

**STANDING COMMITTEE  
ON LEGAL EDUCATION  
AND TRAINING**

**COMPREHENSIVE REVIEW  
OF LEGAL EDUCATION AND  
TRAINING IN HONG KONG**

**Consultation Responses**

**November 2015 to  
February 2018**

**April 2018**

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## **List of consultation responses received**

### **1. Initial written responses (November 2015-January 2016)**

Original Consultation Paper

Anonymous response [1]

Budge, Mr John, Chair, Law Society OLQE Committee

Chan, Hon Mr Justice Patrick, Court of Final Appeal (personal submission)

Che, Mr W-H Allen, solicitor, (personal submission)

Chinese University of Hong Kong, Faculty of Law

City University of Hong Kong, School of Law

Clifford Chance LLP, solicitors, (Graduate Recruitment)

Department of Justice

Equal Opportunities Commission

Hong Kong Bar Association

Hong Kong Exchanges and Clearing Ltd, Legal Services Department

Hong Kong Shue Yan University, Department of Law and Business

Hong Kong University, Faculty of Law

Hong Kong University, SPACE

Law Society of Hong Kong

Legal Aid Department

McInnis, Dr Arthur, Professional Consultant, Chinese University of Hong Kong (personal submission) University of Warwick, UK, School of Law

### **2. Supplementary written responses (January-February 2016)**

Chan, Hon Mr Justice Patrick, Court of Final Appeal (personal submission)

Department of Justice

Hong Kong Bar Association

Hong Kong Shue Yan University, Department of Law and Business

Hong Kong University

City University of Hong Kong

Chinese University of Hong Kong  
Law Society of Hong Kong  
Legal Aid Department  
Merry, Mr Malcolm, Chief Examiner OLQE

**3. CEE-specific (2013 consultation) written responses (May 2016)**

Nottingham Law School/HK Law Society 2013 Consultation Paper  
Chinese University of Hong Kong, Faculty of Law  
City University of Hong Kong, School of Law  
Department of Justice  
Estate Agents Authority of Hong Kong  
Hong Kong Bar Association  
Hong Kong University, Faculty of Law

**4. Written responses to Interim Report (January-February 2018)**

City University of Hong Kong, School of Law  
Department of Justice  
Hong Kong Bar Association  
Kan, Mr C-c, Alasdair (Postgraduate Student Rep, Law Faculty Board,  
HKU)  
Chan, Professor Johannes, HKU Faculty of Law

**1. INITIAL CONSULTATION  
RESPONSES (JANUARY 2015 –  
DECEMBER 2016)**



# Standing Committee on Legal Education and Training

法律教育及培訓常設委員會

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## Consultation Paper

1. We are consultants appointed by the Standing Committee on Legal Education and Training (SCLET) to conduct a comprehensive review on the legal education and training in Hong Kong, with the following terms of reference:

- (1) To review critically the present system of legal education and training in Hong Kong including its strengths and weaknesses;
- (2) To advise on the requirements of a legal education and training system which is best capable of meeting the challenges of legal practice and the needs of Hong Kong society;
- (3) In the light of the findings in (1) and (2) above, to make recommendations, including making proposals to improve the existing system or introducing an alternative model of legal education and training system, to ensure that such improved or alternative system is best capable of meeting those challenges and needs;
- (4) To examine the present curricula of the various law programmes offered by the three universities and to make recommendations on such curricula to ensure that those entering the legal profession are best capable of meeting those challenges and needs;
- (5) To advise on the feasibility of setting up a mechanism for measuring the quality and standard of legal education and training in Hong Kong so as to ensure that those entering the legal profession receive the best legal training for the maintenance or improvement of professional standards;
- (6) To consider the current arrangements for the pre-qualification vocational training of trainee solicitors and pupils and to advise on the need (if any) and the ways to improve such vocational training.

2. We invite responses to this Consultation Paper from both institutional stakeholders and others in some manner interested in the subject matter of our review. As we see it, there are the following areas on which consultees' input and opinion are relevant to our review:

- (1) What are the challenges of legal practice in Hong Kong at present and in the near future?
- (2) What are the needs of Hong Kong society regarding services to be provided by lawyers in Hong Kong at present and in the near future?
- (3) Are there new demands on the services to be provided by lawyers in Hong Kong in view of
  - (a) the Government's policy to develop and promote Hong Kong as an international legal services and dispute resolution centre in Asia Pacific,
  - (b) the globalisation of the legal services sector,
  - (c) the advancement of modern technology enabling legal services to be expedited through unconventional methods,
  - (d) the development of CEPA and the Mainland opening up its market for legal work which is Mainland-related, and
  - (e) emerging problems involving human rights and legal issues relating to the environment, privacy, immigration and international justice, and/or other discrete or emerging fields of law that consultees consider of particular importance?
- (4) Are there any other new demands on the services not yet identified? What are they?
- (5) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Hong Kong University (HKU) with their detailed curricula?
- (6) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the City University (CityU) with their detailed curricula?
- (7) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Chinese University of Hong Kong (CUHK) with their detailed curricula?

- (8) What is your view on whether each of the law programmes offered by the three universities is capable of meeting the challenges of legal practice and the needs of Hong Kong society? What are your proposals, if any, in making improvements to the said law programmes to ensure that they are best capable of meeting those challenges and needs, or do you propose to introduce an alternative model of legal education and training system in order to achieve the same? And if so, what is the alternative model you propose and how will it satisfy such purposes?
- (9) Since September 2004, LLB has been a 4 year programme although programmes for other general degrees were 3 years. The Government has changed the secondary curriculum from 7 years (5 + 2) to 6 years (3 + 3) in September 2012. Since the change, all general degree programmes have increased to 4 years, but the three universities have decided to retain the LLB programme as one of 4 years and the double degree programmes at HKU have remained at 5 years (when it normally requires 8 years to do two degrees). Have the three universities made sufficient compensation in the LLB programme for the one year lost in the secondary curriculum? Has the maintenance of the duration of 4 years for the LLB programme had any adverse effect on the quality of the LLB programme since September 2012?
- (10) There are certain concerns expressed regarding the law programmes and their operation, for instance,
- (a) the standards of the Post-graduate Course in Laws (PCLL) graduates at the three universities may be different;
  - (b) law graduates who are not admitted into the PCLL programme in any one of the three universities the first time round will for almost all practical purposes be unable to become a lawyer in Hong Kong;
  - (c) the perception of unfair competition that may possibly be caused by the differences in GPA scores (i) between LLB graduates and JD graduates, (ii) between local graduates and graduates from overseas universities, and (iii) the criteria adopted by the three universities in recognizing overseas universities and their GPA scores;

- (d) the dilemma of students in choosing whether to do a law degree or a non-law degree followed by a JD and whether to do their first law degree overseas or in Hong Kong as these degrees take different periods to complete and may have an effect on their chances of getting admitted into the PCLL programmes; and
- (e) the perceived preference of law firms in taking JD graduates as they may be considered as more mature and possibly better lawyers.

We would welcome your views as to the accuracy and significance of all or any of these concerns. To your knowledge what evidence exists consistent with these concerns? Are you able to identify any more or further concerns? How do you propose to address each or any of these concerns?

- (11) Do existing quality assurance mechanisms provide an adequate check on the standards of legal education and training in Hong Kong? Is it advisable to set up any new or additional mechanism for measuring the quality and standard of legal education and training in Hong Kong? If so, what methods do you suggest?
- (12) The Law Society of Hong Kong has proposed to introduce a common entrance examination (CEE) in Hong Kong mainly aiming at achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession. The CEE might be considered as taking over the PCLL as an entrance threshold into the legal profession, or it might be treated as an alternative or additional route to enter the legal profession. What are your views on the proposed CEE?
- (13) What is your opinion on the current arrangements for the pre-qualification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination? If you opine that improvement is needed, what methods do you suggest?
- (14) What is your opinion on the current arrangements for the pre-qualification vocational training of pupils? If you opine that improvement is needed, what methods do you suggest?

- (15) Do you have any other views on the strengths and weaknesses of the present system of legal education and training in Hong Kong which you would like to share with us? What are your suggestions in removing or eliminating such weaknesses and maintaining or enhancing such strengths?
- (16) Please also express your wish or willingness to be interviewed by us (as to the time schedule for such interviews, see below).

3. Please submit your written responses to this paper by 14 November 2015. Given the complexity of some of the topics, we will accept supplementary answers and additional evidence submitted to the Review by 20 January 2016. Please indicate clearly in your initial submission those questions to which you will be providing additional responses. We are proposing to undertake a series of follow-up interviews with key stakeholders and respondents in the week beginning 14 December 2015. There may also be further interviews undertaken as the review progresses.

4. Please also fill in the form to let us know whether your response with your identity may be made available to the public or to be anonymous.

Yours sincerely,

K H Woo

Julian Webb

A T H Smith

Consultants in the Comprehensive Review  
on Legal Education and Training in Hong Kong

I have the following comments and opinions on the issues raised in your consultation paper with reference to their paragraph numbers :-

1. Challenges of legal practice in HK at present or in the near future – the deterioration of the local economy, as well as that of China and the world. The drop in conveyancing transactions means a hit to business generally with little increase in business in other areas to compensate.
2. Needs of HK regarding legal services at present or in the near future – drop in conveyancing services but with limited increase in other areas.

9. I don't think that maintaining the LLB at 4 years has any adverse implications. There is only so much that one can teach in the classroom. 3 or 4 years at university should be sufficient for present purposes. Otherwise, it would be a very long period of study. Furthermore, excessive length of university study will be a possible restriction on poor families who may have to afford another year or two of academic study. Overseas law degrees are also of about 3-4 years.

10(b) I acknowledge that failing to get into the PCLL programme first time may have an effect on people becoming a lawyer. It may be more of a psychological issue than a practical issue. For example, there is little difference or effect on people who are working but for degree graduates, they have to find something to do in the intervening period.

10(c) there will be differences in the different GPA scores and avenues of entry for LLB, JD and local/overseas. But that is unavoidable.

10(d) it is complicated regarding the different avenues, though students would logically do an LLB first and foremost after school. JD and other avenues maybe for more mature students or people who studied other subjects suddenly discovering their interest in law.

10(e) different firms have different considerations when taking on graduates.

12. The Law Society's proposition of a common entrance exam is just that, a proposition. However, I don't think it is feasible. With universities, there is existing funding arrangements and staff to undertake the education and training. The Law Society simply doesn't have the staff or the funding to undertake such an endeavour. It would require massive funding and staffing. It would cause an upheaval in the

legal field to try to retain sufficient staff to do the job. The Law Society, if it could randomly check the ability of students at the various universities would already be doing an excellent job. To undertake such an endeavour for hundreds of students would be very difficult. Furthermore, who would then check the Law Society's handling, academics?

15. I think that comparison with other countries would be helpful. It may not be cost effective to expend considerable costs on revamping the whole system for a city of 7 million as compared with a country of 60 million as in the UK. If we could borrow and learn from others, it would save us considerable time, energy and costs.

**From:** John Budge  
**Sent:** 23 October, 2015 11:31AM  
**To:** sclettd  
**Subject:** Comprehensive review on Legal Education and

Training in Hong Kong

Dear Ms. Lee,

Thank you for your email. I email you in my capacity as Chairman of the Overseas Lawyers Qualification Examination Committee. The only question which mentions the OLQE is {13) i.e.

**" What is your opinion of the current arrangements for the pre- qualification vocational training of trainee solicitors, including the OLQE. If you opine that improvement is needed, what methods do you suggest ?".**

I do not consider that any improvements are needed to the OLQE. This year we added an additional Head for Hong Kong Constitutional Law. This has been discussed for many years. The OLQE works well and both students and providers of courses know what is expected to pass the exams. I would also add that I am willing to be interviewed if required, in the week beginning 14th December 2015.

Kind regards,

John Budge

## Written Submissions to the Study Group

*To: Chairman & Consultants*

At the interview on 15 December 2015, I made various comments on the present structure of legal education and training and the problems which I can identify. In this Written Submissions, I would supplement my views and make some suggestions for your consideration. They are my personal views and do not represent those of the Standing Committee. In these submissions, I shall refer to and highlight only those facts and matters which are relevant to the points I make.

Patrick Chan

5 January 2016

## WRITTEN SUBMISSIONS TO STUDY GROUP

### ***PRE -PCLL COURSES***

1. The 3 local law schools (“the 3 law schools”) run different undergraduate degree programmes (LLB and double degrees) and post-graduate degree programmes for non law graduates (JD which for easy reference in these submissions includes JSD), each with different durations ranging from 2 to 3 years for JD, 4 years for LLB and 5 years for double degrees.

2. Pursuant to the Redmond/Roper Recommendations, the LLB course was increased from 3 to 4 years. After the secondary curriculum was reduced from 7 to 6 years and other general degrees were consequentially increased from 3 to 4 years, the 3 law schools had come to a consensus that the LLB can remain as a 4 year course and that the duration of double degree courses can also remain unchanged.

3. JD courses were introduced after the Redmond/Roper Report. However, the number of JD students has increased significantly during recent years. This (as suggested by the 3 law schools) appears to be due to the increase in demand for such a course (particularly for Mainland students). The total number of JD students has now more or less caught up with the total number of LLB and double degree students. JD courses are self funded, their students paying almost 3 times the fees paid by LLB students who are heavily subsidized by Government.

### ***Law degree – an undergraduate or post graduate course?***

4. In some common law jurisdictions, a law degree is only a post graduate degree for non law graduates (and also a requirement for professional qualification). As the demand for JD increases and as this course gets more popular, it may be prudent to consider whether it would be in the interest of Hong Kong to follow this policy.

5. While there are arguments in favour of having a law degree as a post graduate degree (e.g. students are more mature and have greater experience), in Hong Kong, the following circumstances are relevant for consideration:

- (a) the LLB is accepted by students, parents and employers as a valuable and popular general degree for the purposes of seeking employment and further academic or career pursuit;
- (b) it is government policy to subsidize only undergraduate courses (with a few exceptions including PCLL). If a law degree is to become only a post graduate course, Government may be reluctant to subsidize both such a course and the PCLL course for law, for fear of being asked to do the same for other disciplines. And if public funding is not forthcoming, it would be considered too costly for most students to receive and parents to support their children's legal education on self funded basis; and
- (c) under the present structure for legal qualification, the first law or law related degrees of some overseas universities are recognized by the 3 law schools for admission into their PCLL. If a law degree is to be only a post graduate course, then this policy will have to be changed.

6. These are matters which cannot be ignored. There are, I believe, good reasons for the view that it is not appropriate for a law degree to be only a post graduate course here. I suggest no change to the present situation: it should be open to students to embark on either LLB (or double degrees) as an undergraduate course or JD as a post graduate course and that the 3 law schools should continue to provide both types of law course. [**Suggestion (1)**]

### ***Durations of law courses***

7. The law that students learned at law school very often would have changed by the time they get qualified and commence legal practice. Many academics and practitioners take the view that legal education should

place greater emphasis on laying down a solid foundation of the basic legal principles in a full degree programme rather than merely focus on providing short or sandwich courses designed for the acquisition of knowledge in the requisite core subjects for the purpose of obtaining a legal qualification. Such a view is not without merits. With this in mind, the durations of these law courses should be reviewed.

#### *LLB courses*

8. Notwithstanding the change in the secondary curriculum, in deciding to keep their LLB as a 4 year course, the 3 law schools have assured that the substance and standard of their LLB course would not be affected. There is nothing to contradict this assurance. I believe that such a duration would be needed to lay the necessary basic foundation for our future lawyers. On the other hand, a longer duration may render it less competitive than overseas law degree courses or even the courses for other disciplines. I think that the LLB course should remain as a 4 year course.

#### **[Suggestion (2)]**

#### *JD courses*

9. The JD programmes have given rise to two concerns. First, in Hong Kong, many have come to consider the JD course (particularly if it is for 2 years) as one mainly tailored to prepare students to pass in the core subjects required for gaining entry to PCLL (and getting qualified as lawyers afterwards) and not as what a substantive or academic post graduate degree course should be (which the Chinese names of the JD degree would seem to suggest).

10. Second, the durations for JD courses are different for the 3 law schools (2 and 3 years). It is explained that this difference may be justified on the ground that since completion of the course is based on merit points, those students who work harder (e.g. through summer vacations) may be able to gain enough merit points and finish the course in a shorter time. However, the understanding of many students that JD courses are “crammed courses” to get admission into PCLL (similar to the Common Professional

Examination “CPE” courses) is unlikely to be dispelled by such an explanation.

11. It is not easy to understand why the durations of these JD courses should be different for different law schools. If they are mainly designed for the purpose of getting students ready for PCLL, why should they be different; and if that is not the main purpose, students should be told what the differences are between these courses so that they can make an informed choice.

12. I think these concerns are not without basis. After all, the LLB courses of the 3 law schools are of the same duration (and are not to be shortened even if a student chooses to study harder). It can be strongly argued that the duration for all JD courses run by the 3 law schools should be the same. I think all the relevant stakeholders should consider and review:

- (a) the purpose and future of the JD course in the Hong Kong context, whether it should be an academic post graduate law course, or whether it is a preparatory course for the PCLL;
- (b) the contents of such a course (depending on the purpose of having such a course); and
- (c) the duration of such a course, whether it should be 2 or 3 years and whether it should be the same for all 3 law schools.

**[Suggestion (3)]**

*Double degree programmes*

13. When all general degrees (including LLB) were 3 years, double degree programmes were fixed at 5 years. When the LLB had become 4 years, these programmes were still 5 years. When all degrees (general and LLB) are now 4 years, double degree courses remain the same, although they are and should be in substance two different courses leading to two different degrees.

14. One would understandably be concerned with matters like the contents of such programmes, the teaching of the relevant law subjects, the workload for the students, the assessment of the students and the standard of the graduates.

15. These are genuine concerns. I think the 3 law schools which run such programmes and other relevant stakeholders should consider and review these double degree programmes, including their contents and duration. [**Suggestion (4)**]

***Teaching, examinations & assessments of different law courses***

16. In many law schools which provide both undergraduate law courses and post graduate courses for non law degree graduates, students for both types of courses attend the same lectures, take part in the same classes, sit for the same examinations and are assessed in the same way. Such arrangements provide a more reliable means of ensuring the same standard for all students doing the same subjects.

17. In Hong Kong, the 3 law schools provide different teaching, classes, examinations and assessments for students taking undergraduate and post graduate law courses. I think it may be worthwhile to consider whether students of the different degree courses in the same law school should be taught together, examined and assessed together and by the same criteria. [**Suggestion (5)**]

***THE PCLL PROGRAMME***

18. To become a lawyer in Hong Kong (leaving aside admission by overseas lawyers), one has to go through 3 stages: (1) a recognized law degree; (2) a PCLL qualification; and (3) a training contract or pupillage.

19. The 3 law schools are the only local institutions whose law degrees are recognized in stage (1). They also play a central and pivotal role in stage (2) in that:

- (a) They are the only providers of the PCLL course; and
- (b) Each law school administers its own admission exercise; controls the number of its PCLL places; examines and assesses its own students and decides whether they can proceed to stage (3).

20. The 3 law schools are thus not only the providers of the necessary courses but also the gatekeepers to the legal profession at two points in the process: first, at the point of entry into PCLL (between stage (1) and stage (2)) and secondly, at the exit point from PCLL which is the entry point to the legal profession (between stage (2) and stage (3)). Whether PCLL graduates can secure training contracts or pupillage (stage (3)) depends on market factors including the general economic conditions of the community and the willingness and capability of the practitioners to accept graduates as trainees or pupils.

21. Without levying any criticism on the 3 law schools, the present system has given rise to allegations of vested interests, conflict of interests, discriminatory treatments, unfairness in the admission process and criteria, and discrepancies in the standards of the graduates. The Law Society has in the past many years received many complaints to such effect. While it is not easy to substantiate these allegations and complaints, they have caused serious concerns and frustrations among the legal profession. I should add that my personal experience talking to my summer students, interns and some newly qualified lawyers confirms that the overwhelming majority of them have grave reservations and misgivings for the present system. Some (even successful PCLL graduates), without prompting, readily suggest a common examination to be a fairer system.

22. As will be elaborated below, the shortage of PCLL places is not the only cause for these allegations and complaints. That certainly aggravates the situation. But the system and the ways in which it is administered have also been seen as contributory causes and have created a reasonable and justifiable impression that it is not an entirely fair system.

23. The reputation of a profession, particularly the legal profession which is intrinsically associated with concepts of fairness and justice, depends on public confidence in, among other indicators, its training system. Such confidence may be tarnished if there is somehow a public perception that the profession's training system is not fair or not being fairly administered, or that there is some suspicion as to the quality of its members. Hence, while proof of alleged unfairness or suspected drop in standard must of course be supported by evidence, this public perception and the reasons for such perception should not be ignored. Even if surveys were to be conducted, the results would still be largely impressions and perceptions.

***Course provider v gatekeeper to the profession***

24. A course provider provides the necessary legal education and training for the profession while a gatekeeper of the profession sets the criteria for its qualification and determines the standard of its members. In the present system, the 3 law schools play the dual roles of a course provider and the gatekeeper. The contents of the course are set in consultation with the legal profession. But the legal profession does not have regular and continuous supervision. The situation has changed from that when the first law school was set up more than 4 decades ago: there were several ways (now only one) to get qualified as a lawyer and the number of persons pursuing a legal career was relatively much smaller.

25. The 3 law schools and the professional bodies are partners in the education and training of lawyers. But the professional bodies are primarily responsible for the affairs of their own discipline. It is they which should be the gatekeepers. If entry to the profession is seen to be too restrictive or if the system is seen to be not working well or not fairly administered, it is the professional bodies which are ultimately answerable to the public.

***Admission criteria***

26. In their admission exercises, the 3 law schools follow the advice of the Standing Committee and the professional bodies that students

should be admitted according to their merits. They select students mainly on the basis of their GPA scores in the requisite core subjects and/or the honours they obtained in their first law degree.

27. The difficulty with this is that these GPAs were obtained in different courses which are taught, examined and assessed differently and that the degree honours were conferred by different universities (the 3 law schools and recognized overseas universities). This is compounded by allegations of inflation of grades and honours by some universities. One would believe that the 3 law schools are doing their best to recruit the best students for their courses. But it is not easy for students and members of the public to be satisfied as to how the 3 law schools can fairly and objectively compare these grades and degree honours.

28. Another difficulty is that there are students who apply for admission on the basis of their overseas degrees and/or GPAs plus the conversion examination results. The conversion examination serves the purpose of testing overseas graduates their knowledge of local law and the results are only reflected as passes or failures without any GPAs or honours. How can their merits be fairly and objectively compared with the GPAs and degree honours of local graduates? How can unsuccessful local applicants be convinced that they are not as good as those overseas applicants who get admitted?

### *Admission procedure*

29. Since the number of applications every year well exceeds the number of places available (both government funded and self funded), only the first choice of an applicant will be considered. Admission on the basis of a second choice is a very rare exception. Many students and practitioners, rightly or wrongly, consider that the standards of the 3 law schools are not the same and that it may be easier to get admitted to one rather than another law school. The making of the right decision on the first choice is thus even more difficult and may turn out to be a disaster for the applicant.

