

FD2¹ Drafting of Specifications: 1.8 day Course Description

Course summary

This intensive 1.8 day course is designed to help prepare trainee patent attorneys for the Final Diploma (FD) Amendment of Specifications paper. The **Examination Guidance** describes FD2 as “*a test of competence to understand a simple technical problem and, primarily, to draft claims for a new patent application that clearly define the invention and give the maximum potential for protection in view of the disclosed information. While the technical problem will differ from paper to paper, candidates will always be expected to draft GB claims, both independent and dependent; and to draft a specification, either whole or in part, made up of an introduction, prior art review, object, statement(s) of invention, specific description and abstract*”. Candidates are expected to have underpinning knowledge of the relevant law (see **Annexe A**), built up from study at Foundation Certificate and beyond, and practical experience.

The emphasis of the course is practical and focused on the challenges the exam presents and the competencies that FD2 tests. There will be advice from the tutor on what is expected in exam answers and opportunities for participants to practise drafting claims and answering past questions, with individual feedback from the tutor with the objective that individuals’ drafting skills improve during the course.

Content

Each session contains a session title, session summary and set of learning outcomes. The learning outcomes of the sessions have been mapped to the tested competencies set out in the **FD2 Syllabus**.

¹ Formerly the P3 paper.

Pre-course preparation

Summary

Annexe B provides guidance on preparing for the course and the later exam. Participants will be asked to read the FD2 syllabus, the examination guidance, instructions to past papers, some recommended papers/books and answer (and send in) a specified past paper set by the tutor. They will need to also revisit their Foundation knowledge of the relevant sections of the Patents Act and seek out relevant experience on drafting patent applications. The better prepared participants are, the more they – and the group - will get out of this intensive course.

Expected learning outcomes

At the completion of your pre-course preparation, participants be able to:

- describe the scope of the FD2 syllabus and the knowledge and competencies required;
- recall the format of the exam and its instructions;
- by answering the past paper set by the tutor, have a good understanding of the challenges posed by the exam;
- as far as possible, have the level of practical experience set out on pages 1-2 of the Examination Guidance; and
- recall and describe the areas of law and practice that are tested in FD2.

Session 1: Overview of FD2, spotting and claiming the invention, preparing the remainder of the specification

Session summary

In this session the tutor will provide, through a presentation, an overview of what are the key demands of FD2, examiner's expectations and time management, advice on analysis and techniques to use to spot the invention – including using an integer tree – and on claiming the invention, and on how to prepare and select features for dependent claims. There is advice on the “description” and general tips on ways to maximise marks.

Expected learning outcomes

At the end of this session, participants will be able to:

- discuss what the examiner expects in a FD2 answer;
- recognise how best to read the question, analyse the problem and allocate time to different tasks;
- spot the invention to be protected;
- claim the invention to be protected at an appropriate breadth;
- prepare dependent claims to appropriate features and in a logical order; and
- prepare the remaining parts of the specification.

Session 2: Drafting Exercise 1

Session summary

In this session, participants will prepare independent claims based on an example past paper. The tutor will give guidance to each participant during the drafting process and will provide both individual feedback and group feedback after the claims have been prepared.

Expected learning outcomes

At the end of this session, participants will be able to:

- understand some of the key skills tested in FD2 and have a technique for reading, analysing and responding to an examination question; and
- work on improving their technique as a result of direct feedback on their work.

Session 3: Drafting Exercise 2

Session summary

In these sessions, participants will attempt three 'quick-fire' answers, based on example past papers and on a tutor-prepared question. This will intentionally place the participants under some pressure to commit to an answer quickly using their new techniques. There will also be tutor feedback throughout and after the drafting exercises.

Expected learning outcomes

At the end of this session, participants will have experience of committing to an answer quickly and under pressure, to emulate examination conditions. Participants will also have attempted an exercise in which they will have to create their own wording for the claims.

