

24 November 2016

For the attention of:
CIPA Chief Executive
CIPA Council
EQE Examination Secretariat

An Open Letter Regarding the UK Venue for the European Qualifying Examinations

Dear Sirs

As you know, the Informals' Committee at the Chartered Institute of Patent Attorneys (CIPA) represents the interests of all trainee patent attorneys in the UK. The European Qualifying Examinations (EQEs) will be, for most of us, the culmination of over 3 years of work in the industry, and form an essential stepping stone to becoming a qualified attorney. It is thus unsurprising that preparation for the EQEs (and in recent years, the EQE pre-examination) can be an important but stressful period in the life of any trainee.

In 2016, the EQEs were held in Ashton Gate Stadium, Bristol. The appalling nature of conditions at this venue was much publicised, not least in the Candidates' Survey published by the European Patent Office (EPO)¹. Indeed, conditions were so bad that the Examination Board applied an unconditional (but quite frankly, nominal) increment to marks under Art. 6(5) REE to all who sat the Examination in the UK.

Following these events, it was hoped that the various issues that have plagued the UK EQE venue would receive more pressing attention, and that conditions would improve for future years. However, recent events regarding the organisation of the 2017 EQEs in the UK have raised numerous concerns for trainees across the country, and some of these are highlighted below.

Timeline of Events

- *April to September 2016* – Candidates enrolling for the 2017 EQEs were not given an exact venue location for the UK examination centre, but were informed that their choice of venue could not be changed once allocated
- *7 October 2016* – The deadline for withdrawal and refund of examination fees passed
- *9 November 2016* – The EQE Examination Secretariat contacted candidates by E-mail, informing them that the UK examination centre will be Walsall Football Club; candidates were also informed that spaces are limited, and thus were given the option of changing their preference to Munich M.O.C.; any change of preference had to be communicated to the Examination Secretariat by 14 November 2016
- *15 November 2016* – EQE candidates received an E-mail from the Honorary Secretary of CIPA, Chris Mercer; candidates were assured of the suitability of the Walsall venue, including that it has “sufficient room for candidates to bring as much reference material as they want”

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[http://documents.epo.org/projects/babylon/eponot.nsf/0/F44C9420110CB76EC1257FD3004961FB/\\$File/Survey_2016_final.pdf](http://documents.epo.org/projects/babylon/eponot.nsf/0/F44C9420110CB76EC1257FD3004961FB/$File/Survey_2016_final.pdf)

- *22 November 2016* – EQE candidates received confirmation regarding their allocation; over a brief survey spanning 8 private practice firms, 23 out of 49 candidates for the pre-Examination who had retained a preference for Walsall were allocated Munich M.O.C.

Size of a Suitable Venue

By the end of summer, we submit that CIPA should have had a good idea about the number of people who will be sitting the 2017 EQEs, notwithstanding basic projections from numbers in previous years. (Indeed, enrolment for the pre-Examination closed 2 June 2016.) Furthermore, the provision of suitable venues should surely include a degree of flexibility to accommodate a potentially larger year.

We fail to see how a venue labelled as “suitable” can lead to approximately **half** of the candidates for one particular Examination being denied space, especially given the tone of the Honorary Secretary’s E-mail of 15 November.²

Further to the stress that such a sudden and unexpected change can cause to candidates less than 4 months from the Examination, unnecessary hours of work time will have also been wasted by candidates in an attempt to cancel and remake hotel bookings and travel arrangements (some of which would have been non-refundable), as well as ascertaining whether the additional cost of moving venue will be covered by their employer.

Overall, the latest developments have created a burden on the trainees in the profession and their employers, which we think simply cannot be justified given the advanced warning and knowledge that CIPA must have had prior to offering their services for the 2017 EQE.

Examination Conditions

The EPO website acknowledges the aim of the EQE as being: “to establish whether the candidate has the requisite aptitude and knowledge to represent applicants before the EPO”³. This is not unlike the aim of many professional qualifications, where candidates should demonstrate that they are fit to act independently as a member of the profession.

Accordingly, it is submitted that the conditions in which such an Examination should take place should be those which are commensurable to the standards of the common workplace, so that the “requisite aptitude” of a candidate can be fairly judged.

The numerous anecdotal accounts of the climate at Ashton Gate in 2016 from the EPO survey unequivocally demonstrate a severe lack of the above. Temperatures during the week of Examination have been quoted as not rising above 13°C. The lack of noise insulation from the bathroom facilities also contributed to some of the worst conditions experienced by candidates in recent years. Candidates were reportedly wearing multiple layers of insulation, and additional garments such as gloves and hats, in order to endure the conditions for up to 5 hours for some papers. We fail to see how such conditions can ever be a fair assessment of a candidate’s aptitude to practice in the profession, when they are faced with an environment that would breach several health and safety regulations in this country.