30. Failure to get admitted in the first attempt practically means that there will not be any second chance. It would be even more difficult to compare the GPAs of students of a particular year with those of the students of another year. Even if an applicant is prepared to repeat LLB or JD or do a higher degree, the policy of the 3 law schools is that results of a subsequent LLB or JD or LLM are not to be taken into account for second time applications.

31. Another difficulty is that since each of the 3 law schools controls its own pre-PCLL courses and PCLL admission, there is no way for applicants (including those within the same law school) to know and nothing to dispel their fears whether any preference would be given to graduates of one course (e.g. JD) over graduates of another course (e.g. LLB or double degree), especially when not all students pay the same fees for these different courses, or whether overseas graduates would be preferred to local graduates. In their applications for admission to the PCLL, students are asked to indicate whether they are prepared to pay self funded fees. Again, there is no way they would know whether this would have any advantage for them in the competition.

32. Although no preference would (or should) be given to its own graduates, each law school also administers a conditional offer system, usually counting only the GPAs obtained one or two semesters before the results of their final examinations or GPA scores are known. While early or conditional offers are generally acceptable, such system naturally reduces the number of places available to applicants from overseas universities or the other 2 law schools and may also work unfairly for those students who are subsequently able to secure better final GPA scores or higher degree honours.

### *Number of PCLL places*

33. The shortage of PCLL places may have influenced the admission procedure and criteria but they are certainly different problems. Increasing the number of PCLL places alone would not solve the difficulties in admission. The shortage of places simply makes the situation worse.

34. The Government (as an exception to the general policy that only undergraduates would be funded) provides each law school with a certain (but limited) number of funded PCLL places and each law school can accept on its own self funded students. The total number of PCLL students admitted in 2014/2015 was around 700. But the number of applicants for PCLL places has been on the increase, with several applicants competing for one place. A second attempt in the following year is unlikely to do any better.

***Combined effect of admission difficulty and shortage of places***

35. The combined effect of these problems is that those students who are turned away in their first attempt would have virtually no chance to do the PCLL and would not be able to pursue a legal career in Hong Kong. This may not be due to the ability or standards of the students but to many factors including perhaps the making of some mistakes or the wrong choices in their applications. While this may be of their own making, the cost is just too high for themselves and it would also mean that the legal profession may also lose out in the end since it may not be able to recruit the best candidates or potentially good quality lawyers.

36. There are good reasons to believe that both the problems in the admission procedure and criteria and the shortage in the number of PCLL places contribute to the grievances of unsuccessful applicants and the frustrations of the legal profession.

***Standard of PCLL graduates***

37. The 3 law schools have self-accreditation powers under their respective statutes. The professional bodies are provided with the course materials for review and comments usually at the end of the academic year. The 3 law schools have the same syllabus in the subjects they teach. However, each law school sets its own examination papers. There is an external examiner for most subjects, and for some subjects, there are different external examiners for the same subjects for the 3 law schools. There is a common Chief External Examiner for the 3 law schools. Apart from these, the legal profession does not have regular and continuous

supervision of these courses and there is nothing to ensure a similar standard for the students when they complete the PCLL.

38. The 3 law schools teach, assess and examine their own PCLL students. Students who pass their internal examinations and assessments will be given the PCLL and will automatically be eligible to apply for training contracts or pupillage after which they would become solicitors or barristers. The respective passing rates (counting the results of the first attempt and usually 1 or 2 and in a few cases even 3 supplementary attempts) are well over 95%. Thus, virtually all students who can get admitted to these courses are almost “guaranteed” a pass which means they will be automatically qualified to seek training contracts or pupillage. This does not help in dispelling the concern over standards.

39. From time to time, there have been voices about the standards of PCLL graduates. There is a perception that graduates of the 3 law schools have different standards. Although there may not be ready “proof” for such perception, the fact that such perception is quite widespread among practitioners and even students themselves is rather telling. If the feedbacks from judges and practitioners are anything to go by, they show that the standards of young lawyers vary greatly while there are some who are not really up to standard which is worrying. Although these feedbacks may largely be the impressions of some judges and practitioners, they are not something which should be lightly overlooked.

***Any changes to present system needed?***

40. I believe that the matters discussed above were one of the reasons for the Law Society embarking on its study 2 years ago which resulted in the proposal of a “Common Exit Examination” (CEE) for all PCLL graduates before they can take up training contracts. Details of such proposal have yet to be formulated and it is still pending before a final decision would be made.

41. If these matters are considered to be of sufficient significance, it is necessary to consider what changes or improvements are to be made. I think there seems to be the following options:

- (a) a common admission exercise or alternatively a common admission examination for the PCLL course; or
- (b) a common exit examination after completion of the PCLL course; and
- (c) whether option (a) or (b) is to be taken forward, there should also be changes in other areas such as:
  - (i) the number of PCLL places;
  - (ii) the mechanism for recognition of other (local and overseas) universities' law degrees.

***Common admission exercise?***

42. Can there be a common admission exercise for the PCLL course for the 3 law schools? Such an arrangement might help to reduce much of any perceived unfairness in the system. There are two matters for consideration: first, the academic autonomy of the 3 law schools; and secondly, the common basis to be adopted for admission.

43. I do not think academic autonomy should be an obstacle. The PCLL is not an academic degree but a qualification for entering the legal profession. There is no justification for denying supervision by the legal profession on the ground of academic autonomy. Supervision of professional education and training by the professional bodies has always been accepted by the 3 law schools.

44. However, to adopt a common basis for admission is more difficult. It will be futile to rely simply on GPAs and degree honours for that purpose since the situation will remain the same as it is now. The analogy to the JUPAS system for admission to undergraduate law courses is not appropriate. JUPAS applicants apply for admission using their results in a

public examination (the DSE for secondary students). For non JUPAS applicants, they rely on results such as IB and SAT, etc which are also public examinations. There is no common or public examination the results of which can be relied on for the purpose of a common admission exercise.

45. I do not think a common admission exercise is feasible without a common basis or criterion for admission.

***Common admission examination?***

46. Can a common admission examination be introduced? Even if one is to be introduced, a number of questions arise: what would be the subjects applicants for PCLL are supposed to be examined on? The core subjects taught in the law degree courses? What about overseas graduates whose knowledge of local laws has yet to be tested? Do they have to sit for a conversion examination before taking the common entrance examination? Is the common admission examination to be administered by the 3 law schools or by the professional bodies? If it is administered by the 3 law schools, how?

47. The more fundamental question is: what is the difference between such a common admission examination and the Common Exit Examination now being proposed by the Law Society? Why should one be preferred to the other? Even if a common admission examination is considered appropriate, I do not see how it is necessarily better than the Law Society's proposal. I do not think such a common admission examination is feasible either.

***Common Exit Examination?***

48. If the option of having a common admission exercise or a common admission examination is not considered feasible, I think the option of introducing a common examination after the PCLL course should be seriously considered. [**Suggestion (5)**]

49. I have considered the Law Society's paper on this related subject. I would like to make the following points:

- (1) The Law Society does not ask for the abolition of the PCLL course as one of the requirements for qualification. The 3 law schools will continue to provide such courses;
- (2) The proposal would avoid the allegation that the 3 law schools have a conflict of interest playing both the role of course provider and that of the gatekeeper;
- (3) There is no question of requiring students to sit an extra examination; the PCLL course would simply prepare students for the CEE as other courses do for many public examinations;
- (4) A common examination after the PCLL administered by the professional bodies would help maintain the same or similar standard for graduates of the PCLL courses run by the 3 law schools;
- (5) The proposal would be seen as introducing a fairer system and help reduce disputes or perceptions arising from the difficulties and problems concerning the admission process;
- (6) If the CEE is administered by the professional bodies, it can be geared to cover areas of law or skills which are more relevant to actual practice; and
- (7) It can provide students with a second chance by being allowed to make several attempts.

50. At the interview, I had indicated my personal support in principle for this proposal. I believe it would be perceived as a fairer system although I do not think its implementation alone would resolve all the practical difficulties or problems. It is still necessary to consider improvement in other areas of concern even if the Law Society's proposal is implemented.

51. I gather that the Bar (representative) objects to the proposal and one of the grounds is that the Bar does not have the resources to conduct a common exit examination for PCLL graduates. I do not think the lack of resources can justify not putting in place a system which if implemented is desirable for improving the present system. I should also think that as a matter of practical consideration, most of the PCLL graduates, even those

who plan to join the Bar, would have no hesitation to sit for a common exit examination on subjects which they have studied in the course and reserve the results in such examination in case they should later consider switching to the other branch of the profession. The Bar (representative) has also indicated that there is no fear that those who fail the CEE may turn to the Bar for, it is explained, those who cannot make it would simply drop out very soon. I think the important consideration is whether the Bar would consider providing top up courses or training courses which are relevant to the practice of a barrister during the period of pupillage.

***Increase in the number of PCLL places***

52. There is strictly speaking no restriction on the number of PCLL places which apparently depends on the available resources and facilities of each law school, subject to the supervision of the Standing Committee or the Education Bureau on the ability of the law school to run the course properly and effectively (e.g. with a certain teacher and student ratio). I do not believe resources and facilities would be a great problem bearing in mind also the high fees payable by self funded students.

53. There is also no restriction for allowing other local universities to provide PCLL courses if they can meet the requirements of the professional bodies and their courses are accredited by the relevant accreditation bodies.

54. Whether the Law Society's proposal for the introduction of a CEE is implemented or not, I think it is necessary to consider:

- (a) whether the present number of PCLL places provided by the 3 law schools should be increased; and/or
- (b) whether other local universities can be invited to provide PCLL courses in addition to the 3 law schools.

**[Suggestion (6)]**

***Recognition of other law or law related degrees***

55. Under the present system, one of the requirements for admission to the PCLL provided by the 3 law schools is that an applicant

must have obtained a law degree from any one of the 3 law schools or from a university recognized by the 3 law schools. The 3 law schools are given the power to recognize the law degrees granted by other universities. Each of the 3 law schools has its own list of recognized universities. They also have different criteria as to how they rate the different universities and their grades. The Conversion Examination Board has a list of precedents of granting exemptions to students with overseas qualifying law degrees from taking certain subjects in the Conversion Examination. The 3 law schools may follow this list in giving recognition to the qualifying law degrees of PCLL applicants but how much weight they attach to their grades, GPA scores are up to the 3 law schools. Since the 3 law schools also produce law graduates eligible to apply for admission to the PCLL, the existence of this power may be regarded as creating a conflict of interest.

56. Some local universities other than the 3 law schools also provide law related courses. Like the 3 law schools, these universities are also conferred with self accreditation powers under statute and their courses have also been accredited by the relevant accreditation organizations. If they wish to start a law programme, they can seek accreditation by the relevant accreditation organization and the approval of the professional bodies to ensure the law programme is recognized by the professional bodies. However, the Law Society and the Bar do not have the regulatory power to accredit law programmes.

57. If the 3 law schools have difficulty in expanding their PCLL courses, it may be worthwhile considering inviting other local universities to provide more PCLL places on condition that their courses can also meet the requirements and standards of the legal profession by obtaining the necessary accreditation and approval. If they can do that, I do not see any reason for not recognizing them but recognizing the degrees of some overseas universities. I would suggest that

- (a) the recognition criteria should be reviewed from time to time and should be made known to the public;
- (b) the authority entrusted with the power to determine which law or law related degrees and which universities are to be

recognized should be the legal professional bodies which are entitled to seek the views of professional and academic opinions; but the 3 law schools should not play a part in the determination process.

**[Suggestion (7)]**

### ***CONTENTS OF LEGAL EDUCATION & TRAINING***

58. Since lawyers serve the community, the type of legal education and training they receive should be able to equip them with the ability to meet the needs of society and the people they serve. Such needs are no doubt influenced by changes from time to time here and internationally. The professional bodies should be vigilant to these changes and needs and constantly review the types and contents of the legal education and training required for members of the profession to meet new challenges in order to provide a better service.

59. I also think there should be a mechanism to conduct a regular and continuous review of all undergraduate and post graduate law courses to see whether it is necessary to improve them and how this should be done.

**[Suggestion (8)]**

## Consultation Paper

(1)	<p>(1) What are the challenges of legal practice in Hong Kong at present and in the near future?</p> <p>It is well recognized that a strong legal profession is important to the Rule of Law. However, nowadays the junior bar and solicitors are finding it more and more difficult to survive, whether in terms of financial reward or what they could achieve.</p> <p>As such, it is becoming difficult to retain talents in the profession. The legal services being provided is becoming more and more superficial and standardized. It does not encourage innovation and new idea.</p>
(2)	<p>(2) What are the needs of Hong Kong society regarding services to be provided by lawyers in Hong Kong at present and in the near future?</p> <p>A world vision and a spirit to provide solution through legal means.</p>
(3) (a)	<p>(a) the Government's policy to develop and promote Hong Kong as an international legal services and dispute resolution centre in Asia Pacific,</p> <p>Yes.</p>
(3) (b)	<p>(b) the globalisation of the legal services sector,</p> <p>Yes. There is more co-operation between us and overseas lawyers.</p>
(3) (c)	<p>(c) the advancement of modern technology enabling legal services to be expedited through unconventional methods,</p> <p>Yes.</p>
(3) (d)	<p>(d) the development of CEPA and the Mainland opening up its market for legal work which is Mainland-related, and</p> <p>Yes.</p>
(3) (e)	<p>(e) emerging problems involving human rights and legal issues relating to the environment, privacy, immigration and international justice, and/or other discrete or emerging fields of law that consultees consider of particular importance?</p> <p>Not sure.</p>

(4)	<p>(4) Are there any other new demands on the services not yet identified? What are they?</p> <p>Not sure.</p>
(5)	<p>(5) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Hong Kong University (HKU) with their detailed curricula?</p> <p>I have no information on this area.</p>
(6)	<p>(6) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the City University (CityU) with their detailed curricula?</p> <p>I have no information on this area.</p>
(7)	<p>(7) What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Chinese University of Hong Kong (CUHK) with their detailed curricula?</p> <p>I have no information on this area.</p>
(8)	<p>(8) What is your view on whether each of the law programmes offered by the three universities is capable of meeting the challenges of legal practice and the needs of Hong Kong society? What are your proposals, if any, in making improvements to the said law programmes to ensure that they are best capable of meeting those challenges and needs, or do you propose to introduce an alternative model of legal education and training system in order to achieve the same? And if so, what is the alternative model you propose and how will it satisfy such purposes?</p> <p>I will say all LL.B curriculum being offered by all 3 universities do not provide enough practical training for the students. When I was at the Law School, there was indeed no practising lawyer in the Faculty.</p> <p>My humble will is :</p> <ul style="list-style-type: none"> <li>- More practitioners should be involved in the teaching process whether as tutor or ad hoc lecturer.</li> <li>- Students should be given as much practice exposures (including Court, law enforcement agencies, commercial and law firm experience) as possible.</li> </ul>

(9)	<p>(9) Since September 2004, LLB has been a 4 year programme although programmes for other general degrees were 3 years. The Government has changed the secondary curriculum from 7 years (5 + 2) to 6 years (3 + 3) in September 2012. Since the change, all general degree programmes have increased to 4 years, but the three universities have decided to retain the LLB programme as one of 4 years and the double degree programmes at HKU have remained at 5 years (when it normally requires 8 years to do two degrees). Have the three universities made sufficient compensation in the LLB programme for the one year lost in the secondary curriculum? Has the maintenance of the duration of 4 years for the LLB programme had any adverse effect on the quality of the LLB programme since September 2012?</p> <p>I do not think an extra year at University will make any big difference in the legal training. Having said that I will say an extra year in the University may help the student to be more mature and afford them more time for other development as a whole.</p>
(10) (a)	<p>(a) the standards of the Post-graduate Course in Laws (PCLL) graduates at the three universities may be different;</p> <p>I note the HKU PCLL graduates are generally better equipped.</p>
(10) (b)	<p>(b) law graduates who are not admitted into the PCLL programme in any one of the three universities the first time round will for almost all practical purposes be unable to become a lawyer in Hong Kong;</p> <p>I have been told that the graduates are facing tremendous pressure as a result of the competition for PCLL admission. It is not necessary and not healthy.</p>
(10) (c)	<p>(c) the perception of unfair competition that may possibly be caused by the differences in GPA scores (i) between LLB graduates and JD graduates, (ii) between local graduates and graduates from overseas universities, and (iii) the criteria adopted by the three universities in recognizing overseas universities and their GPA scores;</p> <p>I have the impression that JD is kind of the backdoor entry to get qualified by paying a higher school fee. It is not a healthy phenomenon. In that way, one gets the chance to be qualified not by their ability but paying more.</p>
(10) (d)	<p>(d) the dilemma of students in choosing whether to do a law degree or a non-law degree followed by a JD and whether to do their first law degree overseas or in Hong Kong as these degrees take different periods to complete and may have an effect on their chances of getting admitted into the PCLL programmes; and</p>

	Please see (c) above.
(10) (e)	<p>(e) the perceived preference of law firms in taking JD graduates as they may be considered as more mature and possibly better lawyers.</p> <p>No. I think generally speaking LL.B graduates are students with higher caliber. The JD graduates are those who could not successfully compete for a place in LL.B in the first round but get a JD by paying higher school fee.</p>
(11)	<p>(11) Do existing quality assurance mechanisms provide an adequate check on the standards of legal education and training in Hong Kong? Is it advisable to set up any new or additional mechanism for measuring the quality and standard of legal education and training in Hong Kong? If so, what methods do you suggest?</p> <p>No.</p>
(12)	<p>(12) The Law Society of Hong Kong has proposed to introduce a common entrance examination (CEE) in Hong Kong mainly aiming at achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession. The CEE might be considered as taking over the PCLL as an entrance threshold into the legal profession, or it might be treated as an alternative or additional route to enter the legal profession. What are your views on the proposed CEE?</p> <p>I will say it is fair for a common exam to be imposed to measure the ability of the students.</p>
(13)	<p>(13) What is your opinion on the current arrangements for the pre-qualification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination? If you opine that improvement is needed, what methods do you suggest?</p> <p>I think the trainee solicitor or pupillage arrangement which may be suitable in the past is no longer suitable in modern age. The training is not structured and lacks proper monitor. There is no universal standard or a minimum guarantee as to what training one will receive.</p>
(14)	<p>(14) What is your opinion on the current arrangements for the pre-qualification vocational training of pupils? If you opine that improvement is needed, what methods do you suggest?</p> <p>See 13 above.</p>

(15)	<p>(15) Do you have any other views on the strengths and weaknesses of the present system of legal education and training in Hong Kong which you would like to share with us? What are your suggestions in removing or eliminating such weaknesses and maintaining or enhancing such strengths?</p> <p>Once again, the weakness is its dissociation from the real life practice.</p>
(16)	<p>(16) Please also express your wish or willingness to be interviewed by us (as to the time schedule for such interviews, see below).</p> <p>Not really interested but also do not have strong reluctance if it is warranted.</p>

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**THE CHINESE UNIVERSITY OF HONG KONG**

**FACULTY OF LAW**

Initial Response to the Consultation Paper on Legal Education and Training  
in Hong Kong, Issued by the Standing Committee on Legal Education and Training

**Introduction**

The Faculty of Law at the Chinese University of Hong Kong [“CUHK”] welcomes the opportunity to contribute to this important review of legal education and training in Hong Kong. What follows are initial responses to those questions which the Faculty considers it appropriate for it to answer. The Faculty notes that the Consultants conducting this review will accept supplementary answers and additional evidence submitted to the Review by 20 January and intends to take advantage of that extended deadline.

The Review has asked for answers to 16 questions, several of which contain several sub-questions. We have provided answers to those questions where we feel able to assist the Review. In some areas the Review raises issues which we believe are better addressed by other stake-holders and where this is so we have refrained from commenting. We have attempted to respond fully to the questions raised by the Review.

**Responses**

***Question 1:* What are the challenges of legal practice in Hong Kong at present and in the near future?**

***Question 2:* What are the needs of Hong Kong society regarding services to be provided by lawyers in Hong Kong at present and in the near future?**

***Question 3:* Are there any new demands on the services to be provided by lawyers in Hong Kong in view of**

**(a) the Government’s policy to develop and promote Hong Kong as an international legal services and dispute resolution centre in Asia Pacific**

**(b) the globalization of the legal services sector**

**(c) the advancement of modern technology enabling legal services to be expedited through unconventional methods**

**(d) the development of CEPA and the Mainland opening up its market for legal work which is Mainland-related, and**

**(e) emerging problems involving human rights and legal issues relating to the environment, privacy, immigration and international justice, and / or other discrete or emerging fields of law that consultees consider of particular importance?**

**Question 4: Are there any other new demands on the services not yet identified? What are they?**

We address questions 1-4 together here.

We agree that Hong Kong is facing new challenges. As it moves further away from the 1997 handover, it will continually “indigenise” its law, albeit drawing on the expertise and experiences of other jurisdictions and in step with international legal and regulatory developments.

As Hong Kong matures as a Special Administrative Region, it will need the expertise of new generations of lawyers. Some of these will need knowledge and skills required for work in large international and regional practices that help maintain Hong Kong’s reputation as an international financial centre. These lawyers must have, among other things, a sound understanding of legal principle, knowledge of legal doctrine, legal skills, communication skills (in both Cantonese and Putonghua as well as English), cultural skills and, increasingly, technological skills. But almost all of the next generation of lawyers will need to be equipped to deal with the myriad of legal needs of local clients and the local public. Lawyers who are raised and trained in Hong Kong will be the vanguard of its legal system.

We agree that there are emerging in Hong Kong new issues with which relatively new disciplines will deal. These include the ones listed under question 1(e). They include also, perhaps, energy, the environment, competition and regulatory fields. Important as these disciplines are, however, we maintain that the cardinal objective of tertiary degrees and qualifications in law is to give students a rigorous and broad general education in the foundations of law that equips them for entry to legal practice, should they wish to use their qualifications to that end.

Please see, also, our response to Question 8 below.

**Question 5: What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Hong Kong University (HKU) with their detailed curricula?**

Not applicable to the Chinese University of Hong Kong

**Question 6: What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the City University (CityU) with their detailed curricula?**

Not applicable to the Chinese University of Hong Kong

**Question 7: What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Chinese University of Hong Kong (CUHK) with their detailed curricula?**

7. The Chinese University of Hong Kong (CUHK) offers the following qualifying law programmes:

- The Bachelor of Laws (LLB) Programme
- The Juris Doctor (JD) Programme
- The Postgraduate Certificate in Laws (PCLL) Programme

**Detailed descriptions of these programmes are set out in Appendices 1 (LLB), 2 (JD) and 3 PCLL)**

**Question 8: What is your view on whether each of the law programmes offered by the three Universities is capable of meeting the challenges of legal practice and the needs of Hong Kong society? What are your proposals, if any, in making improvements to the said law programmes to ensure that they are best capable of meeting those challenges and needs, or do you propose to introduce an alternative model of legal education and training system in order to achieve the same? And if so, what is the alternative model you propose and how will it satisfy such purpose?**

We cannot, of course, comment on the programmes the other law schools offer.

