	Risk Register	Review risk wording	FG		January 2023 strategy morning to include approach to risk management
January 2022 Board Meeting					
Jan-22	Annual Renewal Process Update	Review annual return information categories similar to PAMIA questions	SE	Ongoing	Any changes will be put in place for 2023 renewal year
November 2021 Board Meeting					
Nov-21	Governance Matters	Governance documents to be reviewed in 2 years' time	FG	Open – Nov-23	
July 2021 Board Meeting					
Jul-21	Compensation Arrangements	Develop risk profile	FG/SE/MB	Ongoing	Auditor to update risk profile as part of one year review of compensation fund – December 2022 Board
May 2021 Board Meeting					
May-21	Diversity - next steps - workshop feedback	Implement the diversity initiatives	FG	Ongoing	
May-21	Diversity - Inclusive Language	Adopt and publish Inclusive Language Policy	FG	Ongoing	

**IPReg Board Meeting Actions Log - New and Outstanding Actions**

July 2020 Board Meeting					
Jul-20	Risk registers	Discuss how cyber risks should be added to the risk register and arrange for IPReg to undertake the Cyber Essentials programme.	IPReg team and SF	Ongoing	
January 2020 Board Meeting					
Oct-19	LSB CEO Meeting	Invite Matthew Hill to Board meeting	FG	Open	Date TBC

## Item 16

### IPReg Board Register of Interests 2023

Date Identified	Name of Board Member/Chief Executive	Description of Interest	Does the Interest relate to the Board member or a person closely connected to the Board Member?
1 July 2021	Lord Smith of Finsbury (Chris Smith)	Master of Pembroke College, Cambridge	
		Chair of South Staffs Water	
		An Independent Non-Executive Director of Phonographic Performance Ltd (PPL)	
		Chairman of Art Fund	
		President of The Wordsworth Trust	
		A Trustee of The Sixteen	
		A Board Member of English National Opera	
		Chair of Trustees of the Cambridge Union Society	
		A Syndic of the University Library, Cambridge	
1 July 2021	Fran Gillon	Lay member of General Chiropractic Council's Investigating Committee	
1 July 2021	Dr Caroline Seddon	National Director of British Dental Association Wales	
		Lay member of Education Appeals Panels, Carmarthenshire County Council	
		Lay member of Royal College of Radiology: Examination Board for the Clinical Oncology Fellowship	

1 July 2021	Victor Olowe	Director and Governance Consultant, Winzest Ltd	
		Non-executive Independent Chair, Exam Board, Chartered Institute of Management Accountants (CIMA)/Association of International Certified Professional Accountants (AICPA)	
		Non-executive Lay member, Audit and Risk Committee, Royal College of Veterinary Surgeons (RCVS)	
		Non-executive Lay Chair, Quality Assurance Scheme Sub-Committee, Institute and Faculty of Actuaries	
		Non-executive Independent Chair, Water Adoption Panel, Water UK	
		Non-executive Independent Chair, Sewerage Adoption Panel, Water UK	
		Non-executive Governor, Morley College London	
		Non-executive Lay member, Appointment Panel, The Independent Press Standards Organisation (IPSO)	
1 July 2021	Samantha Funnell	Owner and Director of Samantha Funnell Limited	
		Director of Incorporated Benevolent Association of the Chartered Institute of Patent Attorneys	
		Honorary Secretary of Incorporated Benevolent Association of the Chartered Institute of Patent Attorneys	
		Member of Addidi Angels LLP	
1 July 2021	Alan Kershaw	Chair, 2020 to date; Chair, Policy Committee; Chair, Project Group; Member, Remuneration and Appointments Committee of Architects' Registration Board	
		Chair, Education Visitor Panels, 2019 to date of General Optical Council	
		Lay advisor, 2017 to date of Royal College of General Practitioners	



		Member, Admissions and Licensing Committee of CILEx Regulation, 2021 to date	
		Member, Standards Review Committee, 2012 to date and Chair, Designated Professional Body Board,	
		Chair, 2022 to date of National Register of Public Service Interpreters	
		Quality Assurance Visitor, 2014 to date, and Scientist Training Programme Curriculum Review	
		MA of the University of Cambridge and a member of the National Trust, Historic Scotland, the Friends of the Royal Opera House and the Wine Society.	
1 Jan 2023	Henrietta Rooney	Employee of Elkington and Fife LLP	
		Part owner of a family-owned company incorporated in Michigan called OBI, LLC. No active role in the running of that company and no remuneration.	
1 Apr 2022	Justin Bukspan	Employee of Wilson Gunn	
1 Jul 2021	Emma Reeve	Employee of Stobbs (IP) Ltd	
1 Jul 2021	Samantha Peters	Lay Director, Honorary Treasurer and Chair of Finance, Risk and Audit Committee of British Dietetic Association.	
		Trustee of British Dietetic Association General and Education Trust	
		Lay Director, Vice Chair, Member of Finance Audit and Risk Committee and Remuneration Committee of the British Acupuncture Council	
		Trustee, Chair of Being Well Together Committee and Member of Remuneration Committee and Qualifications and Awards of Committee British Safety Council	