PCLL Conversion Examination
January 2023
Examiner's Comments
Evidence

The overall performance was satisfactory, although there were no outstanding answers. 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.

Performance on Questions 1 and 2 were very poor. Most candidates was unable to recognize the subject matter of question 1 was on collateral attacks on credit. Candidates were expected to discuss the relevant threshold tests from *HKSAR v Wong Sau Ming*, firstly on whether such an attack could be made on the first place. Second, in 1(b), the issue was whether rebuttal evidence can be adduced if the witness denied the attack, i.e. the collateral finality rule and its exceptions.

For Question 2, many students failed to read the question properly. They just regurgitated rules on bad character as soon as they saw the word "conviction", which earned them no marks. When the court is asked to decide whether good character directions should be given, 2 questions arises, namely (i) is the defendant of good character? and (ii) if so, which direction(s) should be given? Candidates needed to correctly understand and apply the relevant principles from *HKSAR v Tang Siu Man*.

Question 3 required students to discuss the conditions of admissibility of opinion evidence. Students should start with the exclusionary rule, then discuss each condition of admissibility (relevance, reliability of subject matter, reliability of witness, necessity), supported with case law, and then apply the facts to each.

Question 4 was a straightforward application on the rules relating to a confession challenge, and did not cause any difficulty with the candidates. Candidates should not forget a confession could be challenged on 2 separate grounds: (i) voluntariness, and (ii) residual discretion to exclude.

Question 5 concerned the (a) rules of competence & compellability, as well as (b) mechanism(s) to assist vulnerable witnesses. All students did well on this question.