This question is related to the issues already raised in question 1.

We believe that the existing legal education framework broadly fulfils its primary aim: to equip Hong Kong students with the fundamentals of legal doctrine, research methods and practical skills that prepare them for the practice of local and international law in Hong Kong. We are therefore not convinced that a radical revision of the existing framework of legal education is necessary.

We are aware of the challenges – and opportunities – that new practice areas (such as those identified above in question 3) present. However, we believe that it is important in responding to these challenges, to avoid uncritical additions to the already lengthy list of subjects that must be studied by those seeking admission to legal practice. At the same time, we would caution against an uncritical dilution of the fundamentals of

doctrinal understanding that are common to most systems of legal education. We believe that this review provides the opportunity for a critical evaluation of the contribution made by all of these subjects to the development of the *corpus* of knowledge and technical skills that an intending lawyer should acquire, at least in the early stages of her or his professional formation. We believe that in considering the future direction of legal education and training in Hong Kong we should focus clearly on what we consider to be the desirable attributes of an aspiring legal professional. These are as likely to be “non-legal” (such as business awareness and commercial understanding) as the more traditionally “legal” (such as doctrinal understanding and professional skills such as advocacy).

**Question 9: Since September 2004, LLB has been a 4 year programme although programmes for other general degrees were 3 years. The Government has changed the secondary curriculum from 7 years (5 + 2) to 6 years (3 + 3) in September 2012. Since the change, all general degree programmes have increased to 4 years, but the three universities have decided to retain the LLB programme as one of 4 years and the double degree programmes at HKU have remained at 5 years (when it normally requires 8 years to do two degrees). Have the three universities made sufficient compensation in the LLB programme for the one year lost in the secondary curriculum? Has the maintenance of the duration of 4 years for the LLB programme had any adverse effect on the quality of the LLB programme since September 2012?**

(a) It is our understanding that the decision to retain the four-year duration of the LLB was largely due to the approach adopted by the Standing Committee on Legal Education and Training towards the possible extension of the LLB programme. At the time of planning for the change to the 3-3-4 curriculum the Standing Committee on Legal Education and Training considered this matter and concluded that it would recommend to the University Grants Committee that there should be no change to the duration of the LLB.<sup>1</sup>

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<sup>1</sup> The fourth *Annual Report* of the Standing Committee (for the period 1 January 2009 to 31 December 2009) notes as follows (paras 12-14):

“Length of legal education programme under “3+3+4”

12. As reported in the 2008 annual report, on the basis that a 4-year LLB programme will be able to provide an all-round learning experience which is to be made available to students of all other disciplines whilst maintaining the scope and content of the legal education and training expected of a professional degree, the Standing Committee is inclined towards maintaining the status quo of a 4-year LLB and it has informed the University Grants Committee of its views.
13. The Standing Committee will continue to keep under review its position from time to time as the “3+3+4” academic reform progresses.
14. The Standing Committee is also regularly updated by the LLB providers on their progress with the planning for the curriculum as well as the accommodation for the double cohort entering their LLB programmes in 2012”

(b) In light of the position adopted by the Standing Committee it was the view of at least the Chinese University of Hong Kong that it would not be likely that the University Grants Committee would accept an extension of the duration of the LLB from four to five years.

(c) On the “compensation” question – it is not clear what is meant by this, bearing in mind that students coming to legal study have not “lost” a year of high school study that is directly relevant to their degree programme in the way that one might suggest could happen with subjects which are directly linked to the school programme. There might possibly be an argument that students entering the LLB programme under the 3+3+4 have lost a year of maturation when compared with students entering University education after a longer period of school education, but the Faculty of Law has seen no evidence of an observable difference between the performance of students under the new curriculum, and that of students under the old curriculum.

(d) The four year LLB is designed to provide a broad-based education in law, incorporating those legal subjects that the University considers to be fundamental to such an education, as well as the subjects designated as PCLL pre-requisites, alongside a programme of General Education. The Chinese University of Hong Kong has accommodated these areas of study, and the inevitable competition for time in the curriculum, by allowing LLB students to graduate with a reduced number of credits in the General Education programme.

**Question 10: There are certain concerns expressed regarding the law programmes and their operation, for instance,**

**(a) the standards of the Post-graduate Course in Laws (PCLL) graduates at the three universities may be different**

We will preface our response by observing that no-one has put that issue to us in anything approaching a formal manner. There may well be differences, but no-one has said directly to us that they are concerned that the quality of our PCLL Programme, or the quality of the students graduating from it, is unsatisfactory or below the expectations of the legal professions. Were such concerns to be expressed to us then we would respond. It is our belief that the Universities and the professions have a shared responsibility in relation to legal education and training, and we would welcome objectively expressed criticism of our contribution in that regard.

Turning to the specific question, if what is meant by this proposition is that the *intake* standards of PCLL graduates are different between the three institutions, no one has ever communicated this or produced evidence of it to us. Admission to the PCLL across

Hong Kong is competitive, and we believe that that competition contributes to a high standard of entrant.

If what is implied by this proposition is that the standards of PCLL graduates vary across institutions because of differences in standards of education between the three institutions, our response is, again, that we have not been presented with any evidence to support this assertion. The quality of our institution's PCLL is, as we are sure it is at the other institutions, monitored in detail by the professions themselves, from course content to assessment content and results. That there are differences between the content and approach of PCLL courses between institutions is inevitable (as there would be, say, between LPC providers in the UK) even though the professions mandate the general structure of the programme. Within these mandates, such differences are, indeed, desirable as they promote educational diversity.

All of this having been said, we would add that we are not complacent about the quality of our programme. We are open to, and will always respond constructively, to fair and reasoned criticism of the quality of the programme or the students that it produces.

**(b) law graduates who are not admitted into the PCLL programme in any one of the three universities the first time round will for almost all practical purposes be unable to become a lawyer in Hong Kong;**

This is not strictly accurate. Graduates who are unsuccessful in their first applications to the PCLL are entitled to reapply as many times as they want. Admittedly, admission cutoff points, at least at our institution, have increased over the years, but only fractionally. But entry levels vary from year to year. Nothing prevents a drop in any future year.

Moreover, graduates who do not enter the PCLL but who qualify in other jurisdictions do have the path of the Overseas Lawyers Qualification Examination (OLQE) open to them, although that is that is a more circuitous route to qualifying in Hong Kong than the PCLL.

The Faculty is currently reviewing the process and criteria for selection for admission to the PCLL. We are certainly aware that the current arrangements, which focus predominantly on the academic achievements of candidates in their LLB or JD degree, may risk excluding from the PCLL candidates who might well have the necessary aptitude for legal practice.

But whatever selection criteria are applied, what ultimately matters in PCLL admission is the maintaining of student standards and not how many times students apply to the PCLL.

**(c) the perception of unfair competition that may possibly be caused by the differences in GPA scores (i) between LLB graduates and JD graduates, (ii) between local graduates and graduates from overseas universities, and (iii) the criteria adopted by the three universities in recognizing overseas universities and their GPA scores;**

Taking each of the identified issues in turn:

(i) We do not, as a rule, apply different GPA scores depending upon whether a student has undertaken an LLB or a JD;

(ii) Things are rather more complex when we are comparing students graduating from a programme that offers GPA scores with students whose degree outcomes are not similarly expressed. However, in the Chinese University the LLB students' degree outcomes are expressed both in terms of GPA and degree classification and we are thus quite well-placed to make comparisons, and thus also to compare JD with non-CUHK LLB graduates. We do not prioritise our own students over students who have studied outside Hong Kong, nor do we give priority to applicants from outside Hong Kong over local graduates. Our decisions are taken on academic merit, due regard being had to the at times difficult process of comparing the performance of students from, say, the Chinese University of Hong Kong, with students from, say, LSE or Sydney. We believe that the overall quality of the programme benefits from having students from a wider range of University backgrounds. Having said that, it may be worth noting that on the evidence available to us, students graduating from a Hong Kong law programme tend to do somewhat better on our PCLL than students coming to the PCLL from a "foreign" law programme.

(iii) See above.

**(d) the dilemma of students in choosing whether to do a law degree or a non-law degree followed by a JD and whether to do their first law degree overseas or in Hong Kong as these degrees take different periods to complete and may have an effect on their chances of getting admitted into the PCLL programmes;**

So far as concerns the choice between an LLB and a JD, we are not sure that there is a "dilemma" for the students. Judging student choice by reference to the applications for admission to the LLB and the JD we can see that very many students appear to have no difficulty in making the choice. Some choose to commit to legal studies on leaving school; others choose to pursue other disciplines, and come to legal studies rather later. The important point is that the Universities and the Higher Education system as a whole are able to offer that choice and to accommodate the aspirations of students.

As to the "overseas vs Hong Kong degree" then our advice (when we are asked) is very clearly to take the Hong Kong route. There are very good arguments in favour of a

student pursuing a first degree in law in Hong Kong, as opposed to pursuing a first degree in law outside Hong Kong:

(a) The quality of legal education in Hong Kong is certainly comparable to that offered in the best law schools outside Hong Kong. Measured by the quality of the students admitted and the entrance standards demanded of them, standards in Hong Kong are comparable to those applied by the better English law schools. Certainly at CUHK we have declined admission to our LLB programme in the case of students who have been offered places in very good law schools in the United Kingdom.

(b) Pursuing legal studies outside Hong Kong will limit the opportunities that the student has for pursuing internships and other experiential learning that we know are a significant consideration in pursuing a career in legal practice after graduation.

(c) It will only exceptionally be the case that students studying law outside Hong Kong will be given any opportunity to study PRC law, whereas elements of PRC law are required in Hong Kong Law degrees, and elective PRC law courses are common.

(d) Students who have taken their law degree outside Hong Kong must take additional examinations in aspects of Hong Kong law before they are eligible to enter into the PCLL programme.

(e) Finally, and very importantly, students studying outside Hong Kong may find it difficult to develop and maintain their fluency in Putonghua, which is increasingly required for entrants into at least the solicitors' profession in Hong Kong.

The question does overlook one important factor regarding student choice and that is the availability of part-time study leading to a local qualifying law degree.<sup>2</sup> The Hong Kong University Grants Committee does not support part-time undergraduate study. There is, therefore, no-part-time LLB offered by any of the Universities in Hong Kong. The Chinese University of Hong Kong's part-time JD programme is currently the only part-time qualifying law degree offered in Hong Kong, and extends that route to students who may not wish to, or may not be able to afford to, pursue full-time study toward a local qualifying law degree.

**(e) The perceived preference of law firms in taking JD graduates as they may be considered as more mature and possibly better lawyers.**

We do not know whose perception this is. Certainly we have seen no evidence to suggest anyone has it. We have some statistics on career prospects of both our LLB and JD cohorts through the years. These, though, show no definite pattern either way.

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<sup>2</sup> The advantages of pursuing a local law degree, as opposed to a non-local degree, are summarised above.

JD students are likely to be more “mature” as they generally enter legal practice later than their LLB counterparts. Whether JD students are “better” depends entirely on what is meant by that word (black letter law skills, writing or oral skills, presentation skills, etc).

**We would welcome your views as to the accuracy and significance of all or any of these concerns. To your knowledge what evidence exists consistent with these concerns? Are you able to identify any more of further concerns? How do you propose to address each or any of these concerns?**

***Question 11: Do existing quality assurance mechanisms provide an adequate check on the standards of legal education and training in Hong Kong? Is it advisable to set up any new or additional mechanisms for measuring the quality and standard of legal education and training in Hong Kong? If so, what methods do you suggest?***

It is important here to separate out “education” and “training” and we will confine our comments to legal education.

Like Universities elsewhere, Hong Kong Universities are subject to periodic scrutiny by external agencies such as the Quality Assurance Agency, and, in the case of the Chinese University of Hong Kong, by the use of periodic review by Visiting Committees whose remit is to review the full range of an academic unit’s activities, resources and academic planning. More specifically, the content and delivery of the PCLL is subject to scrutiny by external examiners appointed by the profession, and by Academic Boards that have representation from all of the PCLL providers, both branches of the legal professions, and lay participation. In the case of the Chinese University the PCLL Academic Board is Chaired by a Non-Permanent Member of the Court of Final Appeal.

Universities also operate robust internal mechanisms to ensure that high standards of education are maintained. These include review of programmes on a periodic basis, scrutiny at Faculty level of existing and new courses and significant changes to courses, and scrutiny at University level of new programmes or significant changes to programmes. Course delivery is subject to review including student feedback and the performance of individual teachers in all courses (including JD, LLB and PCLL) is subject to annual review by the Faculty Academic Personnel Committee. Quality of teaching figures in all important decisions regarding the progress of academic staff, including contract renewal, substantiation and promotion. In the case of the Chinese University of Hong Kong, a significant number of faculty members have experience of delivering law programmes in other jurisdictions and University systems, and senior members of the Faculty in particular are very familiar with comparable standards in the United Kingdom, Australia, the United States and Canada.

**Question 12:** The Law Society of Hong Kong has proposed to introduce a common entrance examination (CEE) in Hong Kong mainly aiming at achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession. The CEE might be considered as taking over the PCLL as an entrance threshold into the legal profession, or it might be treated as an alternative or additional route to enter the legal profession. What are your views on the proposed CEE?

The Faculty of Law has set out its views on the Common Entrance Examination in its earlier response to the Law Society's consultation on this subject. That response is set out in the Appendix to this paper. We do not think it necessary to respond at length again to this issue since our position has not changed. However, we think it appropriate to make the following observations here:

(a) First of all, it is difficult to express a view on a "proposed CEE" since we, like others, have not yet seen any detailed proposals on a CEE. Although the Law Society has conducted what we believe to be an important and extensive consultation, we have not yet seen the outcome of that consultation, or any concrete proposals regarding the shape or content of the CEE.

(b) The question states that the CEE is aimed "mainly" at "achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession". Again, we have not yet been presented with a clear or coherent statement of the objectives of a CEE. And if the objectives are as stated in the question then we would have to ask what evidence there is that the "assessments and standards for all candidates seeking admission to the profession" are not already consistent and fair.

(c) The question suggests that the CEE might replace, or be an alternative to, or an addition to the PCLL. We would like to comment that we are somewhat surprised to see the re-emergence of the suggestion that the CEE might replace the PCLL since on more than one occasion senior members of the profession have stated that it is not the wish of the Society to see the PCLL replaced by the CEE.

**Question 13:** what is your opinion on the current arrangements for the pre-qualification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination? If you opine that improvement is needed, what methods do you suggest?

So far as concerns the current arrangements for the pre-qualification vocational training of solicitors, we believe that these are questions better answered by the solicitors' profession, and in particular by persons undergoing or having recently completed pre-qualification vocational training. That said, the anecdotal evidence available to us suggests that there can be a wide variance in the quality of pre-qualification training.

We have no comment on the OLQE.

**Question 14: what is your opinion on the current arrangements for the pre-qualification vocational training of pupils? If you opine that improvement is needed, what methods do you suggest?**

The Faculty believes that this question is better answered by members of the professions. However, the Faculty does note the difficulties that may be encountered by able young lawyers to pursue a career at the Bar when they come from financially disadvantaged backgrounds. The Faculty considers that active consideration needs to be given to ensuring that access to professional practice as a barrister in Hong Kong is determined by aptitude, skill and training, and is not affected by the financial capacity of an entrant to the profession to undertake unpaid professional training as a pupil barrister.

**Question 15: Do you have any other views on the strengths and weaknesses of the present system of legal education and training in Hong Kong which you would like to share with us? What are your suggestions in removing or eliminating such weaknesses and maintaining or enhancing such strengths?**

**Question 16: Please also express your wish or willingness to be interviewed by us.**

The Faculty would be happy to participate. We would wish the Faculty to be represented by Professor Christopher Gane, Dean of Faculty, Mr Richard Morris, Director of the PCLL Programme and Mr Matthew Cheung, Director of the JD Programme.

## Appendix 1

### Bachelor of Laws (LLB) Programme

The CUHK LLB Programme is a full-time four-year academic journey designed to expand students' intellectual capabilities.

The LLB Programme provides students not only with the first steps into a well-regarded profession, but also with the tools and knowledge to be engaged members of the community. Students will learn of Hong Kong's shared heritage with other common law legal systems around the world, as well as its place within the broader Chinese context. The LLB Programme includes the study of not only the practical elements of Hong Kong's legal system, but also the theoretical and normative perspectives that undergird it. This approach provides students with a comprehensive understanding of the laws and legal principles upon which Hong Kong society is founded and operates.

Intellectual coherence is the overarching principle which guides the ordering and grouping of subjects, and which sets the CUHK LLB Programme apart from comparable degree programmes.

The first two years in the LLB Programme contain compulsory subjects, grouped together into three themes: Foundations of Law, Public Law, and the Law of Obligations, while the second two years consist entirely of electives and pre-requisite courses for admission into the Postgraduate Certificate in Laws (PCLL) Programme. There are ample opportunities for students to specialise in a particular area of law so as to enhance their competitiveness in that area. They may do so by taking electives grouped into specialised streams, such as Global Law and Chinese Law. Students must also complete a "capstone experience", for instance by completing an exchange at another university or through an intensive research paper.

#### Programme Learning Outcomes

*Categorisation of desired learning outcomes:*

K = Knowledge

S = Skills

V = Values

Graduates from the LLB Programme will have acquired the following attributes:

1. Technical legal competence (K, S)

Students will acquire skills of legal analysis and reasoning; skills of legal research; skills of oral and written expression of legal ideas.

2. Broad understanding of the role of law in society (K, V)

Students will acquire an awareness of the potential and limits of law, municipal and international, in the context of broader regional and global developments.

3. The ability to think critically and analytically (S, V)

Students will acquire and improve the generic skills of critical thinking and logical analysis.

4. Research skills (K, S)

Students will acquire and improve the skills of data collection and dissemination, skills of analysis and reasoning, and skills of oral and written presentation of research findings.

5. Ability to work in English and Chinese (K, S)

Students will demonstrate a high degree of competence in the ability to work in English. They will substantially improve their Chinese language skills in both oral and written communication.

6. Sense of public service (V)

Students will develop an awareness of how their professional and general intellectual skills and qualifications can be used to benefit society at large.

7. Commitment to ethical professionalism (V)

Students will possess a strong sense of ethics, civic duty, social and professional responsibility.

### **Programme Requirements**

The LLB Programme comprises 127 units of courses, including 42 units of Required Courses, 48 units of Law Elective Courses and 37 units of University language, General Education and other courses:

#### **I. Required Courses (42 units)**

- *LAWS1010 Legal Analysis and Argumentation (3 units)*
- *LAWS1020 Hong Kong Legal System (3 units)*
- *LAWS1030 Legal System of the PRC (3 units)*
- *LAWS1041 Contract I (3 units)*
- *LAWS1042 Contract II (3 units)*
- *LAWS1100 Hong Kong Constitutional Law (3 units)*
- *LAWS2110 Administrative Law (3 units)*
- *LAWS2121 Criminal Law I (3 units)*
- *LAWS2122 Criminal Law II (3 units)*
- *LAWS2131 Tort I (3 units)*
- *LAWS2132 Tort II (3 units)*
- *LAWS3050 Jurisprudence and Ethics (3 units)*

- LAWS4151 *Equity and Trusts I (3 units)*
- LAWS4152 *Equity and Trusts II (3 units)*

## **II. Law Elective Courses (48 units)**

Elective courses required for admission to the Postgraduate Certificate in Laws Programme (27 units):

- LAWS2101 *Companies and the Law I (3 units)*
- LAWS2102 *Companies and the Law II (3 units)*
- LAWS3100 *Civil Procedure (3 units)*
- LAWS3110 *Criminal Procedure (3 units)*
- LAWS3130 *Evidence (3 units)*
- LAWS3151 *Land Law I (3 units)*
- LAWS3152 *Land Law II (3 units)*
- LAWS4120 *Commercial Law (3 units)*
- LAWS4130 *Conveyancing (3 units)*

Other elective courses (21 units)\* :

- LAWS2200 *Jessup International Law Moot (3 units)*
- LAWS2201 *Chinese Law (Summer Course) (3 units)*
- LAWS2202 *International Law (Summer Course) (3 units)*
- LAWS2203 *American Law (Summer Course) (3 units)*
- LAWS2220 *Chinese Law Internship (3 units)*
- LAWS2230 *Mediation: Law and Practice (3 units)*
- LAWS2240 *Legal History (3 units)*
- LAWS2250 *Gender and the Law (3 units)*
- LAWS2260 *International Legal Advocacy (6 units)*
- LAWS2270 *Mooting (3 units)*
- LAWS2280 *Interviewing (3 units)*
- LAWS2290 *Introduction to Alternate Dispute Resolution (3 units)*
- LAWS2300 *Introduction to Arbitration Theory and Practice (3 units)*
- LAWS2310 *Human Rights and the Law in the People's Republic of China (3 units)*
- LAWS2320 *International Investment Law Principles and Practice (3 units)*
- LAWS2330 *Law of the Sea (3 units)*
- LAWS3001 *The Individual, the Community, and the Law I (3 units)*
- LAWS3002 *The Individual, the Community and the Law II (3 units)*
- LAWS3200 *Ethics and the Law (3 units)*
- LAWS3210 *Transnational Business and the Law (3 units)*
- LAWS3220 *Banking and the Law (3 units)*
- LAWS3230 *International Commercial Dispute Resolution (3 units)*
- LAWS3260 *Crime and Criminal Justice (3 units)*
- LAWS3270 *Criminology (3 units)*
- LAWS3280 *Chinese Criminal Procedure (3 units)*

- *LAWS3290 Chinese Civil Law (3 units)*
- *LAWS3300 Personal Property and the Law (3 units)*
- *LAWS3310 Business and Law in Hong Kong (3 units)*
- *LAWS3320 Business and Law in China (3 units)*
- *LAWS3330 The Family and the Law (3 units)*
- *LAWS3340 The Internet and the Law (3 units)*
- *LAWS3350 Health and the Law (3 units)*
- *LAWS3360 Law of Succession (3 units)*
- *LAWS3370 Human Rights and the Law (3 units)*
- *LAWS3380 Construction and the Law (3 units)*
- *LAWS3390 Employment Law (3 units)*
- *LAWS3400 Free Trade Areas and Customs Unions: Law and Policy (3 units)*
- *LAWS3410 Energy Law (3 units)*
- *LAWS3420 Law and Ethics of Ageing: Global Perspectives (3 units)*
- *LAWS4000 Private International Law (3 units)*
- *LAWS4010 Independent Research Paper (3 units)*
- *LAWS4260 Public International Law (3 units)*
- *LAWS4270 Comparative Law (3 units)*
- *LAWS4280 International Criminal Law (3 units)*
- *LAWS4290 Refugee Rights Clinic (3 units)*
- *LAWS4291 Refugee Pro Bono Project (3 units)*
- *LAWS4292 The Clinic for Public Interest Advocacy (3 units)*
- *LAWS4300 Shipping and the Law (3 units)*
- *LAWS4310 The Environment and the Law (3 units)*
- *LAWS4311 Chinese Environmental Law (3 units)*
- *LAWS4320 Planning and the Law (3 units)*
- *LAWS4330 Intellectual Property and the Law (3 units)*
- *LAWS4340 WTO and the Law (3 units)*
- *LAWS4350 Development and the Law (3 units)*
- *LAWS4360 Insurance and the Law (3 units)*
- *LAWS4370 Taxation and the Law (3 units)*
- *LAWS4371 Chinese Tax Law and Policy (3 units)*
- *LAWS4380 International Trade and Finance Law(3 units)*
- *LAWS4390 Public Listed Companies and the Law (3 units)*
- *LAWS4400 Corporate Crime and Social Responsibility (3 units)*
- *LAWS4410 Exploring the Law through Liberal Studies: Law Students as Teachers in Experiential Learning (3 units)*
- *LAWS4420 International Sales Dispute (3 units)*
- *LAWS4430 Competition Law (3 units)*
- *LAWS4440 Information and Privacy Law (3 units)*
- *LAWS4450 Cultural Heritage Law (3 units)*