Session 4: Drafting Exercise 3

Session summary

In this session, participants will prepare independent claims based on an example past paper, which tests a wide range of drafting skills. The tutor will give guidance to each participant during the drafting process and will provide both individual feedback and group feedback after the claims have been prepared.

Expected learning outcomes

At the end of this session, participants will be able to:

- understand some of the key skills tested in FD2 and have a technique for reading, analysing and responding to an examination question; and
- work on improving their technique as a result of direct feedback on their work.

Session 5: Drafting Exercise 4

Session summary

In this session, participants will prepare independent claims based on an example past paper, which is a very difficult paper. The tutor will give guidance to each participant during the drafting process and will provide both individual feedback and group feedback after the claims have been prepared.

Expected learning outcomes

At the end of this session, participants will be able to:

- understand some of the key skills tested in FD2 and have a technique for reading, analysing and responding to an examination question; and
- work on improving their technique as a result of direct feedback on their work.

Session 6: Drafting Exercise 5

Session summary

In this session, participants will prepare independent claims based on an example past paper. The tutor will give guidance to each participant during the drafting process and will provide both individual feedback and group feedback after the claims have been prepared. The Examiners' proposed claims for a good answer to this paper will also be critically analysed.

Expected learning outcomes

At the end of this session, building on what has been learned in Sessions 1-5, participants will be able to recognise and demonstrate, through their answers to past questions, improvements in their ability to read and analyse FD2 questions and draft claims, abstracts, letters and introductions that demonstrate the FD2 competencies of:

- seeing the overall picture;
- accurately interpreting technical information;
- assimilating and making use of data, information, themes and ideas;
- recognising inventive concepts;
- analysing an invention for essential and inessential features, and distinguishing features of an invention from those of the prior art;
- drafting specification and claims of reasonable scope, based on the information available;
- Identifying key issues and considers how best to present these in drafting;
- drafting in an accurate, clear and easy to understand language;
- drafting claims that are suitable for use as a priority basis in other jurisdictions and for successful prosecution in the UK;
- drafting in a way that reflects the client's needs and priorities, is based on reasonable analysis of information available and meets the requirements of relevant law and good practice;
- demonstrating a thorough knowledge and understanding of the relevant aspects of law and practice relating to patentability in the UK; and
- exploiting that knowledge in preparing draft specifications and claims.

Session 7: Summary, Evaluation and Final Preparations for the FD2 Exam

Session summary

In this closing session, the tutor will summarise key points of advice on how to tackle the FD2 exam and structure answers for maximum impact. Participants will be asked to complete evaluations on the content of the course, delivery and achievement of expected learning outcomes. The tutor will then advise on how participants can best make use of the remaining weeks before the exam to prepare - with guidance on further practice of past exam papers and on materials to read.

Expected learning outcomes

At the end of this session, participants will be able to:

- recall the key pieces of advice from the tutor on how to tackle FD2 and structure answers;
- plan their final stages of revision and practice for the exam; and
- identify areas where they need to do further reading and practice.

ANNEXE A: EXTRACTS FROM THE FD2 SYLLABUS²
SETTING OUT CONTENT THEMES AND RELEVANT LEGAL PROVISIONS

CONTENT THEMES	LEGAL PROVISIONS	
	Patents Act 1977	Patent Rules 2007
1. The law and practice relating to patentable inventions in the UK	PA1 – Patentable inventions PA2 – Novelty PA3 – Inventive step PA4 – Industrial application PA125 – Extent of invention	PR5
2. The needs of lay clients		
3. The requirements for claims of a patent specification suitable for filing in a UK patent application	PA 14 – Making of an application	PR 16
4. Requirements for a description within a patent specification suitable for filing in a UK patent application	PA14 – Making of an application	PR12
5. The requirements for an abstract of a patent specification suitable for filing in a UK patent application	PA14 – Making of an application	PR15

² You should read the full syllabus (http://www.cipa.org.uk/download/FD22015_Final.pdf) to understand the Learning Outcomes you will have to demonstrate in the examination to show that you have the required knowledge and skills.

