

PCLL Conversion Examination
June 2021
Examiner's Comments
Hong Kong Legal System

Overall

Overall the standard of answers was disappointing; with the rather high failure rate a consequence, in many cases, of insufficient subject knowledge and a failure to answer the questions set. There were, as always, some very good papers; but these were very much a minority, and passes were, in general, bare passes.

Question 1

This question, on **prosecutorial** independence and impartiality, was the least popular question and, judging by the answers returned, rightly so. While some candidates produced sound answers and were given credit accordingly, a number of “answers” were truly awful and seemed to be based on pre-prepared answers on **judicial** impartiality! Those who merely answered the question they “hoped” to have been set scored few marks.

There needed to be discussion of the Secretary for Justice’s dual role as prosecutor and politician and the inherent defects of such a system, with some case illustrations of the problem. Better answers referred to Sally Aw, “Lexus” Leung etc. and the controversial decisions not to prosecute. Likewise examples (including modern ones) of decisions to prosecute government opponents were referred to by the better candidates.

Question 2

(The most popular question) involved a major part (the arguments for and against fusion of the legal profession) and a minor part (recent political attacks on the Bar and its leadership by pro-Establishment figures). Almost all candidates made a reasonable attempt to state the “usual arguments” for and against fusion; though none, in expounding upon “benefit to the client”, explained how the plethora of small local solicitors firms would deal with complex cases without a “consultancy” branch. International firms would not help, of course, because they deal only with commercial clients.

The second part of the question (recent political developments) was addressed by fewer than half the candidates; which reduced marks significantly.

Question 3

This question was, overall, the one answered best. This was largely because there was so much to say in response to the relevant quotation, that most candidates were able to list some arguments both as to the “constitutionality” of the NSL (Article 23 “shall enact laws on its own etc”) and its actual/potential effect on previously accepted civil rights in Hong Kong (freedom of the press/expression, freedom to demonstrate, the presumption of innocence/right to bail, jury trial, etc). Some weaker candidates again answered the desired question rather than the one set; and a number of answers dealt solely with “Interpretation of the Basic Law”.