- *LAWS4470 Administrative Law Seminar: Advanced and Comparative Topics (3 units)*

**III. General Education (GE) Courses (12 units)**

**IV. Physical Education (PE) Courses (2 units)**

**V. University Language Courses (9 units)**

**VI. Free Elective Courses (13 units)**

**VII. IT Foundation Course (1 unit)**

**Total: 127 units**

*\* The offering of elective courses in each academic year is subject to availability of teachers and students' interests.*

*Note: Students may take internships as non-credit bearing electives with the endorsement of the Faculty. The internships will not be graded.*

**LLB Study Sequence (for students of 2015/16 intake)**

<b>Year 1</b> (33 units)	<b>Term One</b> (16-17 units)	Legal Analysis & Argumentation (3 units)	Hong Kong Legal System (3 units)	Contract I (3 units)		University Chinese I (3 units) English for Law Students (3 units) Foundation GE (3 units) College GE (3 units) Physical Education (2 units) IT Foundation course (1 unit)
	<b>Term Two</b> (16-17 units)	Legal System of the PRC (3 units)	Hong Kong Constitutional Law (3 units)	Contract II (3 units)		
<b>Year 2</b> (35 units)	<b>Term One</b> (17-18 units)	Tort I (3 units)	Criminal Law I (3 units)	Equity & Trusts I (3 units)	Administrative Law (3 units)	University Chinese II (3 units) Foundation GE (3 units) Non-Law Elective (5 units)
	<b>Term Two</b> (17-18 units)	Tort II (3 units)	Criminal Law II (3 units)	Equity & Trusts II (3 units)	Jurisprudence & Ethics (3 units)	
<b>Year 3</b> (29 units)	<b>Term One</b> (14-15 units)	Companies & the Law I (3 units)	Land Law I (3 units)	Civil Procedure (3 units)	Commercial Law (3 units)	Non-Law Elective (5 units)
	<b>Term Two</b> (14-15 units)	Companies & the Law II (3 units)	Land Law II (3 units)	Criminal Procedure (3 units)	Evidence (3 units)	
<b>Year 4</b> (30 units)	<b>Term One</b> (15 units)	Conveyancing (3 units)	[Law Elective 1] (3 units)	[Law Elective 2] (3 units)	[Law Elective 3] (3 units)	Non-Law Elective (3 units) College GE (3 units)
	<b>Term Two</b> (15 units)	[Law Elective 4] (3 units)	[Law Elective 5] (3 units)	[Law Elective 6] (3 units)	[Law Elective 7] (3 units)	

Total: 90 units (LAW) + 37 units (Others) = 127 units

## Appendix 2

### Juris Doctor (JD) Programme

The CUHK JD is a respected and internationally-recognised award conferred by many universities in jurisdictions abroad such as the USA, Australia, Canada, Japan, Korea and the Philippines. It is a versatile postgraduate law degree designed for graduates from non-law disciplines, which potentially leads to admission as a barrister or solicitor in Hong Kong. It is also suitable for assuming leadership roles in fields such as commerce, finance, industry, government, community service, law enforcement, public administration, education, and the media.

The JD Programme provides students with an intellectually-enriching general education in law. All JD students must complete four required courses: these are *Legal System, Jurisprudence, Legal Research Analysis and Writing*, and *Ethics and Professional Virtue*. These courses give students the foundational knowledge and skills for a well-rounded general legal education and a first-hand appreciation of the relationship between the legal system and the broader community it serves and regulates. Students must also complete a mandatory research course *Independent Research or Independent Research Dissertation*. The Programme also enables students to pursue a range of specialist study options in the fields of Common Law, Chinese business law and international economic law.

All students entering the JD Programme are encouraged to look behind the contemporary rules of law to the values, purposes, and policies underlying them and place more emphasis on the acquisition of transferable skills and competencies than a simple identification of the existing rules can provide.

An important feature of the CUHK JD Programme is that it is entirely postgraduate in both form and substance. The JD students do not share classes with undergraduate students. Students in the JD Programme may enroll in full-time (24 months normative study period; 48 months maximum study period) or part-time mode of study (42 months normative study period; 84 months maximum study period).

#### Programme Learning Outcomes

*Categorisation of desired learning outcomes:*

K = Knowledge

S = Skills

V = Values and attitudes

1. To have been instilled with an understanding of the law and legal system of Hong Kong, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena. (K, V)
2. To have an appreciation of the common law system and its values, and its interaction with the law of China, the East Asian region and the wider world. (K, V)

3. To possess a strong sense of ethics, civic duty, social and professional responsibility. (V)
4. To be aware of the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests. (K, V)
5. To acquire and improve skills of legal analysis and reasoning; skills of legal research; skills of oral and written expression of legal ideas; and the general critical and evaluative faculties appropriate to a postgraduate degree in law. (S)

### **Programme Requirements**

The JD Programme comprises 72 units of courses, including 15 or 18 units of Required Courses and 54 or 57 units of Elective Courses:

#### **I. Required Courses (15 or 18 units)**

- *LAWS6001 Legal System (3 units)*
- *LAWS6002 Jurisprudence (3 units)*
- *LAWS6004 Legal Research, Analysis and Writing (3 units)*
- *LAWS6005 Ethics and Professional Virtue (3 units)*
- *LAWS6901 Independent Research (3 units) OR*
- *LAWS6902 Independent Research Dissertation (6 units)*

#### **II. Elective Courses (54 or 57 units)**

Elective courses required for admission to the Postgraduate Certificate in Laws Programme (39 units):

- *LAWS6011 Principles of Company Law (3 units)*
- *LAWS6012 Principles of Civil Procedure (3 units)*
- *LAWS6013 Principles of Evidence (3 units)*
- *LAWS6014 Principles of Criminal Procedure (3 units)*
- *LAWS6015 Principles of Constitutional Law (3 units)*
- *LAWS6016 Principles of Conveyancing (3 units)*
- *LAWS6017 Principles of Commercial Law (3 units)*
- *LAWS6018 Principles of Equity and Trusts (3 units)*
- *LAWS6019 Principles of Land Law (3 units)*
- *LAWS6020 Principles of Administrative Law (3 units)*
- *LAWS6021 Principles of Contract (3 units)*
- *LAWS6022 Principles of Criminal Law (3 units)*
- *LAWS6023 Principles of Tort (3 units)*

Other elective courses (15 or 18 units)\* :

- *LAWS6003 The Individual, the Community, and the Law (3 units)*
- *LAWS6031 Issues in Company Law (3 units)*
- *LAWS6032 Issues in Contract (3 units)*
- *LAWS6033 Issues in Criminal Law (3 units)*
- *LAWS6034 Issues in Equity and Trusts (3 units)*
- *LAWS6035 Issues in Land Law (3 units)*

- LAWS6036 Principles of International Law (3 units)
- LAWS6037 International Legal Advocacy (6 units)
- LAWS6038 Australian Constitutional Law (3 units)
- LAWS6039 Canadian Constitutional Law (3 units)
- LAWS6040 Conflict of Laws (3 units)
- LAWS6041 Interviewing and Counselling (3 units)
- LAWS6042 Dispute Resolution (3 units)
- LAWS6043 Comparative Constitutional Traditions (3 units)
- LAWS6044 Principles of Environmental Law (3 units)
- LAWS6045 Issues in Human Rights (3 units)
- LAWS6046 Law and Literature (3 units)
- LAWS6047 Principles of Employment Law (3 units)
- LAWS6048 Jessup International Law Moot (3 units)
- LAWS6050 Mooting (3 units)
- LAWS6051 Principles of Remedies (3 units)
- LAWS6053 Refugee Rights Clinic (3 units)
- LAWS6054 Principles of Family Law (3 units)
- LAWS6055 Principles of Mediation (3 units)
- LAWS6056 Principles of Revenue Law (3 units)
- LAWS6057 Issues in Tort (3 units)
- LAWS6058 Principles of Intellectual Property (3 units)
- LAWS6059 Principles of Securities Regulation (3 units)
- LAWS6060 Secured Transactions and the Law (3 units)
- LAWS6061 Non-Marine Insurance Law (3 units)
- LAWS6062 Principles of Corporate Crime and Social Responsibility (3 units)
- LAWS6063 Principles of Construction Law (3 units)
- LAWS6064 Issues in International Law (3 units)
- LAWS6065 Principles of Aviation Law (3 units)
- LAWS6066 Human Rights in PRC Law and Society (3 units)
- LAWS6067 Principles of Corporate Insolvency (3 units)
- LAWS6068 International and Foreign Law Summer School (Sydney) (3 units)
- LAWS6069 Principles of Information & Privacy Law (3 units)
- LAWS6070 Principles of Family Law: Matrimonial Law (3 units)
- LAWS6071 Principles of Family Law: Child Law (3 units)
- LAWS6072 The Clinic for Public Interest Advocacy (3 units)
- LAWS6074 Law of the Sea (3 units)
- LAWS6075 Global Issues in Law (3 units)
- LAWS6076 Issues in Administrative Law (3 units)

**Total: 72 units**

*\* The offering of elective courses in each academic year is subject to availability of teachers and students' interests.*

*Note: Students may take internships as non-credit bearing electives with the endorsement of the Faculty. The internships will not be graded.*

## JD Study Sequence (for students of 2015/16 intake)

### Full-time mode of study

Normative study period: 24 months

<b>Year 1</b> (36 units)	
<b>Term One</b> (15 units)	nLAWS6001 Legal System nLAWS6004 Legal Research, Analysis and Writing nLAWS6005 Ethics and Professional Virtue nLAWS6015 Principles of Constitutional Law nLAWS6021 Principles of Contract
<b>Term Two</b> (15 units)	nLAWS6012 Principles of Civil Procedure nLAWS6020 Principles of Administrative Law nLAWS6023 Principles of Tort nElective nElective
<b>Summer Term</b> (6 units)	nLAWS6002 Jurisprudence nElective
<b>Year 2</b> (36 units)	
<b>Term One</b> (15 units)	nLAWS6011 Principles of Company Law nLAWS6018 Principles of Equity and Trusts nLAWS6019 Principles of Land Law nLAWS6022 Principles of Criminal Law nElective
<b>Term Two</b> (15 units)	nLAWS6013 Principles of Evidence nLAWS6014 Principles of Criminal Procedure nLAWS6017 Principles of Commercial Law nLAWS6901 Independent Research* nElective
<b>Summer Term</b> (6 units)	nLAWS6016 Principles of Conveyancing nElective

*\* Or LAWS6902 Independent Research Dissertation, in which case the student will register for one fewer Elective Course.*

Students aiming to complete the JD Programme over a period of 30 months must observe the following sequence of courses:

*Extended study period: 30 months*

<b>Year 1</b> (33 units)	
<b>Term One</b> (15 units)	nLAWS6001 Legal System nLAWS6004 Legal Research, Analysis and Writing nLAWS6005 Ethics and Professional Virtue nLAWS6015 Principles of Constitutional Law nLAWS6021 Principles of Contract
<b>Term Two</b> (12 units)	nLAWS6012 Principles of Civil Procedure nLAWS6020 Principles of Administrative Law nLAWS6023 Principles of Tort nElective
<b>Summer Term</b> (6 units)	nLAWS6002 Jurisprudence nElective
<b>Year 2</b> (30 units)	
<b>Term One</b> (12 units)	nLAWS6011 Principles of Company Law nLAWS6018 Principles of Equity and Trusts nLAWS6019 Principles of Land Law nLAWS6022 Principles of Criminal Law
<b>Term Two</b> (12 units)	nLAWS6013 Principles of Evidence nLAWS6014 Principles of Criminal Procedure nLAWS6017 Principles of Commercial Law nElective
<b>Summer Term</b> (6 units)	LAWS6016 Principles of Conveyancing Elective
<b>Year 3</b> (9 units)	
<b>Term One</b> (9 units)	LAWS6901 Independent Research* Elective Elective

*\* Or LAWS6902 Independent Research Dissertation, in which case the student will register for one fewer Elective Course.*

### **Part-time mode of study**

Normative study period: 42 months

<b>Year 1</b> (21 units)	
<b>Term One</b> (9 units)	nLAWS6001 Legal System nLAWS6004 Legal Research, Analysis and Writing nLAWS6021 Principles of Contract
<b>Term Two</b> (9 units)	nLAWS6012 Principles of Civil Procedure nLAWS6023 Principles of Tort nElective
<b>Summer Term</b> (3 units)	nLAWS6002 Jurisprudence
<b>Year 2</b> (21 units)	
<b>Term One</b> (9 units)	nLAWS6005 Ethics and Professional Virtue nLAWS6015 Principles of Constitutional Law nLAWS6022 Principles of Criminal Law
<b>Term Two</b> (9 units)	nLAWS6014 Principles of Criminal Procedure nLAWS6020 Principles of Administrative Law nElective
<b>Summer Term</b> (3 units)	Elective
<b>Year 3</b> (21 units)	
<b>Term One</b> (9 units)	LAWS6011 Principles of Company Law LAWS6018 Principles of Equity and Trusts LAWS6019 Principles of Land Law
<b>Term Two</b> (9 units)	LAWS6013 Principles of Evidence LAWS6017 Principles of Commercial Law Elective
<b>Summer Term</b> (3 units)	LAWS6016 Principles of Conveyancing
<b>Year 4</b> (9 units)	
<b>Term One</b> (9 units)	LAWS6901 Independent Research* Elective Elective

\* Or LAWS6902 Independent Research Dissertation, in which case the student will register for one fewer Elective Course.

## Appendix 3

### Postgraduate Certificate in Laws (PCLL) Programme

The CUHK PCLL Programme is a one-year full-time programme. It consists of two stages. In the first stage of the programme, Term 1, students will study core practice areas and develop core skills. In the second stage, Term 2/Summer term, students will choose from a wide range of electives that are designed to reflect the range of work undertaken by solicitors and barristers in practice.

#### Programme Learning Outcomes

*Categorisation of desired learning outcomes:*

K= Knowledge

S= Skills

V= Values and Attitudes

#### 1. Legal practice skills (K, V)

To develop awareness of how legal practice works in Hong Kong, and to develop skills, among others, of problem solving, legal research, file management, fact management, litigation management and strategies, office management, time management, financial management, risk assessment and client care.<sup>3</sup>

#### 2. Substantive and doctrinal law (K, S)

To marshal the substantive and doctrinal law acquired in the prior law degree and to acquire, develop and apply further knowledge of law and legal practice necessary and desirable for practice.<sup>4</sup>

#### 3. The HK legal system and its interaction with other legal systems (K, S)

To appreciate how the Common Law system works in practice in Hong Kong and of the points at which it interacts with the Mainland system and with other systems.

#### 4. Drafting skills (K, S)

To be competent in drafting effective documents, over a wide range of legal disciplines using plain and accurate English and, in two courses, Chinese. Such documents include but are not limited to varied commercial and conveyancing documents, together with pleadings and other court documents and opinions.<sup>5</sup>

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<sup>3</sup> C.f. *The Bar's submissions to the Academic Board on PCLL Curriculum Reform*, 27 March 2002 ("The Bar Benchmarks"), para. 2. See also the Annexure to the Bar Benchmarks, paras. 6 – 13 ("The Skills Areas"), 14 – 16 ("Casework Skills"). Note also The Bar Benchmarks, "The Detailed Requirements", paras. 1.1 and 1.2. In addition, see the Law Society's *Benchmarks for the PCLL*, June 2007 ("The Law Society Benchmarks"), paras. 1, 3, 6 and 7.

<sup>4</sup> C.f. The Bar Benchmarks, paras. 3-5. Note also The Bar Benchmarks, "The Detailed Requirements", section 2.

<sup>5</sup> C.f. The Bar Benchmarks, para. 13.2 and 13.3.

5. Presentational skills (K, S)

To gain competence and confidence in oral presentational skills in a range of different contexts which are likely to arise in legal practice, in particular advocacy, conferencing, negotiating and mediating.<sup>6</sup>

6. Ethics (V, K)

To develop a strong sense of ethics and professional responsibilities and to be familiar with the ethical requirements of the professions.<sup>7</sup>

### Programme Requirements

The PCLL Programme comprises 30 units of courses, including 15 units of Required Courses and 15 units of Elective Courses:

I. Required Courses (15 units)

- LAWS5001 Professional Practice (3 units)
- LAWS5002 Commercial Practice (3 units)
- LAWS5003 Property and Probate Practice (3 units)
- LAWS5004 Civil Litigation Practice (3 units)
- LAWS5005 Criminal Litigation Practice (3 units)

II. Elective Courses (15 units)

- LAWS5011 Writing and Drafting Litigation Documents\* (3 units)
- LAWS5013 Lending and Finance (3 units)
- LAWS5014 Corporate Finance (3 units)
- LAWS5016 Writing and Drafting Litigation Documents (in Chinese) (3 units)
- LAWS5017 China Practice (3 units)
- LAWS5018 Writing and Drafting Commercial Documents (in Chinese) (3 units)
- LAWS5019 Alternative Dispute Resolution (3 units)
- LAWS5020 Trial Advocacy\* (3 units)
- LAWS5021 Writing and Drafting Commercial Documents (3 units)
- LAWS5022 Conference Skills and Opinion Writing\* (3 units)

*Notes:*

- Students intending to go to the Bar should select all 3 courses marked with an asterisk (\*) (LAWS5011, 5020 and 5022) failing which they will not be permitted to enter pupillage.

- Students may take internships as non-credit bearing electives with the endorsement of the Faculty. The internships will not be graded.

Total: 30 units

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<sup>6</sup> C.f. The Bar Benchmarks, para. 13.5. See also the Annexure to the Bar Benchmarks, paras. 6 – 13 (“The Skills areas”), 17 – 21 (“Advocacy”), 22 – 24 (“Court visits”), 25 – 28 (“Conference Skills”), 29 – 33 (“Negotiation Skills”). Note The Bar Benchmarks, “The Detailed Requirements”, paras. 1.3 and 1.4. See also The Law Society Benchmarks, para. 3, in particular the third bullet point.

<sup>7</sup> C.f. Annexure to The Bar Benchmarks, paras. 1-5. Note also The Bar Benchmarks, “The Detailed Requirements”, paras. 1.5 – 1.7.

## Appendix 4

### Consultation on the Feasibility of Implementing a Common Entrance Examination in Hong Kong Response from The Faculty of Law, The Chinese University of Hong Kong

#### Preliminary Observations

- 0.1 This paper is prepared in response to the Consultation Document, prepared for the Law Society of Hong Kong [“LS”], on the Feasibility of Implementing a Common Entrance Examination [“CEE”] for Solicitors in Hong Kong.
- 0.2 It should be observed, from the outset, that the Faculty of Law has found it difficult to respond to this consultation in the absence of any clear indication of why it is felt that a Common Entrance Examination is needed, what shortcomings in the current arrangements for admission to the solicitors’ branch of the legal profession it would be designed to address, and how it would address them. It is our understanding that the Law Society does not contemplate the CEE as a replacement for any part of the current arrangements, and one must therefore ask what additional purpose such an examination would serve, and what would be the relationship (if any) between the CEE and other elements of the professional education and training of potential solicitors. It should also be observed that one of the distinctive features of the current arrangements in Hong Kong for the education and training of future lawyers is that intending solicitors and barristers are able to follow a “common path” prior to embarking on their practical professional training (as pupil barristers or trainee solicitors). The introduction of a CEE – depending upon its timing at least – would detract from what we regard as a strength of the current arrangements.
- 0.3 Subject to these general observations, the Faculty submits the following response to the questions raised in the consultation.

#### **1. What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?**

- 1.1.1 The Faculty readily acknowledges that the Law Society performs a legitimate role, as a professional regulator, in controlling entry to the profession. However, that control is, in our view, to be exercised primarily with regard to the quality of entrants, and their aptitude for professional practice. In this regard, the Law Society acts (or at least should act) not only in the interests of the profession, but in the interests of consumers of services provided by solicitors, and the community as a whole.
- 1.2 In that sense there can be little dispute that the quality of entrants to the profession is an entirely legitimate interest for the Law Society. If the Law Society had, prior to,

or as part of, this consultation, taken steps to indicate how, in its view, the introduction of a CEE might enhance the quality of entrants to the profession, the Faculty would, no doubt, have been able to respond to such proposals. In the absence of such indication, we are left to speculate on whether there are other purposes that the introduction of such a CEE might serve.

- 1.3 If, for example, the CEE were to be seen as a means by which access to the profession could be controlled on grounds other than quality, then that is something to which the Faculty would be strongly opposed. This is particularly the case were the CEE to be introduced as a means of controlling numbers of entrants.
- 1.4 Experience in other jurisdictions suggests that from time to time professional bodies have sought to employ entrance qualification mechanisms as a means of regulating numbers. This has been regarded as an anti-competitive practice incompatible with the public interest. If there were any intention to use the CEE in this way – or, indeed, any perception that it was being used in this way – it would seriously undermine public confidence in the process by which entry to the profession of solicitor is governed.
- 1.5 The Faculty is also of the view that the quality of entrants to the profession of solicitor is not solely the concern of the Law Society. The Universities that currently offer qualifying degrees in Hong Kong, and the Postgraduate Certificate in Laws [“PCLL”], also have a concern for quality, and a strong interest in ensuring that the education and training provided to aspiring members of the legal profession is of the highest standard. The providers of qualifying law degrees and the PCLL are subject to significant internal measures of scrutiny of their courses and programmes, and to external review through a variety of mechanisms. Indeed, the Law Society itself is engaged in that process of review in relation to the PCLL. It is legitimate to ask, then, in what way(s) the Law Society believes the Universities are failing to contribute fully to the quality of entrants to the profession.

## **2. What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practising in Hong Kong?**

2.1 The opportunities for foreign lawyers to practice in Hong are varied, and, indeed, reflect the strength of Hong Kong as an internationally recognized commercial centre, supported by high quality legal services.