ANNEXE B: HOW TO PREPARE FOR FD2 AND THE COURSE

A. General preparation for FD2

1. Read and familiarise yourself with the FD2 syllabus to understand:

- which areas of the law you are expected to know;
- what you will have to demonstrate in the exam to show that you have the required knowledge and skills; and
- what practical experience it is helpful for candidates to have.

The syllabus is available from the Patent Examination Board website.

2. Read and familiarise yourself with recent past FD2 (P3) exam papers, Examiner's Reports, Mark Scheme (for 2014 onwards) and Sample Pass Scripts, to understand the format and requirements of the exam.

- Exam papers from 2003 onwards, Examiner's Reports, the Mark Scheme and Sample Pass Scripts are available online from the Patent Examination Board website.
- Exam papers for 1991-2002 are available at <https://www.dropbox.com/sh/iv8w7cx9oqneqwh/AADNmghnxqdGZjPw3u-f6hOTa>

3. Seek out opportunities in your office to obtain the recommended practical experience set out on pages 1-2 of the Examination Guidance.

Discuss this with your training supervisor/line manager.

4. Build on your notes from Foundation-level to ensure you are up to date on the areas of law and practice that are set out in the FD2 syllabus and tested in the exam. It is recommended that you read.

- CIPA's *The Patents Training Manual*, chapters 11 and 12. Available from CIPA.
- CIPA's *How to Pass P3* (Iain Russell: latest edn.). Available from CIPA.
- CIPA's *Fundamentals of Patent Drafting* (Paul Cole: 2006). Available from CIPA.
- *Brushing up Our Drafting* (E.W.E. Micklethwaite: *CIPA Journal* June and July 2003)
- *Drafting for the Examination Question P3* (Robert D. Weston: *CIPA Journal* November 2003)
- *The Manual of Patent Practice* (latest edn.), pub. IPO
- (and listen to) the lectures on FD2 (P3) in the Informals area of the CIPA website.

B. Specific preparation for this course

5. Attempt a specified FD2 (P3) past paper and e-mail your answer to the tutor at least a week before the course³.

³ We will confirm the paper at least 4-6 weeks before the course.

ANNEXE C: TRENDS IN OVERALL PASS RATES FOR P3

Figure 1, drawing on PEB data for all candidates, indicates that, since 2000, the pass rate for FD2 (P3) has fluctuated substantially year to year: from a low of 26% in 2000 to a high of 60% in 2009. **Figure 2** indicates that the linear trend for passing has been gradually upwards. The mean pass rate over the period 2000-14 was 37% as against 53% for FD1 (P2), 52% for FD3 (P4) and 43% for FD4 (P6).

Figure 1: Trends in Pass Rates for All Candidates in the P2, P3, P4 and P6 Papers 2000 to 2014

