

Patent Examination Board

Final Diploma

External Examiner's Report

Name of External Examiner	Professor David Musker
External Examiner's institution	Queen Mary University of London
Programme(s) being examined	Final Diploma
Award meeting(s) attended	Awarding Meeting 9 March 2023

1. Programme Structure

Please comment upon:

- any particular strengths and weaknesses of the Final Diploma programme;
- the balance and content of the programme(s) followed by candidates;
- the coherence of programmes, and the appropriateness of syllabus content in relation to the Final Diploma aims;
- the suitability of methods and the adequacy of training as reflected by the standards achieved by the candidates.

The FD aims have not as yet been fully specified by IPReg. In the interim, the overall aim is presumably to test candidates' abilities to practice to the standard of a newly-qualified UK patent attorney. The syllabus content appears appropriate, though only FD1 is explicitly designed to test the knowledge elements of the syllabus (FD2-FD4 being scenario-based skills assessments). Since there is no formal teaching of the job skills concerned (though there are exam technique courses), candidates depend on their on-the-job training and not every candidate has exposure to all areas. For example, many lack experience in infringement analysis and advice (the subject of FD4 which has a poor pass rate), though most have experience in amendment (the subject of FD3 which has a good pass rate).

2. Standard of candidate performance

- 2.1 Is the standard of candidate achievement at Pass level and above comparable with that of equivalent Level 7 programmes and/or qualifications in similar subject areas in UK higher education institutions with which you are familiar?

YES / NO (If 'no', please state the reasons they fall short.)

Yes to the extent that there are any comparables (there are few).

- 2.2 Are there any other points on candidate performance that you wish to raise?

No.

3. Assessment Process

- 3.1 In your view, are the processes for assessment, examination and the determination of results sound and fairly conducted?

YES / NO (If 'no', please state the reasons they fall short.)

Generally yes. A small subset of candidates demonstrate much knowledge but less judgment. The marking schemes have already been somewhat adapted to assess such candidates more appropriately, and further changes are understood to be in consideration for the future.

3.2 Please also comment for PEB on:

- strengths and weaknesses in the assessment process;
- the appropriateness of the assessment method (i.e. examinations) to the learning outcomes for the programme;
- the mark schemes;
- the quality and achievements of the candidates.

Strengths include maintaining “banked” papers to deal with potential losses or changes of Examiner; use of test-markers; standardisation meetings to agree marking strategies; well-documented syllabi; clear marking schemes; consistency from year to year.

As to weaknesses, there are very few at operational level – the system operates well, and copes well with unexpected shocks such as COVID and the loss of a Chief Examiner. However, at the level of design, after many years of consistency, the time appears right to re-think the aims of each paper to (a) avoid duplicating what is tested (e.g. FD3, the amendment paper, does test some of the same skills as FD2, the drafting paper), (b) ensure that all skills (e.g. client communication skills) are in fact tested and (c) ensure that the right practical approaches are rewarded (e.g. the infringement scenarios of FD4 require recognition of uncertainty and incomplete information, and realistic judgments as to how to advise as a result). These issues have been discussed both by IPReg and CIPA’s Mercer Review, and PEB will be addressing them.

3.3 Was the standard of assessment for the Final Diploma consistent with that of UK higher education establishments, where applicable, at QAA Level 7?

YES / NO (If ‘no’, please state the reasons they fall short.)

Generally yes.

4. Other Quality Issues

If the answer is ‘no’ for any of the following questions, please give details in the comment box at the end of this section.

Examination papers		Delete as applicable
4.1	Were you satisfied with the arrangements for consulting you on the structure and content of the question paper(s)?	Yes
4.2	Were your comments on the question paper(s) properly taken into account?	Yes
Marking and Standardisation		
4.3	Were you satisfied with the arrangements for your moderation of question papers?	Yes
4.4	Did you have sufficient information on the mark scheme(s)?	Yes
4.5	Did you feel that you could fairly assess the quality and consistency of the marking?	Yes
4.6	Was the quality of the marking satisfactory?	Yes
4.7	Were you satisfied with the arrangements for standardisation of	Yes

	examiner marking (where required)?	
The Awarding Meeting		
4.8	Were you satisfied with the arrangements for, and conduct of, the Award meeting?	Yes
4.9	Were you satisfied with the decisions and recommendations of the Award meeting?	Yes
Assessment		
4.10	Was assessment consistent with the requirements of the IPReg Accreditation Handbook, so far as you could tell?	Yes
Please detail any concerns regarding 4.1 – 4.10.		

5. Issues of Procedure

If applicable, how did procedures/arrangements compare this year with previous years? Were suggestions that you made last year acted upon? (If not applicable, please go to question 7.)

Procedures this year appeared to run smoothly. As regards my suggestions from last year, there was some adoption of a more flexible marking approach (my comment at 3.2). My comments on open-book exams have not been adopted as yet – I would encourage giving it further consideration, as in real life we would encourage practitioners to check for answers rather than relying entirely on their memories. My comments on FD4 were not expected to be acted on in this exam cycle, as they form a major part of both the Mercer Review and IPReg’s accreditation, and no doubt PEB will look at them in that context.

6. General Comments

6.1 In your view, are the standards set at unit level for the Final Diploma appropriate for qualifications at this level in this subject?

YES / NO If ‘no’, please state the reasons they fall short.)

They set an appropriate test of the knowledge, and the specific skills, which are uniquely required for this profession. There could perhaps be better testing of the more general and transferable skills required. Level 7 programmes generally enable candidates to demonstrate e.g. ability to:

- “make sound judgements in the absence of complete data, and communicate their conclusions clearly to specialist and non-specialist audiences”
- “demonstrate decision-making in complex and unpredictable situations”
- “have the skills enabling the exercise of initiative and personal responsibility”

The current FD assessments do not, for example, require a letter to a client, lay or experienced (the logical paper for this, the FD3 paper, only requires notes), and do not greatly emphasise the issues arising from incomplete information or unpredictable situations. The issues arise not from the scenarios deployed but from the mark scheme used to assess them. Having said this, changes towards more flexible marking were made this year.

6.2 Are there any other points that you wish to raise? In particular, PEB would welcome your comments on any aspects of exemplary practice in the area for which you act as external examiner.

The FD2 and FD3 drafting and amendment papers this year demonstrated good practice in setting scenarios which were accessible without requiring highly technical backgrounds. The FD4 paper was also well set, and the slightly chemical flavour did not appear to pose technical challenges for candidates from mechanical or electrical backgrounds.

6.3 If appropriate, please provide a short statement or bullet points of any particular strengths or distinctive or innovative features in relation to standards and assessment.

I remain impressed by the efforts taken to standardise the setting and marking of the papers, and by the commitment of the examination team and the Board as a whole.

Signed: Professor David Musker

Date: 29 April 2023