2.2 Under current arrangements, foreign lawyers operating in Hong Kong may choose to do so either as registered foreign lawyers, or through the OLQE. The latter route is only required for those who wish to practice Hong Kong law, and is only open to those who are qualified in another jurisdiction.

2.3 For these reasons, it is not necessary to consider the situation of foreign registered lawyers since their presence in Hong Kong has no bearing on the “qualification system for Hong Kong solicitors” (whatever bearing they may have in terms of competition for legal business in Hong Kong).

2.4 So far as concerns lawyers qualified to practice as solicitors in Hong Kong through the OLQE, the relevant part of the “qualification system” to which such foreign lawyers may present a challenge is, presumably, the PCLL. But if this is what lies behind the question, then it is, we believe, a misconception to draw comparisons between these two routes to qualification. Essentially, the PCLL is intended as a “bridge” between the qualifying law degree and entry into the professional practice stage of qualification. As such its primary

focus is on the development of the skills and knowledge required of a completely new entrant to the profession. The OLQE, since it caters only for foreign qualified lawyers who have satisfied a minimum requirement of legal practice in their jurisdiction of origin, is directed towards ensuring a satisfactory level of familiarity with Hong Kong law.

2.5 In our view, therefore, the routes by which foreign lawyers enter into practice in Hong Kong do not really have a bearing on the question of a CEE, unless, of course, it were to be suggested that the CEE would replace the OLQE. This in our view would hardly make sense in terms of ensuring that the foreign lawyer has sufficient familiarity with Hong Kong law, nor would it make much sense in terms of ensuring that the foreign lawyer has the appropriate practical skills, since, presumably, that requirement is satisfied by professional experience in another jurisdiction.

**3. Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?**

3.1 Manpower planning in the context of the legal profession is notoriously difficult, since it depends upon range of variables which are directly affected by such considerations as the general state of the economy (which increasingly embraces the wider global economy), changing perceptions of the role of the legal practitioner and the emergence of new areas of legal business.

3.2 In any case, what is meant by the proposition that there are “too many or “too few” lawyers in a given community - “too many” or “too few” by reference to what benchmark? When compared to many other jurisdictions Hong Kong is not over-supplied with lawyers *per capita* of the population as a whole. On the other hand, it is possible that there are areas of legal services that are under supplied, while others are over-supplied.

3.3 There are very few measures available to gauge the issue of over- or under-supply. One measure is the employment of students completing the PCLL. In common with other law schools in Hong Kong we see no evidence of under-employment of these young people. Indeed, we are (at least conversationally) told by many firms that they have a continuing demand for well-qualified entrants.

3.4 For the future, all that can be said is that the need for legal services will be driven by the business and social conditions within which legal services are provided. Given the inevitable uncertainties in that regard, it would in our view be unwise to attempt to manage entrant numbers, especially given the length of time that it takes for an entrant to complete both a qualifying law degree and the PCLL.

**4. If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?**

4.1 Again, this is an issue that is dependent upon the state of the market for legal services – which will always vary. It is also dependent upon what is or would be acceptable as a “training contract” in this context. If, for example, the practical training opportunities for aspiring practitioners were to be extended to include opportunities in forms of legal practice in addition to those that are presently recognized by the Law Society then clearly this would expand the number of training contracts.

4.2 At first sight it is arguable that the profession would benefit from an increase in the number of PCLL graduates, since this would increase the pool of available talent from which future practitioners could be drawn. But at the same time it needs to be borne in mind that

an expansion in the number of students admitted to the PCLL programmes across Hong Kong would likely be achieved by a reduction in the academic standard of those entrants – albeit in many cases only a slight reduction.

4.2 It is in no-one's interests – least of all the interests of potential entrants to the profession – for there to be an expansion of PCLL graduates to a level that cannot be absorbed by the profession. Of course there can never be an exact match – and some “over-supply” can be defended on the grounds of enhanced choice for potential employers and healthy competition between potential employees. Insufficient opportunities in legal practice can, of course, lead to students pursuing alternative career choices on the completion of their law degree – as has happened elsewhere – and that is not in itself a bad thing. However, in the context of Hong Kong, where there appears to be a reluctance on the part of students studying law (or at least the LLB) to regard it as a broadly-based degree which opens up a range of career opportunities, any expansion of PCLL places without a reasonable relationship between the number of places and the number of trainee places would be bound to generate resentment.

4.3 It should also be noted that, at least under current arrangements, an expansion of UGC-funded PCLL places is unlikely. That means, then, that there could only be an expansion in PCLL places by relying on self-funded PCLL places.

## **5. To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?**

5.1 As providers of legal education we are probably not as well placed to comment on this question as the legal profession itself. Only the profession is in a place to make comparisons between those who enter the profession as graduates from the different Universities in Hong Kong, graduates of Universities outside Hong Kong, those who enter the profession with a law degree followed by a PCLL, and those who enter practice through the OLQE route. Certainly we have seen no objective evidence of this, although we have no doubt that this is an area that might benefit from an evidence-based approach.

5.2 That said, we have been made aware, albeit informally / anecdotally, that there are perceived differences between those who come to the profession via the three PCLL providers.

5.3 In common with the other law schools, we do not regard difference as something that is necessarily undesirable. Indeed, a variety in the approaches to the development of skills is something that many would regard as desirable, since it offers to the profession candidates with a range of attributes and qualities, thus allowing potential employers to select those candidates whose achievements and competencies most closely match their needs.

5.4 We do accept that if there were significant differences in *standard(s)* between the different PCLL providers that this would be a matter of concern – not only for the professions, but for the programme providers as well.

5.5 But although we have been made aware of these concerns, these have been fairly non-specific, and certainly we have not been made aware directly of any such concerns about the programme provided by The Chinese University of Hong Kong. We believe this to be so in the case of the other PCLL providers with respect to their programmes.

5.6 The professions – Bar and Law Society – are involved in the setting of standards for the PCLL and we are always willing to work with the professions to ensure that the appropriate standards are achieved in our programmes. If there are concerns, then we

believe that these can be effectively addressed by open and frank dialogue between the Universities and representatives of the professional bodies. As University teachers we are used to evaluation of what we do – at class, course and programme levels – and we are confident that if the professions were to raise with us concerns about the standards that we achieve we would respond constructively. We do not, however, see how the introduction of a CEE would address such concerns, and certainly we do not see how they would address such concerns more effectively than discussion between the professions and the PCLL providers.

5.7 The Law Society has expressed concerns about the resources available for the current arrangements for monitoring the PCLL. We are not convinced that the introduction of a CEE would result in fewer demands on busy professionals. Indeed, the operation of a CEE, if it is to be seen as relevant, fair, rigorous and efficiently delivered, is likely to be very demanding of resources. It might be suggested that this would not be so if the CEE were to be administered by a third party, but it is not clear to us why that should be so. Presumably the Law Society would still wish to monitor the delivery and outcomes of the CEE.

5.8 Monitoring is of course demanding. If it is the case that the current arrangements present major practical difficulties for the profession, then it might be suggested that alternative monitoring arrangements could be explored. These exist in other jurisdictions that are not fundamentally different from Hong Kong, and advice on their operation could no doubt be obtained from the professions counterparts elsewhere.

## **6. What, if any issues make the legal services / legal education context of Hong Kong distinctive?**

6.1 The consultation paper sets out a number of factors which make Hong Kong legal education and services distinctive, and we would broadly agree with those.

6.2 Probably the factor that most distinguishes Hong Kong in this respect is its particular relationship with the rest of China. While it is true that legal practice in many parts of the world is increasingly impacted by China's growing economic power and political influence, the education and training of lawyers in other jurisdictions does not need to take account of this in ways that will have to be addressed, sooner or later, in Hong Kong.

6.3 For example, we are increasingly aware of the importance of the language skills that are increasingly expected of entrants to the profession. It is no longer sufficient that students speak Cantonese and English. They must also be at least competent in Putonghua.

6.4 Given the geographical and constitutional relationship with the rest of China, it is likely that, increasingly, some acquaintance (at least) with Chinese law and the Chinese legal system will become a more significant part of the legal education of Hong Kong law students. Indeed, given the highly international character of legal practice in Hong Kong (and indeed elsewhere), it is arguable that our system of legal education and training should move in the direction of emphasizing the global nature of legal practice.

## **7. Are you in favour, in principle, of the adoption of a CEE? If so, why? If not, why?**

7.1 It is not possible to state whether or not one is in favour of something whose purpose, content and operation have not been disclosed. All that can fairly be stated is that we have not yet seen the justification for introducing the CEE, either by reference to what is currently done by way of legal education and training, or by reference to what the CEE might achieve that is not achievable under the present system, either as it stands or

modified by agreement between the providers and the profession. In that sense, then, we do not favour the introduction of a CEE

7.2 At the risk of repeating observations already made, we would be very willing to consider reasoned proposals for changes to the current system. It is, one imagines, possible that such a dialogue might point to fundamental problems that cannot be addressed within the current framework (although we doubt that), and if that were the case then no doubt a range of alternatives could be addressed. The difficulty with the current approach is that really no alternatives other than the CEE have been presented. If the only way forward is the as yet undefined CEE then it is difficult to see what merits it might have.

7.3 There is one further concern: Although the Law Society has indicated that it does not see the CEE as a substitute for the PCLL, there is bound to be a concern on the part of the PCLL providers that the CEE would be a precursor to the disappearance of the PCLL.

7.4 The comment is made not because we at the Chinese University regard the PCLL as a source of income. We would be opposed to the disappearance of the PCLL because we regard it as providing a necessary link between the academic study of law and its effective professional implementation. Programmes of this kind are successfully operated in other major jurisdictions (including the UK jurisdictions) and are regarded by many as the best way of equipping new graduates for the challenge of legal practice. Indeed it is the absence of such pre-professional training that is increasingly lamented in other jurisdictions which rely on bar examinations as the gateway to practice.

7.5 If the CEE is pursued as an additional hurdle for those seeking entry to the profession, then, again, its acceptability is dependent upon the justifications offered, and in this regard one can surely ask, "How would a CEE better equip a potential trainee for practice".

7.6 It may of course be that that is not the objective, but that the CEE is intended to "weed out" those who are not appropriately equipped. But unless the CEE is intended to be a comprehensive examination of both knowledge and skills, then it is difficult to see how that would work. The name suggests a form of examination that would not embrace skills – and the concerns about resources would tend to support that. If the CEE were to emerge as a paper examination, then its suitability as determining a candidate's suitability for legal practice must be questioned.

7.7 The feasibility of a CEE (which is central to this consultation) is also difficult to judge in the absence of an indication of its form and objectives. As indicated above, it is likely that a CEE, properly implemented for all candidates for admission (other than those admitted through the OLQE) would require considerable resources in terms of setting, assessing and administering the test. And since one of the concerns which the CEE may be designed to address is that applicants for the PCLL, if unsuccessful at the first attempt, are unlikely to be successful at a second attempt, the CEE would have to accommodate repeated attempts. There is no indication, moreover, whether this would follow the lines of the Conversion Examinations in which such repeated attempts are permitted (and if so how success after, let us suggest, five or six attempts somehow demonstrates the appropriate level of achievement for admission to the profession).

## **8. If a CEE is adopted, what should its primary purpose be?**

8.1 We have previously indicated that we do not support the introduction of a CEE. But if it were to be introduced then there would seem to be two possibilities:

(a) As a test of professional competence to be administered at the end of a candidate for admission's traineeship. Administering a test at this stage would serve a defensible purpose

of ensuring that candidates have acquired a sufficient level of knowledge and skills to be admitted as solicitors with full practicing rights. But if the CEE were to be applied at this point, then it would be necessary for the profession to ensure that there was, if not a common professional training programme, then at least a system by which the Law Society could ensure that the standards of professional training provided across the piece in Hong Kong were broadly comparable and met an agreed threshold of standards.

(b) An alternative purpose might be to ensure that the graduates of the PCLL across the three providers could achieve broadly comparable results in a test that is not linked to any one course or programme, but that was capable of demonstrating a threshold level of achievement appropriate for an intending trainee – the “first day trainee” or “day one solicitor” test that is referred to in some other systems. Such a test would have to be agreed between the profession(s) and the providers, but might provide a measure of uniformity of achievement (albeit only in this test).

**9. If a CEE is adopted, when should it be taken, and at what level?**

9.1 We believe that this question essentially addresses issues raised under the previous heading.

**10. If a CEE is adopted, what should it assess? How should those things be assessed?**

10.1 If the CEE were to take the form suggested in paragraph 8(1)(a) it would necessarily take the form of a test of professional competence, assessing the knowledge and practical skills that are fairly to be expected of a newly-qualified solicitor.

10.2 If the CEE were to take the form suggested in paragraph 8(1)(b), then it would have to take the form of a test that demonstrated the candidate’s ability to address an issue or issues of law or legal practice that one could fairly expect the graduate of any PCLL programme to be able to address

10.3 We add, again, that this should not be taken as an endorsement of the idea of a CEE.

**11. If a CEE is adopted, what resource, monitoring and quality assurance issues arise?**

11.1 Running an examination of any kind is a resource-intensive activity – beginning with the setting of the examination, ensuring that it is of an appropriate standard, that the tasks or questions set are relevant to the purpose of the assessment, and extending to the administration of the test, its supervision (especially if it is to be taken under “exam conditions”) and, of course, the assessment of the outcomes. It would (probably) be necessary to establish a mechanism for addressing appeals and complaints about the examination. Since it would, presumably, be a test based on Hong Kong law and practice, it would require substantial local skills and knowledge both the set and assess the examination.

11.2 One of the very real advantages of running an assessment system within a University is that the process is conducted by examiners and administrators who are experienced and skilled in the practical running of exams, who are working towards defined pedagogical objectives, and who are working within established quality assurance frameworks.

11.3 If a CEE were to be introduced it would require to operate within these kinds of constraints and parameters.

**12. Do you have any other suggestions or comments that should be taken into account?**

12.1 While the discussions surrounding this consultation, and the process of responding, have provided everyone with a valuable opportunity to reflect on how Hong Kong currently

addresses some important issues in the process of qualification as a solicitor, we believe that this is something of a missed opportunity.

12.2 Since the process has invited everyone to consider the CEE, it has tended to compel both a narrow focus, and a reactive one. In our view, if there is to be a reconsideration of how solicitors are educated and trained, then it would be much more clearly in the interests of all concerned to invite a more open and holistic examination of the issues. In particular, the relationship between what students study in the Universities and the training that takes place once they reach the stage of professional training requires much consideration, as does the content and supervision of the professional training provided by the profession.

12.3 Such an opportunity is presented by the review of legal education and training proposed by the Standing Committee on Legal Education and Training, and it is our view that that review would be capable of stimulating a more productive and far-thinking exchange of ideas. All other considerations aside, the difficulty that we are faced with the current consultation is that it appears to assume that the only thing that is needed to improve professional education and training in Hong Kong is the introduction of the CEE. We believe that that is far from the truth.

1. This question is perhaps better answered directly by the profession. We provide our perspective based on our interaction with the local profession. Hong Kong has a diverse legal practice. Attention is often focused on the international commercial law firms and here there is competitive pressure as more firms locate to Hong Kong seeking to compete for work emanating from mainland China. There is also competition between Hong Kong based law firms and mainland firms and this is likely to become more significant. Hong Kong also competes with Singapore and Shanghai for business particularly as regards commercial litigation and arbitration. One might predict that accountancy firms might become more active in the legal market and alternative business models may come on to the agenda, although they are constrained by the current regulatory environment from being a competitive force.

Local firms actually employ many Hong Kong lawyers and make up the majority of the profession in Hong Kong, but they are facing fierce competition from international and mainland law firms as more and more cases and transactions involve multiple jurisdictions. With technology advancement and the vast range of information available on the Internet, the general public is more informed about the law. This poses challenge to the legal profession to adapt and to assess what value they add to their services to clients. This may result in pressure on price as well as the speed of delivery of legal services. There is perhaps a lack of capacity to deal with family and social welfare matters and provide services in these areas which are affordable by clients.

2. Hong Kong needs lawyers who can serve both its societal needs and its economy which is based on being a major service sector and the place of choice for legal services connected with mainland China. We think there will always be the need for lawyers who are bilingual in English and Chinese for the provision of legal services in that connection as long as Hong Kong is still viewed as the gateway to China with a more predictable legal system.
3. The consultants have correctly identified key issues affecting Hong Kong. The influence of China and the promotion of ADR are undoubtedly the most important challenges. Also, in the last couple of years, there has been an increasing use of the judicial process to resolve controversial socio-economic and political matters, ranging from judicial reviews to injunctions, e.g. in connection with land and property development in the New Territories. We think this trend is likely to continue in the near future and the judiciary will be looked upon as the arbiter of these controversies.
4. (answers to questions 1 to 4 are interrelated, please see above)
5. We confine our comments to the programmes offered by our University.
6. City University of Hong Kong has three degrees related to qualifying as a practitioner in Hong Kong – the LLB, JD and PCLL.

### **LLB**

The LLB (Honours) provides a sound preparation not only for the practice of law but for many other careers. This is important to students in light of the keen competition law graduates face in getting into PCLL programmes. Recent rapid economic and social developments in Hong Kong, in the PRC and worldwide have created many new opportunities for lawyers and legally qualified persons throughout commercial, business, professional and public life. Legal education and law teaching must ensure that law graduates are sufficiently well equipped to meet those opportunities. Legal education and training in Hong Kong has itself been the subject of an extensive review over the past few years and many positive recommendations for changes in course format and course delivery have been made. City University has embraced those recommendations and has substantially

redesigned the LLB programme. There are consequent changes in the delivery of the programme and in the way students are assessed.

The School of Law offers its LLB programme in a Full-Time Mode (four years). The curriculum concentrates on the essential core common law subjects as they apply in Hong Kong. We are revising our curriculum to give our students a deeper introduction to the laws and legal system of mainland China. In addition, students are able to select subjects they wish to study depending upon their intended careers and interests from a wide range of electives.

### **Programme Aims**

The programme aims to:

- a. provide a liberal education in the theory and practice of law at the level and rigour appropriate for an undergraduate degree;
- b. equip students with a critical understanding of law and legal institutions so as to enable them to serve the needs of Hong Kong and the international community; and
- c. facilitate the development of a range of intellectual skills, in particular the ability to think analytically and critically, to solve problems, and to communicate effectively both orally and in writing.

### **Intended Learning Outcomes**

Upon successful completion of our LLB programme, students should be able to:

- **Know the law**
  - be able to analytically and critically describe the main substantive/procedural laws and the legal system of Hong Kong, and also describe the principles of international law or the laws of other jurisdictions;
  - be able to describe the law and legal system of the People's Republic of China and its relation with Hong Kong's constitutional set-up and commercial future;
- **Apply the law**
  - be able to apply the law to solve legal problems;
- **Evaluate & contextualise the law**
  - be able to critically evaluate the law in action and the dynamic interplay between law and other social phenomena and real-life situations;
- **Acquire & Use legal skills**
  - be able to use a range of legal or intellectual skills – such as reading and interpreting cases and statutes, identifying and evaluating relevant facts, conducting independent legal research, developing and offering solutions to legal problems, using and citing relevant authorities appropriately, drafting documents, and communicating in a coherent, cogent and persuasive manner – in performing various tasks;
- **Act ethically & responsibly**
  - be able to act with a strong sense of ethics and with due regard to social and professional responsibilities;
- **Develop the attitude**

- be able to develop an attitude of inquiry and a sense of curiosity to learning and knowledge; and
- **Opportunity to Discover**
  - be able to have an opportunity to make an original discovery and/ or innovation concerning the operation of the law and procedure in Hong Kong.

### **Programme Structure**

The structure of our LLB programme allows students to broaden their horizons by studying various law and non-law subjects. A special emphasis is placed on exposing students to comparative and international perspectives. In order to graduate, LLB students are required to complete 126 credits comprising core law courses, law electives, Gateway Education courses, which seek to give students a broader education and include, where appropriate, English language courses and Chinese civilisation courses.

The core courses for LLB students are: Legal Research and Writing, Hong Kong Legal System, Legal System of the PRC, Law of Contract, Law of Tort, Constitutional and Administrative Law, Criminal Law, Land Law, Applied Legal Theory, and Legal Chinese (for students literate in the Chinese language). Students contemplating entry to the legal profession must also complete the following courses: Equity and Trusts, Company Law, Law of Evidence, Civil Procedure, Criminal Procedure, and Commercial Law.

In addition, LLB students may choose electives from a list of over thirty courses in areas such as commercial law, environmental law, public law, international law, human rights law, international economic law, Chinese law, intellectual property law, cyberspace law, alternative dispute resolution, international advocacy, comparative law, and criminal law.

A feature of the LLB Programme is an integrated approach to learning and assessment by which students are able to acquire and improve their general transferrable skills and competencies. There is more emphasis on in-class presentations, inter-active teaching and small group activities rather than on the traditional take home written coursework and the closed book examination. Attention is paid throughout the programme to the continual improvement of language skills.

### **LLB Programme Structure (for 2014 cohort and thereafter)**

LLB required courses: 57 CUs; Law for Professional Qualification minor: 18 CUs (This minor aims to prepare student to be eligible for applying to the Postgraduate Certificate in Laws Programme); Gateway Education courses: min 21 CUs, max 30 CUs; and free courses (Minor and/or law electives): min 21CUs, max 30 CUs = 126 credit units in total.

<b><u>Year &amp; Semester</u></b>	<b><u>Credits</u></b>	<b><u>Recommended Courses</u></b>
<b>Year 1 (Semester A)</b>	3	Legal Research and Writing
	3	Hong Kong Legal System
	3	Law of Contract I
	3	Law of Tort I
	3	University English
	<b>15</b>	
<b>Year 1 (Semester B)</b>	3	Law of Contract II
	3	Law of Tort II

	3	Mooting*
	3	Legal Research and Writing I
	3	Legal English
	<b>15</b>	
<b>Year 1 Summer</b>	3	G-LEAP
	<b>3</b>	
<hr/>		
<b>Year 2 (Semester A)</b>	3	Legal System of the PRC
	3	Constitutional Law
	3	Criminal Law I
	3	GE Course*
	3	GE Course (or law elective or free course)
	<b>15</b>	
<b>Year 2 (Semester B)</b>	3	Legal Chinese
	3	Administrative Law
	3	Criminal Law II
	3	GE Course (or law elective or free course)
	3	Chinese Civilisation - History and Philosophy
	<b>15</b>	
<b>Year 2 Summer</b>	3	G-LEAP or Legal Placement
	<b>3</b>	
<hr/>		
<b>Year 3 (Semester A)</b>	3	Land Law I
	3	Company Law I
	3	Equity and Trusts I
	6	GE Courses (or law electives or free courses)
	<b>15</b>	
<b>Year 3 (Semester B)</b>	3	Land Law II
	3	Applied Legal Theory
	3	Company Law II
	3	Equity and Trusts II
	3	GE Course (or law elective or free course)
	<b>15</b>	
<b>Year 3 Summer</b>	3	G-LEAP or Legal Placement
	<b>3</b>	
<hr/>		
<b>Year 4 (Semester A)</b>	9	Law Electives (or GE courses or free courses**)
	3	Law of Evidence
	3	Criminal Procedure
	<b>15</b>	
<b>Year 4 (Semester B)</b>	6	Law Electives (or GE courses or free courses)
	3	Commercial Law
	3	Civil Procedure
	<b>12</b>	

\* *Year One LLB students (2015 cohort) are scheduled to take the LLB core course Mooting in Semester B 2015/16. In order that students have a deeper understanding of the foundational courses (principally, torts and contracts) before undertaking the moot course, the LLB programme committee resolved to move Mooting from Year One Semester B to Year Two Semester A. In place of Mooting, students will opt to take one GE course in Year One Semester B.*

The LLB has recently been subject to a review, the key features of which are an enhancement of our legal research and writing courses; strengthening our teaching of Chinese law by introducing mandatory courses in Chinese public and private law, and strengthening our internationalisation by encouraging overseas study in addition to G-LEAP.