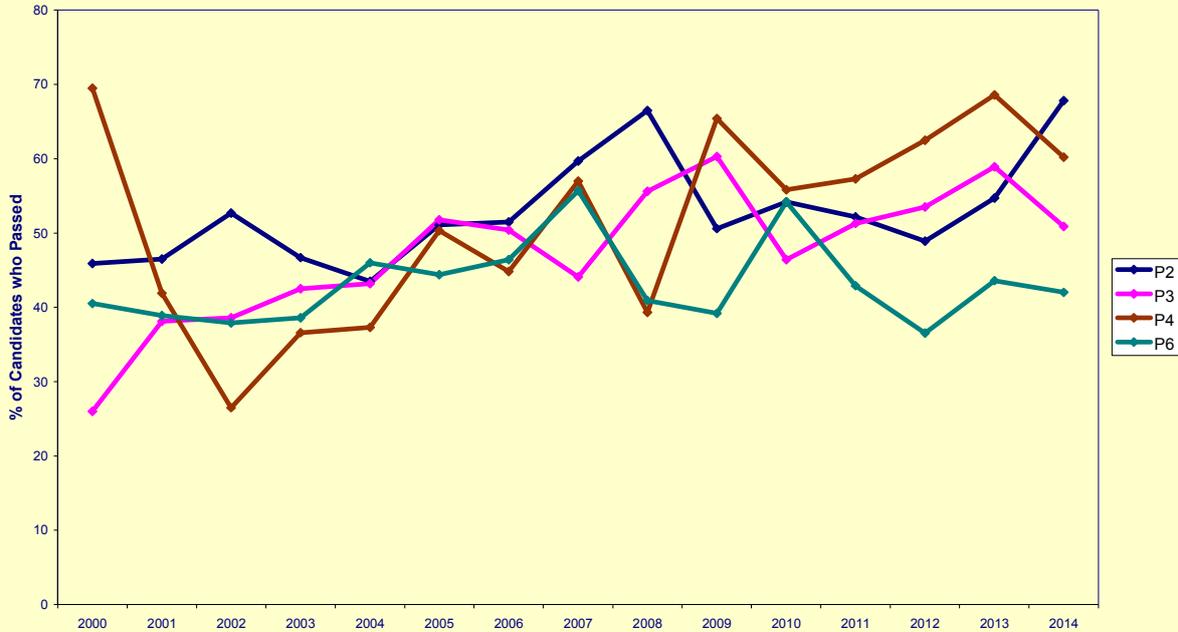
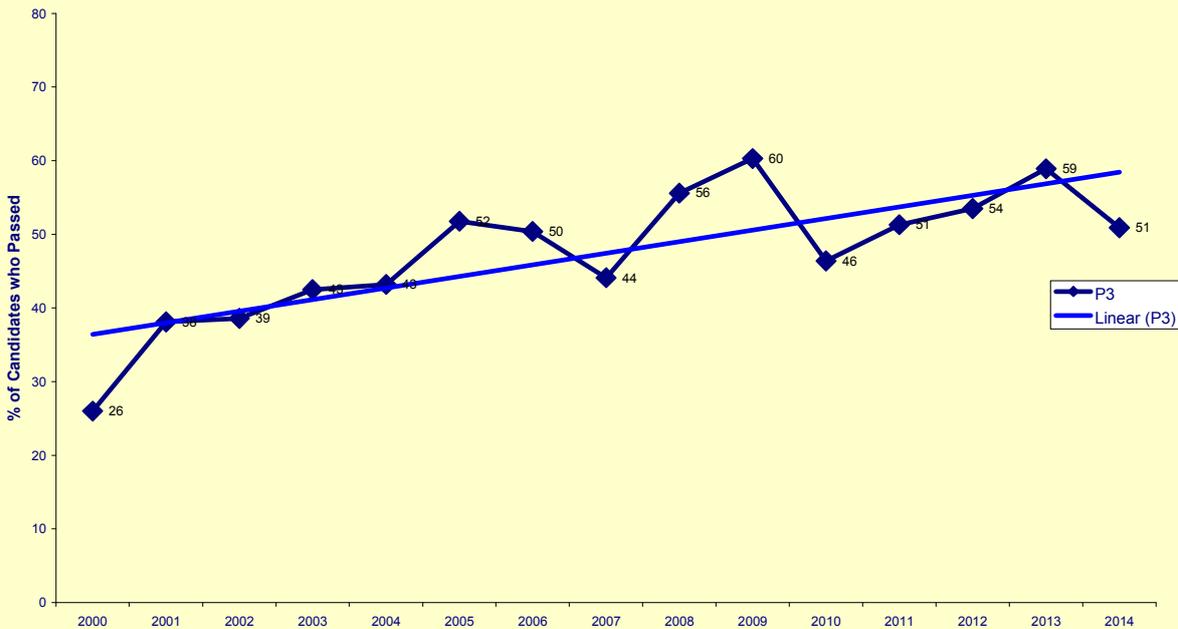
