

**PCLL Conversion Examination**  
**June 2025 Examiner's Comments**  
**Evidence**

The overall performance was poor. Better answers followed an IRAC structure, setting out each step in the logic, whereas those who did not do well tended to copy out related but inapplicable principles from notes. All questions required candidates to analyze both the relevance and admissibility of each piece of evidence. The former concerns "in what way is the evidence helpful to the prosecution or defence case"? Many candidates omitted to address the first matter and jumped right to regurgitating rules on admissibility.

Q1 avg 5/6

Q2 avg 5/6

Q3 higher

Q4 higher

Q5 low

Performance on Question 1 was satisfactory. 1(a) concerns similar fact evidence. It was in the context of the prosecution's case. Almost all candidates started their analysis with discussing CPO s.54(1)(f)(i), which was irrelevant, as it only operates during the defence case. 1(b) expected candidates to appreciate that this was an out-of-court statement, and to discuss possibilities of using it for a hearsay purpose and non-hearsay purpose. Only a small minority of candidates satisfactorily answered this question. 1(c) was about whether testimony from a child was admissible. Beyond the fact that there are no rules prohibiting such evidence, better answers also discussed the reliability of a child of such young age.

Question 2 was a 'traditional' question on confession. The examiners expected first a discussion of the test of admissibility of confessions through reference to local leading cases. It was surprising how a great number of candidates referred to the same UK cases, or at times UK statute. Candidates should be reminded that on a question on confession, whether the person extracting the confession was a person in authority is a matter that required separate analysis. The first confession should raise obvious issues of fraud and inducement, even though many candidates wrongly characterized it was oppression. The second confession required a discussion of confessions extracted during undercover operations, in particulars whether the conduct of the police would enable the court to exercise its residual discretion to exclude it.

Question 3 focused on identification evidence. No candidate successfully answered 3(a), which concerned the admissibility of CCTV evidence, i.e. whether it is hearsay / real evidence. 3(b) concerns dock ID, which almost all candidates answered well. 3(c) was a trick question in that there is no rule against its admissibility, but merely required a discussion on its relevance. 3(d) was a straightforward discussion and application of *Turnbull*.

Question 4 was all about hearsay. Many candidates did not even discuss the rule against hearsay and its definition. 4(a) concerned the common law hearsay exception of *res gestae*. Many candidates thought this was a dying declaration, which was not correct. 4(b) had 2 potentially applicable exceptions: the common law exception of declaration in the course of duty, or the statutory exception of documentary records in s.22 EO. Both 4(c) & (d) were tricky

in that there was no obvious hearsay exception applicable to it. One could discuss the viability of s.65B or 65C CPO, or even advised that the psychiatrist / doctor had to testify in person.

Question 5 was poorly answered. It concerned the use of confessions by co-accused in a multiple defendant situation. 5(a) concerned a confession against implicating no one but the co-accused, therefore would be inadmissible. 5(b) was straightforward in requiring only a statement of the right of silence. 5(c) was about a confession being used against the statement maker, which would be admissible if voluntary. 5(d) & (e) were similar, but basically 2 variations of facts of whether the *Myers* hearsay exception could be used, and when it could not be used.