## **JD**

Many people interested in pursuing studies in the law are already graduates in a non-law discipline. They have already achieved the enhanced academic experience for which the 4-year LLB is intended. Graduate entrants into law school should have a route to professional legal qualifications more suited to their situation and needs. City University of Hong Kong was the first university in Hong Kong to offer a programme leading to the award of a graduate-entry Juris Doctor (JD) degree.

City University of Hong Kong offers a taught programme of study tailor-made for students aiming for admission as a solicitor or barrister in Hong Kong.

The programme is also suitable for students looking for a professional alternative to the MBA degree and aiming for leadership roles in commerce, industry, government, the media and community services.

The core of the JD programme consists of three courses that are essential for a proper understanding of the law and its workings in Hong Kong: Legal Methods Research and Writing, Legal Systems of Hong Kong and Mainland China, and Jurisprudence.

Students are also required to select courses from a wide range of electives drawn from the JD curriculum, and the Master of Laws (LLM) and the Master of Laws in Arbitration and Dispute Resolution (LLMArbDR) programmes.

Among the electives available, the following are required for admission to the PCLL programme and to the legal profession in Hong Kong: Law of Contract, Law of Tort, Constitutional Law, Administrative Law, Company Law I & II, Criminal Law I & II, Civil Procedure, Criminal Procedure, Land Law I & II, Equity & Trusts, Law of Evidence and Commercial Law.

Students are given an option to choose an extended research paper pursuant to either the Independent Research or Dissertation courses.

Special features of the JD include:

1. [G-LEAP \(Global Legal Education Awareness Programme\) - Study in Three Continents](#)

In addition to Hong Kong (Asia), study credit-bearing intensive elective law courses at leading institutions in two continents: University College Oxford (Europe) and Monash University (Australia).

2. [Legal Placement](#)

Experience the 'law in action' by doing an internship with law firms in Hong Kong and/or banking and international companies and courts in mainland China.

3. [Trained to Excel in Mooting](#)

Extensive professional training to sharpen advocacy skills and participate in international mooted competitions.

4. [CityU Law Review - Edit a Law Journal](#)

Join the Editorial Board of the *City University of Hong Kong Law Review* and sharpen writing and editing skills.

5. [Complete JD \(CityU\) and LLM \(University of Vienna\) or \(University Paris 1\) in 3 years](#)

Apart from completing JD at CityU, students have an opportunity to study one semester at the University of Vienna or University Paris 1 to get an LLM.

As a result of the programme re-structuring, students who are not continuing on to the PCLL have scope to do more elective courses (i.e., 5 courses instead of 3 under the existing structure). They are offered an option to specialise in the following areas by taking at least 4 elective courses (minimum 12 credits) from the respective list:

**International Commercial Law**

Competition Law;  
Banking Law;  
European Competition Law of Policy (G-LEAP);  
Intellectual Property: Theory, Copyright and Design (G-LEAP);  
Cyber Law;  
International Trade Law;  
Chinese and Comparative Commercial Law;  
International Commercial Contracts and Uniform Sales Law;  
Current Issues in WTO Law

**Air and Maritime Law**

Maritime Insurance Law;  
International Air Law;  
Maritime Arbitration Law;  
Bills of Lading Law;  
Charterparties Law;  
Maritime Law I: Admiralty Procedure;  
Maritime Law II;  
Maritime Property Law;  
The Law of the Sea;  
International Mooting and Advocacy (3 or 6 credits)

**Chinese and Comparative Law**

Comparative Law;  
Chinese and Comparative Intellectual Property Law;  
Chinese and Comparative Company Law;  
Chinese and Comparative Commercial Law;  
Chinese Foreign Trade and Investment Law

**Alternative Dispute Resolution**

Dispute Resolution in Theory and Practice;  
Arbitration Law;  
Mediation Practice;  
Arbitration Practice and Award Writing;  
International Arbitration;  
International Investment Law;  
International Mooting and Advocacy (3 or 6 credits)

**PROGRAMME STRUCTURE AND THE RECOMMENDED SEQUENCE OF COURSES**

**Total no. of credits**

72

**Required courses**

1. Legal Systems of Hong Kong and Mainland China (3 credits);
2. Legal Methods, Research and Writing (3 credits); and
3. Jurisprudence (3 credits)

<b>Required independent research component</b>	Independent Research (3 credits) or Dissertation (6 credits) Remark: Both courses become optional but is subject to approval.
<b>PCLL-required elective courses</b>	Law of Contract Law of Tort Constitutional Law Administrative Law Criminal Law I Criminal Law II Land Law I Land Law II Commercial Law Law of Evidence Equity & Trusts Company Law I Company Law II Civil Procedure Criminal Procedure
<b>Additional free electives</b>	Any 5 courses (15 credits) [only 4 courses if the Dissertation (6 credits) is taken]

### **PCLL**

The PCLL is conducted as a one-year full-time programme. Courses are taught in a variety of modes including large groups and small groups, skills seminars, problem-based learning groups, simulations, demonstrations, field trips and presentations by practitioners and guest lecturers.

Assessment is by way of coursework and final examinations.

The programme is taught by full-time staff with legal practice experience and part-time teachers who are legal practitioners. Members of the judiciary also participate in the delivery of the programmes.

Students often work in groups of around ten.

There are twelve core courses: Interlocutory Advocacy and Interviewing; Trial Advocacy; Mediation and Negotiation; Litigation Writing and Drafting; Commercial Writing and Drafting; Conveyancing Practice; Wills and Probate Practice; Corporate and Commercial Practice; Civil Litigation Practice; Criminal Litigation Practice; Professional Conduct and Practice; and Understanding Financial Statements and Solicitors' Accounts.

Students must also take two electives which include the Bar Course; Foundations in Mainland Related Legal Transactions; International Arbitration Practice; Family Law Practice; Personal Injuries Practice; and Financial Regulatory Practice.

7. We confine our comments to the programmes offered by our University.
8. We confine our comments to our own programmes which we believe fully meet the requirements of an academic first law degree (LLB and JD) and professional training (PCLL).

However, we continuously strive for improvement and welcome constructive discussions about improving the quality of legal education we offer.

### **Academic Degrees**

Teaching at CityU is informed by our Discovery Enriched Curriculum. It means encouraging students to create new knowledge, communicate it, curate it, and cultivate it to create more new knowledge for the benefit of society. We believe our academic law degrees not only impart the foundational legal knowledge but also give our students the opportunity to discover how law works in a range of contexts beyond traditional legal teaching. For instance, the moot programme (including a compulsory course on the LLB programme) develops a range of skills beyond merely writing essays. We have an extensive legal placement programme, including the opportunity to work in mainland China. We are looking to enhance the curriculum by introducing more experiential learning. Compared to many law students internationally, we feel our students benefit from being in a small cohort that allows them to be given individual attention. We believe we add considerable value as evidenced by our students competing well and winning international moot competitions and publishing articles in academic journals. These results are in line with the ethos of the Discovery Enriched Curriculum that pervades our University and seeks to stretch students to create new knowledge.

Our G-Leap courses give students the opportunity to study at Monash and Oxford (and in the past at Columbia). We wish to switch our emphasis from G-Leap courses to students spending a full semester abroad. A restrictive factor is that students perceive that obtaining a place on the PCLL is difficult and requires a high GPA. As they obtain credit, but not a GPA, from courses abroad students often decide to stay at home and take options that normally enhance their grade. In practice we do not find that well qualified students fail to obtain places on PCLL; those that do would also probably struggle to obtain training contracts and would not be students we would recommend to study abroad.

The number of compulsory courses for entry to the PCLL is rather broad compared to the UK. This places strains on the curriculum making it harder to find time, for instance, to study abroad. We appreciate that there are many views on what should be in the core as there are lawyers. Indeed the UK adopts a less prescriptive approach than Australia in this regard. Nevertheless, we would welcome some consideration of this matter and our instinct would be to be less prescriptive than at present.

We continue to enhance our co-curricular courses seeking to educate students more about the legal profession, to develop business acumen and to support innovation, through initiatives such as Innovation Commons where students advise student start-ups on IP issues.

Another issue that is worth considering is the extent to which Chinese law should be introduced to students in Hong Kong. We have noted our move to enhance the teaching of Chinese Law for our LLB students. We believe this is perhaps something best left to individual law schools to decide so they can decide the individual characteristics of their programmes.

### **PCLL**

We are fortunate that we receive very positive feedback on our PCLL, with employers praising its practical focus. We suspect some criticisms of the PCLL may be based on different experiences in the past. Students also value the small group teaching we offer. Students are placed into groups of around 10 and given a base room, which they work from as if it was a law firm office throughout the year. Nevertheless we are conscious that this is a programme that needs to be

continually updated to meet the needs of the profession. We are looking at ways of keeping the practice skills of our staff up to date and involving the legal profession in course delivery and student support. We benefit greatly from close links with and support from the profession. Although there are other models globally of professional training we believe it would be a big culture shock for the Hong Kong legal profession if they received trainees without this level of preparation.

9. The move to the general four year degree has been surprising smooth. The degree involves a more general education including Gateway Education courses. These have the advantage of offering a broader and more well-rounded education, but impact to some extent on the amount of law taught, but we consider this to still be more than adequate. Many law degrees (e.g. in the UK) are in any event only 3 years. The amount of choice is restricted by the large core required for professional purposes, as discussed under 7.
10. a) This comment about varying PCLL standards is often made, but we have not been presented with any evidence that the standard actually varies between institutions. Indeed there are a lot of controls to ensure this is not the case with common examiners for subjects in all three institutions and the same Chief Examiner for all three programmes. If there was a wide divergence we would have expected this to have been picked up by the quality control processes. Naturally some variations in options offered or teaching styles (for instance our emphasis on small group teaching) exist, but these might be considered valuable to promote choice and diversity. We are happy to consider any reasonable proposals to ensure equality of outcome, but they must be proportionate to evidenced concerns.
- b) Students who fail to obtain a place in their first year are entitled to reapply and we could usefully review our admissions procedures to ensure post-graduation experience is properly taken into account. We now specifically set aside 5 places for students who are re-applying. This was a valid criticism that we have responded to.
- c) [i] We apply the same standards to LLB and JD students.
- [ii] Local graduates have the benefit of greater study of Hong Kong law and exposure to the local legal culture and profession. Overseas graduates benefit from the experience of studying abroad. We would prefer more students to study in Hong Kong as a first preference, with study periods abroad, but again consider this a matter for personal preference. Our PCLL has a good mixture of local and overseas educated graduates.
- [iii] We seek to make a fair assessment of the GPAs from overseas universities. If a common transparent approach can be taken between the three law schools we would welcome this.  
We look at an applicant's file as a whole in the PCLL admission process. While we rely primarily on objective indicators such as GPA scores, we evaluate the suitability of a candidate based on all relevant data available. Evaluating candidates from different backgrounds and schools is what the admission process to any university programme would involve.
- (d) The debate about LLB students vs students who come to law as a second degree is an old one. LLB students have signaled their commitment to the study of law at an early stage, whereas JD students have wider experience and more maturity. There is a place for both and we see our task as preparing both well to seek employment in a competitive job market. We do not see it as our role to dictate the study courses of students, but rather seek to assist them once they have chosen their route into the profession.

(e) We see this as a matter for the marketplace.

We think that many of these concerns might be allayed by spelling out admissions procedures, though naturally these can only be by means of indications and guidelines.

11. Hong Kong uses an external examining system to perform a quality control function for legal education and training. Particularly at the PCLL level, this involves very close scrutiny of the process. For the academic courses the system is based on general quality control mechanisms. External academic advisors review and give feedback on examination papers, and act as external markers of examinations. In general, however, externals are less involved in adjusting individual marks than would be the case in the UK. External academic advisors are also invited to visit PCLL classes and review lecturers. Overall, we think there are adequate controls in place to have confidence in the system. One caveat we would mention is that the professions are reluctant to change their nominated external examiners on the PCLL and we have to seek exemption from our University's 6 year limit. This might be considered undesirable.
12. There has been much talk about a common entrance examination (CEE), but we have been unable to discern what mischief it is seeking to address. Possible rationales mooted are inconsistency between the programmes and excessive difficulty of entering PCLL. We reject the former contention and consider the latter would require a change in philosophy for the market in legal education and probably eventually affect legal services.

One option is to expand the number of places on PCLL, but though this might be profitable for Universities we would not want to do this hastily unless there were reasonable prospects of employment. We are proposing a modest increase of 40 on our own PCLL. Long term if there is an over supply of lawyers one might see increased competition for legal work and margins being squeezed, particularly in the light of new business models. Based on our experience in the admissions process in the last couple of years, and with the double-cohort entering PCLL next year, we expect that there is room for a gradual increase in the overall intake into our PCLL programme in the coming years.

We are not sure what form any CEE might take. Would it be testing legal knowledge and/or ability to do legal work and legal skills? If the latter, there is strong international evidence that such abilities and skills cannot be tested in an examination.

We see no need for an additional examination if the PCLL is retained and feel it would be unfair to impose an exam at the end of a training period that has been satisfactorily completed. (The process from the beginning of the law degree to admission to practice in Hong Kong is already one of the longest in the common law world.) The admission should be based on meeting competency standards and if these standards have been established by completing the PCLL we would view it as illogical and over-regulatory to require the students to take a final exam at the end of training period. This may create unnecessary unease on the part of the students and it is hard to see what more can be proven if competency has been proven in PCLL.

It is sometimes said that the Law Society is seeking the means to obtain more control over who enters the profession. For our law school this is a non-issue as the profession is the ultimate party that allows a person to enter its profession. Even if the PCLL is passed the training period still has to be completed to the satisfaction of the Law Society. What we think would be wrong is for the profession to use an examination to prevent those who have otherwise met the required standards entering the profession. For this reason it is helpful that competency is assessed by independent Universities. We suggest that the professions should have concerns about the

workload placed on them if they had to examine every entrant at the end of training contract or pupillage.

We therefore think the current PCLL route should not be affected by the plans to introduce a CEE. We are, however, receptive to any proposal that there should be a route into the profession for those who have worked as paralegals and obtained the necessary skills and qualifications. The professions might usefully look at what alternative routes they can provide. It probably should involve a minimum period of practical experience and at least the option of attending training programmes. We do not believe there is a massive number of students capable of obtaining places in the profession that cannot currently enter the PCLL. We even find some good students having difficulty in finding training contracts so we do not feel there is an under-supply of lawyers. This route will, however, be a safety net for those who flourish in the practical work environment.

Any alternative should maintain the quality level of the PCLL route. Any route administered by the profession needs to ensure quality control and be capable of being maintained on an ongoing basis. The provider would need to be able to show it had the personnel resources to run such a programme on a long-term basis and the means to ensure quality assurance.

13. The Overseas Lawyers Qualification Exam seems to be doing its job to allow experienced lawyers qualified in other jurisdictions become Hong Kong solicitors. It relies on a lot of involvement from law school staff.
14. We defer on this matter to the legal profession.
15. The 4 year LLB gives students more time to develop than those systems with a 3 or even 2 year law degree. Even the graduate JD route gives students far more space to develop legal intellectual skills than is possible in the English graduate diploma scheme. We believe there are strengths in systems where law is studied after or alongside other disciplines. Possibly more double degrees could be encouraged. We strongly favour the PCLL training year rather than the common entrance exam approach as it ensures trainees start their working life with some understanding of what the role involves and encourages more even standards within the profession. It seems proper that the determination of whether a student has the appropriate competencies is made by educational institutions with the profession being involved in ensuring those standards are properly applied. The close involvement of the Hong Kong profession with legal education at the academic as well as PCLL stages is an undoubted advantage. Students have many internship opportunities. We are aware of the need to explore more clinical or experiential legal education opportunities.
16. We are happy to be interviewed. As advised our Dean will be out of town that week, but can join via SKYPE and his Associate Deans and Director of PCLL programme can participate in person. An ideal time for the interview would be after 4pm on 17 or 18<sup>th</sup> December 2015.
17. This reply was prepared by the Dean in consultation with the Associate Deans and PCLL programme leader and associate programme leader. Other staff were able to review it and provide comments but there was no formal vote on the document. These are our preliminary views and would like the right to supplement based on future discussions.

Geraint Howells  
Dean  
City University of Hong Kong Law School

## Email response received from Clifford Chance (Graduate Recruitment)

Thank you very much for providing your consultation paper. Please kindly find below the answers to some of the questions from the consultation paper, we were unable to answer all of the paper and selected the parts that were most relevant to us in the recruitment of trainees.

Thank you.

Kind regards,

Henry

**Henry Wong**

**Graduate Recruitment Manager**

**CLIFFORD CHANCE**

### Question a)

The Law Society of Hong Kong has proposed to introduce a common entrance examination (CEE) in Hong Kong mainly aiming at achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession. The CEE might be considered as taking over the PCLL as an entrance threshold into the legal profession, or it might be treated as an alternative or additional route to enter the legal profession.

What are your views on the proposed CEE?

*The rationale and intentions to introduce a proposed CEE requires further justification to gain a more thorough evaluation of the new proposed assessments. There has been several trends outlined in our discussions including the value of a PCLL, quality of PCLL teaching standards in Hong Kong, the consequences and burdens of a CEE and barriers of entry into the profession.*

*The value of a PCLL remains important, however if an introduction of a standardized CEE is implemented then the standards of teaching a PCLL across the three universities would need to be regulated and standardized as there may be differences in teaching methods if this is not in place.*

*We feel that the CEE should not be an addition to existing PCLL examinations as this would put into question the value of a PCLL and its examinations. The Hong Kong Law Society should assess the impact a CEE has on upcoming students wishing to pursue Law as a career may create an additional financial burden as well as additional academic pressure.*

### Question b)

What is your opinion on the current arrangements for the pre-qualification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination? What would be the improvements that are needed? What methods would you suggest in improving this?

*The Hong Kong conversion examination for those who have already attained the overseas equivalent of a PCLL could be improved by changing examination questions regularly.*



消費者委員會 CONSUMER COUNCIL  
香港 · HONG KONG

VL13

國際消費者聯會  
執委會及理事會成員  
EXECUTIVE AND  
COUNCIL MEMBER OF  
CONSUMERS  
INTERNATIONAL

來函檔號 YOUR REF.

本函檔號 OUR REF.

11 November 2015

Ms. Vivien LEE  
Secretary of the Standing Committee  
on Legal Education and Training  
Standing Committee on Legal Education and Training  
3/F., Wing On House  
71 Des Voeux Road Central  
Hong Kong

HKLS 13 NOV '15 @10:25

Dear Ms Lee,

**Re Comprehensive Review on Legal Education and Training**

I am writing on behalf of our Chairman, Professor WONG Yuk-shan, BBS, JP in regard to your letter to him dated 7 October 2015 on the above subject. As noted, the consultation paper attached thereto calls for specific and technical policy considerations on the current situation and future development of the legal profession and the needs arising there from which may be met by the possible changes in legal education and training as highlighted in it. The Council is not going to comment on the questions posed by the consultation paper which include the duration of the law programmes, the standards of the Post-graduate Course in Laws (PCLL), the fairness of competition amongst LLB graduates and JD graduates, and local graduates and graduates from overseas universities, the entry of the PCLL and the competitiveness of graduates from different law programmes. These are matters beyond the purview of this Council.

That said, as a consumer protection agency the Council has a strong wish to see the strengthening of consumer law in the law programmes of the universities to meet the public demand for enhancing consumer protection. Education efforts in competition law should be stepped up to make the legal profession sufficiently ready for the implementation of the Competition Ordinance. In view of the proliferation of the Internet in communication and business transactions, this Council also finds it imminent to add to the law programmes modules on various key legal issues arising from the rapid development of e-commerce and social media such as, intellectual property protection, data and privacy protection (particularly in the Age of Big Data).

Thank you for your kind attention.

Yours sincerely,

Gilly WONG  
Chief Executive  
Consumer Council

法律政策專員辦公室  
律政司  
法律政策科

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本司檔號 Our Ref: LP 5033/1C SF(A)

來函檔號 Your Ref: VL/lt/2544002-17



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17 December 2015

Ms Vivien Lee  
Secretary  
The Standing Committee on Legal Education and Training  
c/o 3/F, Wing On House  
71, Des Voeux Road Central  
Hong Kong

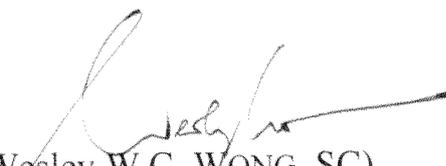
Dear *Ms Lee,*

### **Comprehensive Review on Legal Education and Training**

May I first thank you for consulting all Law Officers and our Department's Director of Administration and Development as part of this very important and meaningful exercise and please accept my sincerest apologies for not being able to provide a consolidated departmental response earlier than I now can.

Accompanying the consolidated response (electronic version in "Word" format to follow under separate cover) is a completed Response Form for your attention, please.

Yours sincerely,

  
(Wesley W.C. WONG, SC)  
Solicitor General

Encl.

#442632 v1a

## RESPONSE FORM

Please complete this Response Form if you wish  
to respond to this Consultation Paper

1. Name of responding person:

Mr Peter Wong, Deputy Solicitor General and Miss Janice Kwan, Government Counsel

2. Name of organization (If responding on behalf of an organization):

Department of Justice

3. All written representations, views and responses will be published on the website of the Standing Committee on Legal Education and Training ("Standing Committee"). Please click one of the following boxes to indicate the way you wish or your organization wishes your representations, views and responses to be published:

- I want my response to be included in a summary of anonymous responses to the Consultation Paper; or
- I want my name or that of my organization to be listed on the website as a respondent.
- I do NOT want my name or that of my organization to be quoted for the information and representations that I provide.

4. All representations, views and responses should be provided in "word" document, attached as an annexure to this Response Form to be sent by e-mail to [scletld@hklawsoc.org.hk](mailto:scletld@hklawsoc.org.hk).