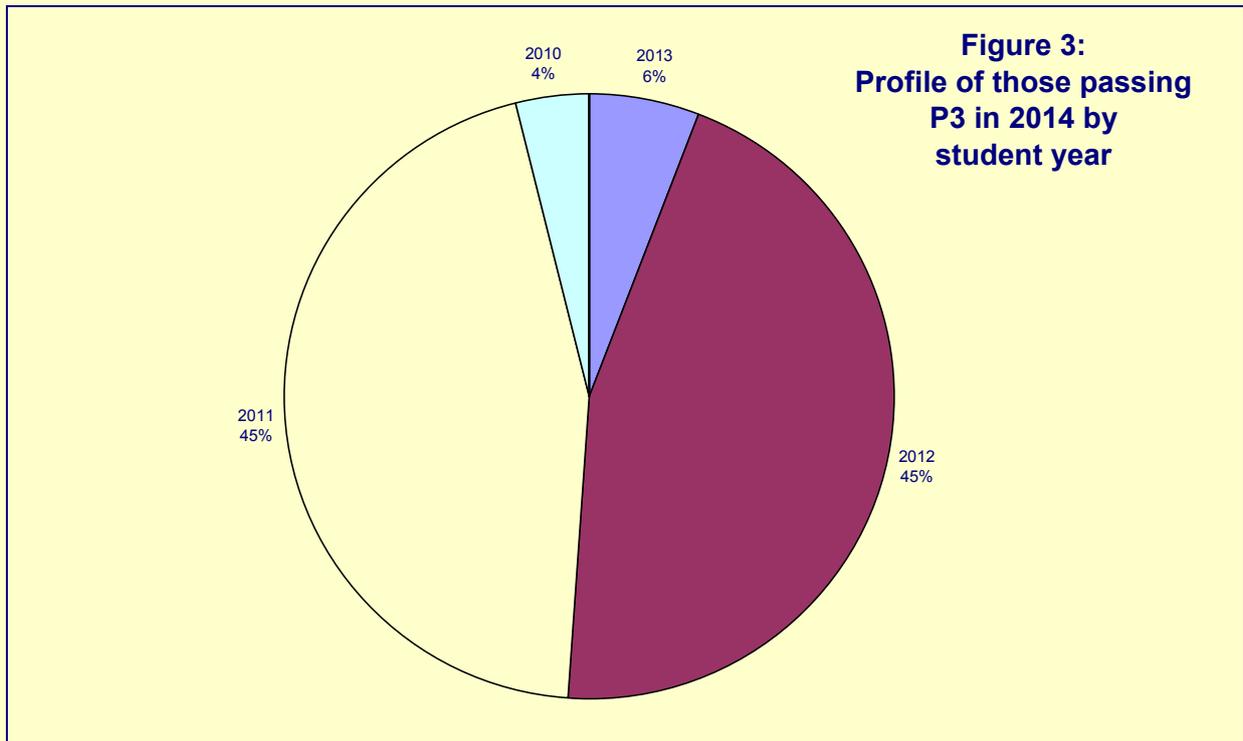