² We accept that re-allocation of venue can happen as per the Examination regulations, and indeed has happened in the past, but we submit that it is the scale of the movement in the present situation which is particularly troubling

³ <https://www.epo.org/learning-events/eqe/about.html>

Ashton Gate was also not an isolated incident. While the conditions there can certainly be deemed as exceptional, a distinct lack of adequate heating was also revealed in the EPO surveys conducted for the UK venue in 2015, 2013 and 2011.

In the November issue of the CIPA Journal, Lee Davies, Chief Executive, went on record to communicate some of the issues faced by CIPA in finding a suitable venue⁴. We accept that there is a certain financial burden on CIPA. We at the Informals politely request that Mr Davies provides a breakdown of how the quoted £20000 budget from CIPA is spent on an EQE venue. A recent blog post from “IPCopy” estimated that the current venue in Walsall has a hire cost of £1100 per day⁵. The thought that the remaining difference somehow accounts for invigilator and transport costs appears to be hard to justify. This also does not appear to tally with the concept that an ideal venue would be approximately £50000. We would again be happy to hear from Mr Davies regarding the quotes that he has received for such venues. We are also happy to assist CIPA in the future in finding suitable venues to fit a particular budget, if this is something that they wish to pursue.

Irrespective of the above, we submit that a mere lack of budget does not excuse the use and hire of venues that are simply not suitable for professional examinations.

We appreciate that the venue at Walsall this year has been examined by both Lee Davies and Chris Mercer, and are thus hopeful that the issues faced last year will not be experienced by candidates who will actually be attending Walsall. However, we raise the question of why these fairly basic checks were not done previously. Given that the venue at Ashton Gate was simply on the concrete concourse for fans to congregate before entering the stands, the lack of insulation and poor conditions for heat conductivity would have been clear for anyone to see.

Moving Forward

The Informals implore CIPA, on behalf of the UKIPO, to further consider the current provisions for a UK venue for the EQEs, which we submit are currently inadequate. The logistical issues faced by a large number of trainees in the country over the last few days are simply unacceptable from a training perspective. Notwithstanding other changes that might be made to the process, if similar issues are likely to arise in future the Informals request that a dialogue is opened with candidates at a much earlier stage, with clear and honest information provided about the challenges being faced. In the present situation, had it been made clear at an earlier stage that the venue could accommodate only half of the required number of candidates, more trainees, or groups of trainees at larger firms, may have actively chosen to sit the exams in Munich and made appropriate arrangements to do so. As it stands though, trainees appear to have been randomly reallocated, breaking up groups of trainees at larger firms and adversely affecting preparation for the exams.

If cost is the primary issue, we hope that CIPA/UKIPO can open a dialogue with the EPO such that additional costs incurred to provide a large and insulated venue in the UK can be recouped from the substantial EPO exam registration fees that candidates are currently asked to pay. Alternatively, other sources of funding should be considered to ensure fair and equal access to the qualification process across the industry. Such options could include a supplementary fee charged by CIPA for UK-based EQE candidates, or a levy paid by all firms for the benefit of their trainees being able to sit the exams in the UK.

The cost implications are particularly relevant because the Informals’ Committee is conscious that not all trainees are employed by large firms willing and able to absorb the additional cost of

⁴ “EQEs”, CIPA Journal, November 2016 pg. 4

⁵ <https://ipcopy.wordpress.com/2016/11/23/eqe-2017-munich-march-madness/>

sitting the EQEs in another country. Some trainees at smaller firms may have to bear some, or all, of the additional cost of travelling to sit the exams outside the UK.

Finally, we put forward the idea that, as a last resort, if the hiring of a suitable venue is simply not possible for the coming years, the UK venue be removed as an option for candidates sitting the EQEs. This would mean that candidates can at least prepare well in advance to travel to centres in Europe, some of which may be more accessible compared to Munich for candidates in certain areas of the UK (for example The Hague, Paris and Taastrup).

However, we do consider that given the size of the profession in the UK, the effective provision of a suitable local examination centre for the EQEs should be a priority.

Yours faithfully

Henry Muttock
The Honorary Secretary of the Informals' Committee

Feng Rao
Laura Jennings
The Education Coordinators of the Informals' Committee

On behalf of
The CIPA Informals' Committee