5. In submitting your representations, views and responses, you are confirming your understanding that:

- All representations, views and responses, whether published in summary or not, will be held and processed for the purposes of the comprehensive review on legal education and training in Hong Kong.
- Your participation is voluntary and that you are free to withdraw at any time up to 15 November 2015 without giving any reason and without any negative consequences. You can contact the Consultants with any questions or complaints, or to withdraw, by e-mailing: [scletld@hklawsoc.org.hk](mailto:scletld@hklawsoc.org.hk)
- Your representations, views and responses will feed into the comprehensive review, forming the shape of future research, and any useful insights you provide may be used in the Consultants' reports.

- The representations, views and responses will be stored by the Consultants, and, unless published in summary, will only be accessible to the Consultants and to any transcriber or interpreter, and the Standing Committee until the conclusion of the consultation exercise. At the end of the consultation exercise the representations, views and responses will be retained by the Standing Committee and the Consultants. Copyright in the representations, views and responses will become vested in the Standing Committee.
- If your representations, views and responses are anonymised, whether or not they have been included in the anonymised summaries, you should be aware that the Consultants are not in a position to guarantee that they will be able to redact all details which might inadvertently identify you or your organization, and you should bear this in mind in drafting them.

6. Please click the following boxes to indicate:

- If you would like to take part in an interview and if so, your availability for an interview with the Consultants;
- If you would like to be contacted further.

I <sup>w</sup>e would like to take part in an interview and my preferred time for the interview is Fri day (day of week) 18 December 2015 at 10 a.m.

I do not wish to be interviewed.

I am prepared to be contacted further and my contact details are

---

I am not prepared to be contacted further.

7. All interviews with the Consultants will be conducted in English and subject to your consent, will be recorded and transcribed for the review of the Consultants. Information and representations provided in the interviews may be quoted in the Consultants' reports, and may be quoted with your name or that of your organization unless you specify otherwise by ticking the third box in paragraph 3 above.

# Comprehensive Review on Legal Education and Training in Hong Kong

## Consolidated Return from the Department of Justice (DoJ)

### *Question (1): Challenges of legal practice in Hong Kong at present and in the near future*

1. We note that the discussion in the *Report of the Consultants on Legal Education and Training in Hong Kong: Preliminary Review* published in 2001<sup>1</sup> (“the 2001 Report”) is still relevant to this question. For instance, the 2001 Report mentioned a greater demand for expertise in public law to complement the private law expertise required to maintain Hong Kong’s role as a major financial centre (page 53), the need to prepare lawyers capable of delivering services at international standard given Hong Kong’s status as a major commercial and financial centre (page 56), and the demand for appropriately trained lawyers who are knowledgeable in PRC law because of Hong Kong’s position as a gateway both to and from<sup>2</sup> the Mainland to the rest of the world, commercially and in other respects (pages 56 and 57). It is believed that the identified challenges remain valid to this day and in the near future.
2. Apart from the above, there appears to be a perception that there are limited job opportunities in the legal field as newly qualified solicitors tend to experience difficulties in getting employment and newly qualified barristers are struggling to survive in private practice. Should this really be the case, it is worth ascertaining whether this is due to: (a) the over-production of law graduates generally vis-à-vis what the market is able to absorb; (b) whether employers, assuming that the standards of the law graduates are the same, have become more “picky” or “choosy”; or (c) whether the graduates cannot meet the requirements of prospective employers (not in terms of competence, but in terms of the types of skills or knowledge).

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<sup>1</sup> The report can be found in the following link  
[http://www.hklawsoc.org.hk/pub\\_e/news/societyupdates/20010813a.asp](http://www.hklawsoc.org.hk/pub_e/news/societyupdates/20010813a.asp)

<sup>2</sup> In these days, the term to use is “go global” or “走出去”.

*Question (2): Needs of Hong Kong society regarding services to be provided by lawyers in Hong Kong at present and in the near future*

3. The discussion in the 2001 Report is also relevant to this question – see section 3.4 thereof. It mentioned that the considerations in relation to constitutional, financial and economic development of Hong Kong identified in Chapter 3 (and briefly referred to in our response to Question (1)) are the key elements in any assessment of the needs of Hong Kong’s society regarding legal services. There is also the issue of unmet needs amongst the less economically viable and disadvantaged groups, particularly in respect of access to justice. It appears that these observations remain valid today and in the near future.
4. It is felt that the range of needs which our legal system may serve would depend, inter alia, on the affordability of legal services to the public, particularly those who are not so well off and yet cannot pass the means test to apply for legal aid. This in turn raises the question of whether the legal services in Hong Kong are too expensive for ordinary people. Since access to justice is one of the key elements in maintaining the rule of law, there is a need for providing legal service of good quality at an affordable and reasonable costs level.

*Question (3): New demands on the services to be provided by lawyers in Hong Kong*

5. We consider that there are new or more pressing demands for the following legal services to be provided:
6. In relation to the Government’s policy to develop and promote Hong Kong as an international legal and dispute resolution services centre in Asia Pacific region, the recent launch of the Belt and Road initiative by China is expected to provide more opportunities for Hong Kong in this regard, and hence an anticipated increased demand for legal expertise in dispute resolution including international arbitration and other forms of dispute resolution.
7. With the progressive opening up of the Mainland legal market through enhanced liberalisation measures under the CEPA framework, an increasing demand for legal services in PRC law is expected.

8. In view of the sharp rise in cases challenging decisions concerning town planning and environmental issues which have a significant bearing on Government housing policies and infrastructural projects for the development of Hong Kong, we consider it necessary to develop legal expertise in those areas of law as well as judicial review proceedings.
9. The same may be said in respect of constitutional and administrative law generally since Hong Kong experiences an increase in judicial review applications in recent years.
10. Given the coming into force of the Competition Ordinance (Cap. 619) on 14 December 2015, a new area of work involving competition law is set to gain importance. Not only is the training in the substantive law of competition law essential, students should also be provided with opportunities to acquire basic knowledge of economics (and possibly also the relationship between law and economics). Such basic understanding is essential for a proper understanding as well as an effective practice in the context of competition law.

***Question (4): Other new demands on services not yet identified***

11. Please see answers to Q(2) and Q(3) above. In addition, we would add that the law on technology (including information technology) should also be promoted since this is potentially another area which may command importance in the near future in Hong Kong. There is indication that law firms specialising in technology are considering setting up offices in Hong Kong in view of the importance attached by the Government to innovation and technology.

***Questions (5) – (7): Details of qualifying law programmes***

12. We trust that the Consultants will, with the assistance of the three law schools, find answers to these factual questions.

*Question (8): Whether the law programmes is capable of meeting challenges and needs, proposed improvements or alternative model*

13. We do not have sufficient details of the law programmes offered by the three universities and have therefore made reference to the general information of the programmes provided by them in their respective websites (which is summarised briefly in the table at the **Annex**). Apparently, the three universities offer a wide range of choices of core law subjects and non-core subjects for law students. Some suggested improvements are set out below:

*(a) Proportion of non-core subjects*

14. The 2001 Report (pages 133 – 136) recommended that (i) during the four-year LLB course, non-law subjects should represent approximately one-quarter of the credit load for the degree and laws subjects three-quarters; and (ii) the field in which the non-legal study may be taken should be a matter for decision by each university. It appears that for the Chinese University (“CU”) and the City University (“CityU”), the non-core subjects account for about 29.1% and 16.6%-23.8% respectively of the total number of credits to be taken by law students in the 4-year law programmes. As for the University of Hong Kong (“HKU”), it seems that while the non-core subjects account for about 5% of the credits to be taken, their law students are allowed to take free electives (which can be chosen from any faculty in that university) of about 15% of the LLB programme. Presumably, this would mean that an LLB student in HKU may practically choose non-core subjects up to about 20% (5%+15%) of the credit load of the LLB degree. According to the information available on the websites of the three universities, these non-core subjects are mainly courses on the English and Chinese languages and include subjects on, for example, physical education, IT, etc.

15. In addition to acquiring the professional knowhow, we consider that students should also be expected to attain a sufficiently high level of proficiency in both oral and written English and Chinese<sup>3</sup>, which is of the utmost importance in the discharge of their everyday work as lawyers. Proficiency in Putonghua is fast becoming a necessity rather than a mere added advantage in the face of real competition from neighbouring jurisdictions within the

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<sup>3</sup> For written Chinese, one may also bear in mind the ability to at least read simplified Chinese characters.

region. It appears that the three universities allocate different proportion of the non-core subjects to the enhancement of the English and Chinese languages, as well as to other non-law electives. In respect of the allocation of non-core subjects, consideration may be given to study:

- (i) how effective the different proportion of the non-core subjects in the three universities can serve the purposes of enhancing the language ability of the law students as well as improving their ability to handle complex problems as suggested in the 2001 Report; and
- (ii) whether a more targeted approach should be adopted in the design of the non-core subjects to serve such purposes.

**(b) *Choices in Electives***

16. According to the information available on the relevant websites, law students in the three universities are allowed to take elective (law) subjects among a number of choices offered. In the three universities, courses relating to international law are all electives. It is, however, observed that courses on PRC law and dispute resolution are made core-law subjects (which are compulsory) in HKU, but not in CU and CityU. We propose that :

- (i) since it has been the Government's initiative to develop Hong Kong as an international legal and dispute resolution services centre, it would be desirable to consider including more choices of courses for electives on dispute resolution and international trade law. Further, consideration may be given to offering courses relating to dispute resolution as compulsory core-law subjects in CU and CityU, following the approach adopted by HKU;
- (ii) the law programmes of the three universities may also be designed in such a way that a compulsory course on the subject of both public and private international law will be included. Thus, it is for consideration that elective courses relating to international law could collectively form a category and students should be asked to choose some or at least one of the courses offered on international law as a compulsory requirement so that after graduation, they would

be more equipped and able to take the full opportunities from the development of Hong Kong as an international legal services/dispute resolution centre. It is also believed that an understanding of international law principles (both public and private) could enhance a lawyer's skills in statutory interpretation and in the practice of human rights and public law as well as trade and matrimonial law, including cases involving the rights of children both in public and private law matters.

(iii) more emphasis can be placed on the following areas of law in designing curricula:

- constitutional and administrative law
- PRC law
- competition law
- law relating to town planning and environmental issues
- law on cybercrime, asset recovery and complex commercial crimes as well as topics such as human trafficking law which is a growing concern of international human rights or international justice.

(iv) in terms of advocacy course, more practical training (including Chinese advocacy), mentoring system (with practitioners) as well as compulsory shadowing/internship will help students who want to be advocates.

**(c) Others**

17. Professional knowledge and expertise train-up aside, a good lawyer needs to possess competencies or attributes including the ability to identify legal issues, keen interest in understanding and researching the law, enthusiasm in work, ability to work under pressure, good writing skills and analytical power, versatility, creativity in problem solving and ability to think out of the box. Hence, the law schools or the legal education and training system, in a wider sense, should have the elements included in the programme to help law students to develop/nurture these core competencies.

*Question (9): Have the three universities made sufficient compensation in the LLB programme for the one year lost in the secondary curriculum? Whether the 4-year LLB programme has any adverse effect on LLB programme's quality*

18. According to the information on the websites of the three universities as referred to in our answer to Question (8), there does not appear to be any discussion on the design of the law programmes in such a way to address the loss of one year in the secondary curriculum after introduction of the Hong Kong Diploma of Secondary Education Examination ("HKDSE"). We do not have sufficient information in respect of the design of the LLB programmes of the three universities to comment on this Question.
19. HKDSE was administered for the first time in 2012. In other words, the first batch of law students who sat HKDSE will only graduate from the local 4-year LLB programmes in 2016 and complete their PCLL in 2017. Such being the case, it appears that whether the maintenance of the duration of 4 years for the local LLB programmes against the context of the change of the secondary curriculum from 7 years to 6 years would have any adverse impact on the quality of the local LLB programmes may best be answered, at least for the moment, by the law schools of the three universities. As DoJ has not yet recruited any graduates of LLB programmes who have undertaken the HKDSE, we are not in position to assess whether there is any adverse effect on the quality of the LLB programmes since the administration of HKDSE in 2012.

*Question (10): Comment on the general concerns expressed regarding the law programme*

20. We have the following observations with reference to our contact with locally produced lawyers as user/consumer of legal services as well as as employer in our own right:
  - (i) Generally speaking, as employer of Government Counsel, we do not see any significant difference in the overall performance, legal knowledge and legal skills between those counsel who were qualified in Hong Kong and those qualified outside Hong Kong. Although those counsel who

were qualified outside Hong Kong may be less familiar with Hong Kong laws and the local practices and procedures when they first start their practice, we observe little difficulty for them in picking up quite quickly as long as they put in reasonable effort to do so.

- (ii) As for outside counsel and solicitors briefed or engaged by the DoJ, it is difficult to have an objective assessment of the differences (if any) in ability or performance between practising lawyers merely by reference to the places where they are qualified. In reality, no two lawyers are identical and no two cases are the same in all relevant aspects. A lawyer's actual performance in a matter may depend on a host of factors which generally has little to do with where he/she is qualified; instead personal attributes and working attitude are more likely to have a bearing on the performance. From our practical experience, we see nothing to suggest a correlation between the jurisdiction where a lawyer got his/her qualification and his/her ability and performance.
  
- (iii) As an employer looking for the right qualities and standards of prospective candidates, we observe that the following ingredients are sometimes lacking in newly recruited counsel especially in the initial stage: the abilities to do effective research, to conduct critical analysis (especially in respect of the identification of core issues), to get to the bottom of the issues and to come up with independent views on problems at hand, in particular, in handling evolving areas of law and novel issues like human rights, immigration and international law. Whether this is to do with the quality of legal education is hard to tell. However, we consider that if the training in universities should be designed in such a way which encourages more independent research work as well as interactive discussions between students and teaching staff (say in tutorials rather than lectures) on relevant legal subjects, it is more likely to bring out or build up those essential qualities in students. It may be fair to say that newly recruited lawyers who have been in private practice before joining DoJ may need time to settle in; some of the work which DoJ undertakes is very different from those outside, e.g. in the case of Civil Division, public and administrative law matters.

- (iv) From the Law Drafting Division's perspective, in particular, as regards the quality of drafting counsel employed, their view is this. Although legislative drafting is not a subject taught in the local LLB or PCLL curriculum, the legal education has endowed counsel in the Law Drafting Division who received legal education in Hong Kong with the core competencies to do well in a legislative drafting career. They have good legal knowledge and apply them well in legal analysis. Their legal research skills are strong, particularly for those recruited in the recent years. Because of the solid foundation, they grasp the legislative drafting principles without difficulty and, with experience, can become a very capable legislative drafter. Generally speaking, they are well-equipped for the job assigned to them of complexity that is commensurate with their years of service. But the input should be read in the context that all successful candidates appointed to Law Drafting Division performed well in the mandatory written test prepared by the Division. In the early years, it was merely a test to ascertain the Chinese language proficiency of the applicant. For over 10 years, the test has been modified to ascertain a candidate's aptitude for legislative drafting work. It tests a candidate's English and Chinese language standards and other attributes.
- (v) Most candidates in private practice tend to be quite unfamiliar with constitutional law and administrative law. Given the importance of these subjects in the Government, it is advisable to place more emphasis on these areas in both basic and continual legal education particularly with the fast growing legal challenges brought against government policies or decisions made by public officers.
- (vi) On recruitment of trainees and Government Counsel, experience shows that in areas of general civil litigation (in areas like personal injuries, employees' compensation, contractual or tortious claims), we do not usually see any particular difficulty as these types of work are handled largely the same in private practice. As mentioned before, it is more difficult to recruit candidates with relevant experience in conducting litigation involving constitutional and administrative law; this is more so in the even more specialised area of CAT/BOR 3 and immigration-related

litigation. In this regard, we have to resort to recruiting trainees or practising lawyers who, while lacking relevant experience, could demonstrate (at interviews) the potential for development through on-job training.

- (vii) From the experience of the selection board chairmen, the quality and standard of applicants for Government Counsel posts vary. On a broad view, their general impression is that applicants who were legal trainees with DoJ generally perform well both in the written test and at interviews. One reason might be that they were among the top of the students. Another possible contributing factor is that they have received good legal training from their studies. In this regard, we do not recall any difference in performance which could be attributable to which universities they attended.
- (viii) The performance of outside counsel varies. We are however unable to say with any certainty what the underlying causes were which contribute to poor performance on any particular occasion especially for those acting for opponents (for all we know they might have received insufficient clients' instructions or only short notice instructions for preparation on such occasions), let alone whether such performance is attributable to their educational background or professional training in the absence of any empirical information.

***Question (11): Quality assurance mechanism***

- 21. The Standing Committee on Legal Education and Training and the LLB/PCLL boards of the three universities are bodies composed of members from the judiciary, the two legal professional bodies and the community in addition to the staff/representatives of the universities. On the whole, these bodies are currently performing satisfactorily in terms of their roles in monitoring the quality and standards of legal education and training in Hong Kong.

***Question (12): Views on proposed common entrance examination***

- 22. At the moment, we are keeping an open mind on the proposed CEE and would like to listen to more views from stakeholders.

*Question (13): Pre-qualification vocational training of trainee solicitors*

23. We understand that for trainee solicitors, the scope of training and experience is governed by the Trainee Solicitor Rules of the Council of the Law Society. We suggest consideration be given to enhance practical training in the following areas:
- (i) As mediation now forms an integral part of the dispute resolution landscape, training in this area may be included. In general, arbitration and other forms of dispute resolution is playing a significant role in Hong Kong as a leading centre in arbitration and dispute settlement services in the region. Hence, the sufficiency of training in these areas should be reviewed;
  - (ii) Given the increase in challenges to government actions by way of judicial review, consideration be given as an option to increase the training in public law including constitutional and administrative law and human rights law topics may be reviewed. Such training may cover, for example, training in human rights laws, given the public's heightened awareness of their personal rights and the surge in number of non-HKSAR residents making human rights claims in Hong Kong; and
  - (iii) The number of clinical courses on advising clients, negotiation skills and drafting legal documents should be increased. In this regard, more experienced practitioners should be engaged to share with trainees their experience and legal skills. Trainees should have sufficient exposure to a wide variety of different areas of practice, but not just limited to the major practices of their own law firms.
  - (iv) Practical training for those who wish to develop a criminal practice, especially those who wish to appear as advocate, should be enhanced.
24. We do not have any particular comment on the Overseas Lawyers Qualifying Examination.

***Question (14): Pre-qualification vocational training of pupils***

25. The training needs identified in the response to Question (13) for trainee solicitors should equally apply (and more particularly so in respect of item (iv) above) to pupil barristers. In this regard, it may be noted that at least for legal practitioners working in DoJ, the difference in role between solicitors and barristers appears to be less distinctive.
26. Noting that more practising, especially junior, counsel applying for fiat counsel in recent years, criminal advocacy as a prosecutor training will be a useful and interesting topic for them. The understudy programme organised by the Prosecutions Division<sup>4</sup> also presents a good training opportunity for junior counsel. Pupils should be made aware of our programme.

***Question (15): Strengths and weaknesses of present system of legal education and training in Hong Kong***

27. We take note of the relevant discussion in the 2001 Report and we believe that some of the views and findings therein may still be valid today. For example, the 2001 Report noted that “There are two reasons why some argue that there are too many students in Hong Kong’s law schools –
- (i) the large increase in law student numbers is seen to have resulted in a decline in quality; and
  - (ii) too many law students will graduate and, hence, too many people will enter the legal profession, a number which the profession will be unable to absorb.

Hence, there are two concerns: one in regard to standards or quality and one in regard to the impact of numbers on legal practice (page 79) ... It may well be that the situation is, as expressed by one of those who made submissions, that “there is a shortage of good lawyers but in general an oversupply of lawyers. ...(page 91)”.

28. The 2001 Report also identified a number of other issues, including those related to language proficiency, structure of the academic

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<sup>4</sup> See Bar Circular No. 112/2011.

programmes and vocational training, as well as lifelong learning. It appears that some of the issues identified may have been addressed to some extent over the years. For instance, the importance and the need for continuing legal education have now been more widely recognised and encouraged by the two legal professional bodies than that in the past.

29. It is our suggestion that the Consultants should review and further examine the views and findings in the 2001 Report to see if they are still valid under the current system of legal education and training, and to follow up with the relevant conclusions and recommendations therein, as appropriate.

*Question (16): Please also express your wish or willingness to be interviewed by us (as to the time schedule for such interviews, see below).*

30. We are prepared to be interviewed at a mutually convenient time.

**Department of Justice  
December 2015**

**Choice of subjects in the law programmes of the three universities  
(In terms of percentage\*)**

	<b>University of Hong Kong</b>	<b>Chinese University</b>	<b>City University</b>
Non-core subjects	English & Chinese Languages <sup>1</sup>  5%	General Education courses, Languages, P.E., IT and non-law elective <sup>2</sup>  29.1%	Gateway Education subjects (mainly English and Chinese languages) <sup>3</sup>  16.6% - 23.8%
Core law subjects (compulsory subjects)	(Including courses on dispute resolution and PRC law) <sup>4</sup>  67.5%		LLB required subjects (no courses on dispute resolution and PRC law) <sup>7</sup>  45.2%
	Disciplinary electives (specified law subjects must be taken for entering PCLL) <sup>5</sup>  12.5%	No details on the distribution of core law subjects and electives <sup>6</sup>  70.9%	Law for Professional Qualification Minor (specified law subjects must be taken for entering PCLL) <sup>8</sup>  14.3%
Electives	Free electives (can choose from any faculty) <sup>9</sup>  15%		Minor and/or law electives <sup>10</sup>  16.7% - 23.8%

\* The distribution illustrated in the table is calculated according to the information available in the websites of the three universities.

<sup>1</sup> 12 credits out of a total no. of 240 credits.

<sup>2</sup> 37 credits out of a total no. of 127 credits.

<sup>3</sup> 21-30 credits out of a total no. of 126 credits.

<sup>4</sup> 162 credits out of a total no. of 240 credits.

<sup>5</sup> 30 credits out of a total no. of 240 credits.

<sup>6</sup> 90 units out of a total no. of 127 units.

<sup>7</sup> 57 units out of a total no. of 126 credits.

<sup>8</sup> 18 units out of a total no. of 126 credits.

<sup>9</sup> 36 credits out of a total no. of 240 credits.

<sup>10</sup> 21-30 units out of a total no. of 126 credits.

OUR REF: EOC/LSD/02  
YOUR REF: VL/lt/2544002-14  
TEL NO.: 2106 2238  
FAX NO.: 2824 3892

13 November 2015

(By post and email: [scletltd@hklawsoc.org.hk](mailto:scletltd@hklawsoc.org.hk))

Standing Committee on Legal Education and Training  
c/o 3/F, Wing On House  
71 Des Voeux Road  
Central, Hong Kong  
(Attn: Ms. Vivien Lee, Secretary)

Dear Vivien,

**Re: Comprehensive Review on Legal Education and Training**

Thank you for your letter dated 7 October 2015 to our Chairperson Dr. Chow enclosing copies of your Consultation Paper together with a Response Form.