Figure 2: Trends in P3 Pass Rate for All Candidates: 2000-14

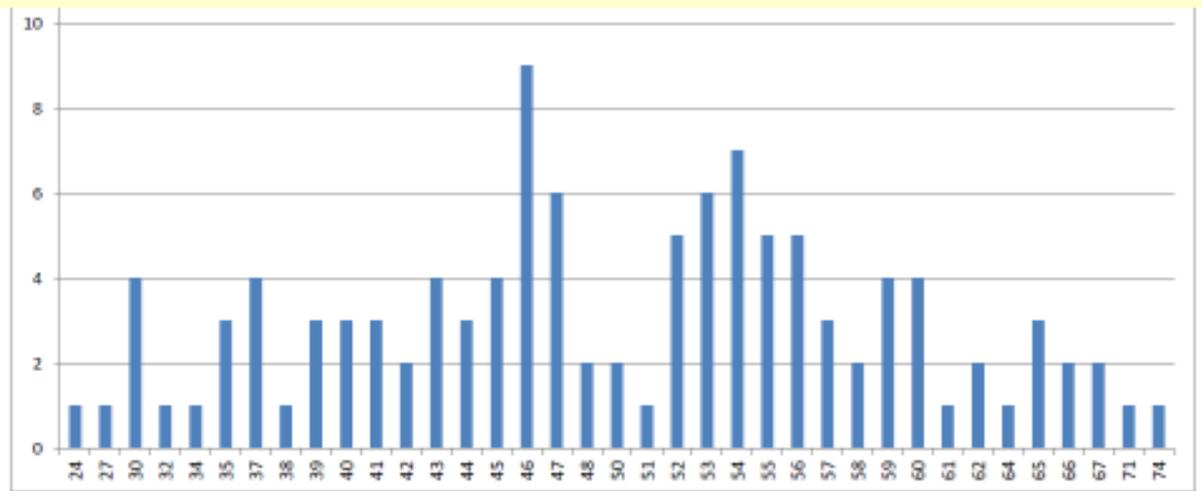


Our analysis (**Figure 3**) indicates that more than a half of those who passed P3 in 2014 had been students in the profession for under three years.



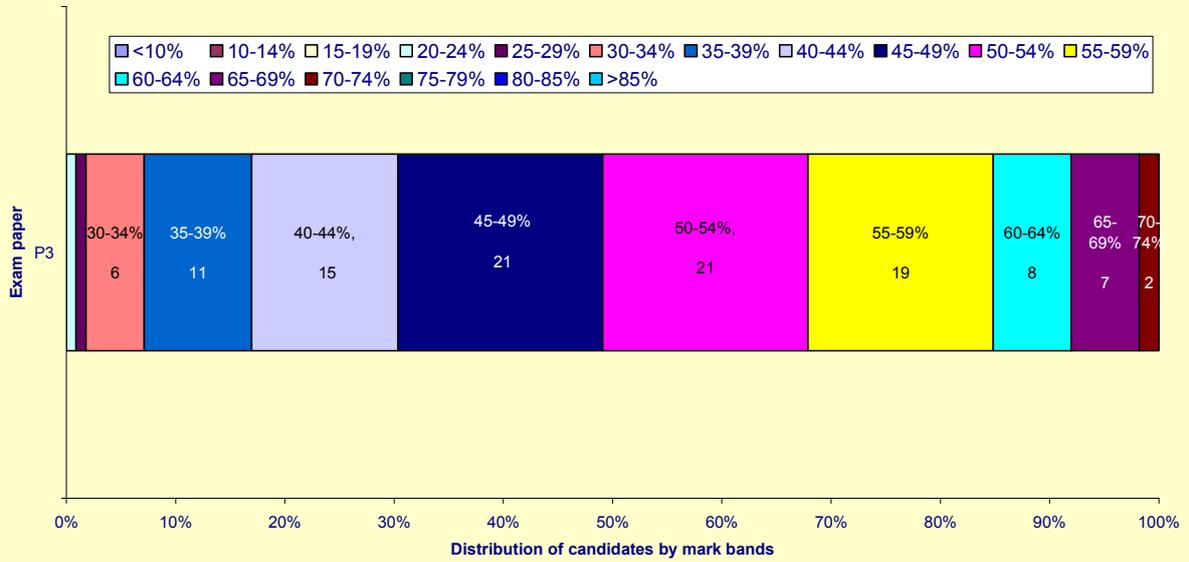
In 2014, the PEB published (**Figure 4**) the distribution of marks for all the candidates who took the P4 exam.

Figure 4: The mark distribution of P3 exam candidates in 2014



This is the first year PEB has published this information, so we do not whether this mark distribution is typical. But analysis of the marks indicates that, 42, or 38% of all candidates secured marks of between 45 and 54, with 21 candidates (19% of all) “narrow passes” securing marks of 50 to 54, and 21 (19%) ‘narrow fails’, with marks of 45 to 49 (see **Figure 5**).

**Figure 5: Distribution of Candidates' Marks
in 2014 P3 Exam**
(112 candidates)



This points to the importance of candidates ensuring that candidates maximise all possible marks available, as one or two marks can make the difference between a pass and a fail.