The Equal Opportunities Commission is grateful for the opportunity to provide comments on the consultation paper. We would like to offer our views from the angle of equality and non-discrimination as follows:-

<u>Question</u>	<u>Response</u>
(3)(e)	The demand for legal services in the area of human rights and related legal issues is on the rise given the greater awareness of the public in the issues. The choice of service available with a particular set of expertise seems to be limited and insufficient to meet such demand.
(8)	There could be an option or if such option is already available increased involvement for law students to be attached to statutory bodies as part of their law programs or internship schemes recognized by the institutions. It is

	<p>our view that such practical experience gained could be better integrated in their studies to raise their awareness in various societal issues.</p> <p>EOC is open to consider having law students to work as interns or experience students. EOC can also explore the possibility of providing seminars and/or training in relation to its work as part of the law program curricula.</p>
(9) - (12)	<p>Provided the measures taken are conducive towards ensuring the high quality of law students / members of the legal profession and are not discriminative in admitting students of different sex, race, social and cultural background or with certain disability, the EOC does not have strong views on the reform proposals or concerns relating to PCLL.</p>
(13) & (14)	<p>Secondment options in statutory bodies should be explored and made more readily available to trainee solicitors and pupils. EOC is receptive to this suggestion.</p> <p>In addition, the Continuing Professional Development (CPD) should be more directed and structured to ensure wider exposure to and training of different practice areas and legal issues. EOC works with CPD providers to hold workshops relating to discrimination issues.</p>

Yours sincerely,

Ivan Luk  
Chief Legal Counsel  
Equal Opportunities Commission

Enc. (Response form)

Submission  
of the  
Hong Kong Bar Association  
on the  
Consultation Paper of the Comprehensive Review of Legal Education  
and Training in Hong Kong

Standing Committee on Legal Education and Training

**Introduction**

1. In view of the lapse of time since the last comprehensive studies on legal education in the Roper and Redmond Review in 2000-2001 and that the recommendations in the said Roper and Redmond Review had been partially implemented, the Hong Kong Bar Association (“HKBA”) agrees that the time has now come to have another comprehensive review on the legal education in Hong Kong even though the HKBA has not detected any serious shortcomings in the system of legal education now in place.

2. The consultation paper issued by the Consultants had been brought to the attention of the members of HKBA for their comments and the matters had also been discussed in the various relevant subcommittees of the Bar Council. The views expressed below represent the initial views of the Bar Council after such consultations that the Bar Council is able to conduct within the very limited time available for submitting the response to the Consultation Paper.

3. The HKBA therefore reserves its position and may submit further views especially after having the opportunities of considering the views expressed by the public or other stakeholders.

4. Members of the Bar have been informed that they may submit their personal views to the Consultants privately and the HKBA understands that at least one member may have done so.

**Questions (1), (2), (3) & (4) – the need and challenges of legal services in Hong Kong now and in the near future**

5. The demand for legal services in Hong Kong is enormous and the demand comes from all sources and levels. Broadly one may say that there is the demand from the international level, the cross border China related level and also the domestic market level.

6. At the international level, with the globalization in trade, it is inevitable that there is a growing demand for legal services to cope with the pace of globalization. This is all the more so when it is the stated policy of the HKSAR to promote Hong Kong as an international legal services and dispute resolution centre in the Asia Pacific region. The role of the legal profession lies in the provision of a good legal service for setting up and conducting of international business and also in dispute resolution, whether the same is to be achieved by litigation, arbitration or mediation. The source of the demand for these kinds of legal services are likely to come from multinational corporations or international organizations, and it is also likely that the services required would have to be provided in conjunction with legal firms from abroad.

7. The cross border legal service may involve large international corporations as well as the SME and the demand is increasing rapidly. Often the service would also involve arbitration work both in Hong Kong and in the mainland.

8. Even though there is no effort on the part of the Government to promote domestic legal work, there could be no doubt that there is an increasing demand for legal service in the pure domestic market. There is little doubt that the public is increasingly conscious of their right and would no longer be slow to seek redress in Court. In terms of the Government's effort in this area, the direction is towards the reduction of litigation work as the Government is certainly actively promoting ADR and in particular mediation. In fact the CJR also promoted mediation as an alternative way of having the disputes resolved in Court.

9. In this regard the availability of legal aid would also play a pivotal role in that without legal aid, many litigants are inhibited from enforcing their rights by using the judicial machinery for fear that they could not afford the legal costs involved. The consequence is that many would be litigants are forced to forego their rights with a sense

of grudge and reluctance and from time to time may seek revenge or resolution of their disputes by unlawful means.

10. The demand for legal services is great and the multi-sources of the demand would require different talents and lawyers of different areas of specialties. Because of the Government's promotion, it is often thought that we need lawyers who could serve the international market and the China related market most urgently. However we consider that the proper priority must be to train enough good lawyers for the domestic market first. With a good foundation legal training for the domestic market and given the demand and the opportunity, some of the lawyers could then opt to specialize in international work and China related work.

11. To meet the challenge of the domestic market and also the China related market, it is obvious that we require lawyers well trained in the common law system and also with knowledge and appreciation of the PRC law and system too. There is certainly a great demand for bilingualism in the legal context. While litigation conducted in Chinese (Cantonese) is increasingly common in Hong Kong especially in the lower courts, there is also a developing trend for arbitrations to be conducted in putonghua especially those held in the mainland with lawyers engaged from Hong Kong.

12. The CEPA arrangements in place since 2004 has had very little impact on the practice of the Bar in the past. Barristers continue to do mainly arbitrations in the Mainland that do not require the exploitation of the CEPA provisions. Under Annex 14 of the Bar Code, barristers in Hong Kong may accept direct instructions from lawyers abroad including the Mainland for pure advisory work. Mainland firms were interested in using the service of barristers but have not hitherto been aware that such services on non-contentious matters could be offered across the border. In November 2015, with the support of the Ministry of Justice of the PRC, the Department of Justice in Hong Kong, the China Liaison Office and the All China Lawyers Association, the Bar has signed a Memorandum of Understanding with the Shanghai Lawyers Association enabling barristers to be formally engaged as "Legal Consultants" of Mainland law firms subject to the approval of the Ministry of Justice. As a pilot scheme, consultancy agreements were signed by 7 barristers each with a corresponding

Mainland law firms. Lawyers' associations in other major cities including Beijing, Guangzhou and Hangzhou have already indicated keen interest in the same arrangement to enable direct engagement of the service of barristers. This development is expected to take flight in the years to come, and will likely expand to other territories outside Hong Kong.

13. The challenge of the legal professions is to meet the ever heightening demand for quality legal services to be delivered more efficiently and affordably. So far as the Bar is concerned, in general there is no short supply of talent and manpower to meet the current demand. While it is acknowledged that there are from time to time cases which would demand talents and experience not readily available locally, the Bar has a system for admission of overseas counsel to meet the deficiency, and at the same time to help in the transfer of skill and experience in those particular areas where there is a shortage of talents. The number of foreign counsel admitted for the last 10 years ranges from 33 in 2005 to 63 in 2013 and up to 18 November 2015, the number of foreign counsel admitted for particular cases in 2015 is 38. In reading these figures, one must bear in mind that often overseas counsel were admitted not because there was a total lack of such talents locally as there were many grounds for admitting overseas counsel, and very often one has to resort to retaining overseas counsel because those local counsel capable of handling the case might have a conflict of interest or were otherwise previously engaged in some other cases on the same hearing dates. The figures certainly show that despite the ever growing variety and complexities of the cases, the local bar with this system of admission of overseas counsel is meeting the demand well.

14. To meet the demand and challenge in the future, it is of course necessary for the Bar to continue to be able to attract new blood and talents to join the profession. Without doubt, the Bar would have to compete with all other professions and occupations for talents. The Bar must continue to be an attractive profession both from the point of view of job satisfaction and more importantly from the point of view of financial reward.

15. In this regard, we must maintain a proper balance between the supply of lawyers and the demand in the market because this would

have a decisive effect on the financial reward of the lawyers and in particular the barristers. The proper balance does not only relate to the numbers but also the standard required for qualifying to practise law. It is axiomatic that the legal profession, especially the Bar, must be properly trained and must be proficient in performing the service required of them. However, if the entrance standard is set too high it would invariably mean that it will take a longer time to get qualified and this would naturally deter people, especially those who do not have the private resources, from joining the profession. If the number is uncontrolled or if the qualification is too relaxed, then the market will be flooded and the financial reward would not be sufficiently attractive to compete with other professions or occupation. Furthermore in those circumstances, the unhealthy competition would make it tempting for people to engage in unprofessional conduct.

16. We like to make it clear that by pointing out the obvious that a good financial reward is essential to attracting talents to join the Bar, we are not advocating that the Bar should be avaricious. There are many successful barristers in Hong Kong today who are willing to do pro bono work or to charge a very much discounted fees to help deserving litigants. We see no necessary conflict between a generally well-off Bar or legal profession and a Bar prepared to sacrifice to assist the deserving public. After all one can only be charitable when one can afford it.

**Questions (5), (6), (7) – details of the qualifying law programmes offered by the 3 universities.**

17. These questions are best answered by the 3 universities concerned.

**Questions (8) & (9) – comments on the law programmes**

18. Even though in terms of numbers, the PCLL from HKU has produced more barristers per year than the other 2 universities, it would appear that this is largely due to the fact that there are more PCLL places in the HKU than the other 2 universities. In terms of

quality, there is no evidence to suggest that there is any material difference in the barristers produced by all 3 universities.

19. On the whole, subject to the comments in the next 2 paragraphs, the Bar is satisfied with the quality and standard of the PCLL graduates produced by the universities. It is important to note that what we require is that the new entrants of the Bar should have sufficient general legal knowledge and skill to enable them to conduct a general practice, both in civil and in criminal matters. No doubt fresh graduates from the PCLL programme would still have to undergo further training in their pupillage before they could start practicing on their own. The emphasis at the pupillage stage must be that the person concerned should be sufficiently equipped with the basic legal skills to enable them to further develop their practice and to specialize in the future. While it is to be welcomed that the undergraduate and PCLL programmes do provide options to prepare the students to develop their particular field of interest, we do not subscribe to the view that there should be specialization at the entrant level. Experience at the Bar shows that very often it is a matter of chance rather than choice that individuals become specialists in particular areas of the legal practice.<sup>1</sup>

20. In view of the growing demand for the use of Chinese in courts in Hong Kong, the Young Bar felt that the teaching of use of Chinese in the LLB programme should better be conducted by someone who has actual experience in using Chinese in Court or in the drafting of legal documents instead of some scholars in the Chinese Department

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<sup>1</sup> At the University of Hong Kong (“HKU”), the PCLL programme is distinctly split into two semesters: (1) the first semester is the “core curriculum” which all students must pass and the teaching / assessment lectures and materials are universal to all students, whereas (2) the second semester is the “electives curriculum” whereby there are 2 types of elective subjects, namely, “litigation” and “non-litigation” subjects. In order for a HKU PCLL student to be “qualified” to commence pupillage, such students need to take 3 “litigation” based elective subjects, of which 1 of them must be “trial advocacy”. To the best of my knowledge, the other PCLL providers, namely, City University and Chinese University, are operating the “streaming” system in their second semester, an approach previously carried on by HKU. The “streaming” system requires students to choose in the first semester whether they wish to enter the “litigation stream” or the “non-litigation stream”. If joining the Bar, students must choose the “litigation stream” whereby discrete parts of subjects within the second semester subjects are changed to more suitably train students to a litigation focus. At HKU, some of the subjects (or parts thereof) have carried on from the “litigation stream” era into the present “electives curriculum”, such as trial advocacy, the current commercial dispute resolution subject (previously adapted from the commercial transactions II subject) and the current property litigation (previously adapted from the property transactions II subject).

in the university.<sup>2</sup> Likewise in the PCLL, it is thought that some teaching and practice of using Chinese in a mock trial would be highly desirable.<sup>3</sup>

21. Since the PCLL is meant for qualification to practice law in Hong Kong, it is felt that whenever possible teachers for the PCLL programmes should have actual practical experience in legal practice in Hong Kong.<sup>4</sup> This is especially so for subjects directly involving civil and criminal procedures as the Supreme Court Practice in England today are quite different from the Rules of High Court in Hong Kong.

22. There is a perception shared by some senior members of some Chambers that at least for the barrister profession, those who have undergone a first degree in law would have a slight advantage over those who qualified through the JD or CPE programme. It is thought that this may be due to the fact that the LLB programme is less cramped and the students would have more time and opportunities of learning through the study of case laws rather than relying on lecture notes and text books or books aimed at equipping students to simply pass the subject examinations. However there is no concrete proof that this is the case.<sup>5</sup>

23. We consider that the only sure way of equipping the Bar to meet the demand for specialized skill required for China related work or for international disputes is through self-learning and accumulation of skill and experience through developing their practice in these specialized areas. Of course, the universities could certainly assist by organizing courses in their LLM programmes on specialized subjects<sup>6</sup>, especially programs that allow part-time study by members of the profession. In this respect the Bar notes that all three universities have LLM programmes offering a wide variety of subjects.

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<sup>2</sup> At HKU, to the best of my knowledge, either academics and/or “retired” lawyers are teaching this subject but confirmation with the Department of Professional Legal Education should be sought from the relevant subject coordinator (my recollection is that it is Dr. Richard Wu).

<sup>3</sup> This is being done at HKU during the second semester within the “trial advocacy” subject but further information can be obtained from Miss Vandana Rajwani and Miss Alexandra Norton.

<sup>4</sup> At HKU, to the best of my knowledge, all litigation subject coordinators are all present (or past) qualified lawyers (with qualifications mainly from Hong Kong but not exclusively).

<sup>5</sup> At HKU, there are also mixed degree students (i.e. BBA/Law, Government/Law etc.) and these students, to the best of my knowledge, are not necessarily “inferior” to LLB (simpliciter) students.

<sup>6</sup> Please see footnote 1.

24. While it is of course preferable that students should be taught as wide a range of subjects of the law as possible during their LLB (or equivalent) programme, we do not think that there is any need of further extending the length of the LLB programme. We note that the LLB programme in Hong Kong is 4 years while that in England would be 3 years only. However we also note that very often graduates with overseas law degrees would have to take conversion examinations on some of the core subjects and the top up subjects before they are qualified for admission to the PCLL.<sup>7</sup>

25. On the whole we do not support making the LLB degree a 2<sup>nd</sup> degree. While it may be said that generally it is preferable that people going into law should be mature and have a broad outlook in life, it is hard to measure if, and to what extent, non-law degree holders coming to the law subsequently make better lawyers. The Bar is beginning to see examples of successful new comers whose depth of understanding and readiness in applying the law aptly to complicated facts may be attributable to their background in studying law as a second degree. .

26. In considering the length of the LLB programme and also pupillage, we bear in mind that the overall period for qualification should not be too long. At the moment, it will take at least 6 years after secondary school before one could be qualified to practise at the Bar. (We appreciate that the period may be shortened to 5 years if the person concerned should decide to take the 3 year LLB programme abroad and pass all the necessary conversion and top up subjects within the 3 year of his degree course.) We would only support considering to lengthen the period for qualification if there is sufficient assurance in place that those who merit help in getting financial help in order to do so will get the help they need, and that the extension of length of study would not become an obstacle to those who display potential for success at the Bar.

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<sup>7</sup> Overseas students must complete and pass their conversion examinations before commencing the PCLL at any of the PCLL providers. It has been shown that there are some overseas students who would otherwise be accepted to the PCLL but for failing / not competing the conversion examinations. Overseas students should be further reminded of such requirement as aforesaid.

## **Question (10) & (11) – PCLL admission & quality**

27. The Bar supports the principle that admission to the PCLL course should be based on merits. The primary focus should of course be on the academic achievement of law degree based upon which the students make their application for admission. We appreciate that currently at least CUHK would only take into account the score of the applicant in their first time law degree result. We do not think that this approach is correct. We consider that the applicant should be entitled to be judged with reference to their best achievement even though some discount may be made for a second or subsequent attempt in their law degrees. A student who does not do well in his law degree due to some extraneous circumstances may feel aggrieved because it may practically mean that he could not be a lawyer in Hong Kong. We do not see why a student in such circumstances should not have the option to make a subsequent attempt to improve on his score and to make another application based on his improved degree result.

28. While we agree that the primary criteria should be the law degree result, we also endorse the practice adopted by HKU that a small number of places are reserved for applicants with strength and experience in other relevant areas such as through working in a law firm or in some law related institutions.

29. We would rather leave it to the PCLL providers to decide on the rating of the various qualifications for admission. It is obvious that the standard of the graduates from different universities would vary, and even though the JD programme and the CPE programme would all peg their standard to be at least the same as the LLB standard, it is naïve to think that their standard are in fact the same<sup>8</sup>. Of course the standard also varies a great deal amongst the different institutions offering the programmes. We consider that it is best left to the PCLL providers to decide for themselves on the standard of the different qualifications having regard to their experience on the achievements of the students from different sources in the previous years.

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<sup>8</sup> Please see the conclusion at paragraph 22 hereinabove which is contradictory.

30. The Bar is not troubled by the fact that the syllabi of the 3 PCLL providers are different. Despite their differences, the PCLL syllabi of all 3 universities met the bench mark set by the Bar and we have no reason to believe that the 3 universities would not be responsive to the suggestions of the Bar on any improvement of their programmes in the future<sup>9</sup>. As we have pointed out earlier, there is no evidence to suggest that there is any material difference between the standard and quality of those joining the Bar even though they are from different universities. Having now witnessed the operation of the current system for over 10 years, we do not see that there is any real disadvantage in not having uniformity in the courses offered by the PCLL providers. We consider that there is merit in having some degree of varieties as that would offer a choice to the students as well as for their employers.

31. We appreciate that the current system would rely heavily on the work of the external examiners to ensure that the PCLL of the 3 universities would have equivalent standard. Also it is through the work of the external examiners (or course advisers) that the legal professions could keep track of the standard of the PCLL courses. For this reason at the moment, we do not consider that there should be any more PCLL providers as this would inevitably mean an even greater demand on the work of the external examiners which is already very heavy at the moment.

32 In particular we are against the idea of allowing private commercial institution to run PCLL courses. This is because the current system of having common external examiners is really based on the voluntary co-operation spirit of the 3 universities and the 2 legal professions. The system works well but there is no legal compulsion for any PCLL providers to participate in this established system. Furthermore the success of the current arrangement is also very much based on the proactive spirit of the universities' response to the views and suggestions of the professions. It is thought that with private commercial providers, there will be greater temptation to sacrifice quality for quantity. If it is thought that we should have more PCLL places, we consider that the proper way forward is to ask the

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<sup>9</sup> Speaking for HKU alone, the Department of Professional Legal Education always welcomes recommendations from the Bar.

universities to expand PCLL courses. Even if the Government is not prepared to increase the number of funded places, we understand that there are no insurmountable obstacles for the universities to increase the number of non-funded places<sup>10</sup>.

### **PCLL & numbers – the issue of bottle neck**

33. The question of number is always very sensitive. At least for the Bar, the surest way for the maintenance of standard is through fair and ethical competition amongst barristers. Thus the Bar should remain to be an open profession with no artificial limitation on the number of entrants to the Bar. We also believe that to a large extent the same would also apply to the solicitors.

34. Although the PCLL is not the only source for admission to the legal professions, as it is possible to get admitted as a solicitor through the OLQE and as a barrister through the BQE, there is little doubt that the number of graduates produced by the 3 universities has a direct impact on the supply of lawyers in Hong Kong. This is especially so for the Bar as the number of overseas barristers admitted for general practice through the BQE is very small. Furthermore the Bar is very vulnerable to the fluctuations in the solicitor's job market. When the market was bad and it became difficult for PCLL graduates to find trainee contracts, those who would not be able to get trainee contracts would turn to become barristers not because of their choice or interest but just because of the force of the circumstances. Experience would also show that most of this category of people would not be good barristers either and should in due course be eliminated simply because the cost of carrying on with a practice would not be affordable. In recent years, more chambers are ready to accept "door tenants" at a minimal fee, thereby enabling barristers to carry on with what is essentially a part-time practice. This option is attractive to many who do not have sufficient work to justify occupying or at least sharing a room as barristers normally do. They retain their title for prestige, but do not actually have much work to fill out their time other than publicly funded work distributed on a roster

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<sup>10</sup> To the best of my knowledge, currently only HKU provides a part-time PCLL and those students privately fund their tuition fees.

basis, and would do whatever income-generating non-barristerial work on the side with or without the Bars's knowledge or approval. In these circumstances, they have been able to stake it out much longer at the Bar than they previously could, without any real prospect of building a decent practice. It is not a desirable state of affairs.

35. We appreciate that there are suggestions that the PCLL places currently on offer are inadequate to meet the demand of the legal market. It is said that there are many students who meet the minimum qualification required for admission could not get places for the PCLL course<sup>11</sup>. We are also aware that there were also suggestions that law graduates have a reasonable expectation that they should be allowed to continue to pursue a career as practicing lawyers and it is unfair that they could not do so because they cannot get into the PCLL.

36. While a first degree in law or its equivalent is a pre-requisite for admission to the PCLL, it does not mean that the law degree is merely designed for the training of practicing lawyers. We do not think that it would be any waste of resources that someone having had a degree in law should not be able to have a career as a practicing lawyer. We disagree with the view that any one meeting the minimum qualification for admission to the PCLL could justifiably hold a reasonable expectation that he should be offered a place in the PCLL.

37. The optimum number of lawyers that we should have is a matter of supply and demand. Speaking for the Bar only, at the moment, there is no evidence that we have any shortage of supply of qualified barristers in Hong Kong. In fact we tend to think that we have reached the right equilibrium on the supply of barristers at the moment. There is no need for any expansion on the number of PCLL places now or in the near future.

38. First, while we acknowledge that there are some instances where because of the parties' particular choice of barristers, there is some delay in the hearing dates, in general there is no difficulty in

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<sup>11</sup> To the best of my knowledge, competition for places at the PCLL are at an all time high and do not appear to abate in the future.

finding barristers to attend court on the first available hearing date. The position rather is that the delay in having hearing dates is due to the unavailability of the judges or the courts.

39. Secondly while there is a steady increase in the number of barristers holding full practicing certificates over the years, in fact the increase is somewhat less than the number of entrants to the Bar for over the years. This tends to show there is also a steady drop out rate from the Bar. This is illustrated by the following figures:

Table 1 – the number of pupils holding limited practicing certificates

Year	2015	2014	2013	2012	2011	2010	2009
No.	90	99	91	85	70	79	47

The total number over the 6 years is 561

Table 2 – the number of barristers holding full practicing certificates

Year	2015	2014	2013	2012	2011	2010	2009
No.	1326	1275	1238	1174	1148	1106	1092

The net increase of number of barristers over the 6 years is 234.

40. Since the pupils are entitled to apply for a limited practicing certificate after their first 6 months pupillage and pupillage is usually for one year, the total number of limited certificates issued over the years could be treated as a true reflection of the number of new entrants. As could be seen from the tables, in the last 6 years while there are some 561 newly qualified barristers the net increase in the size of the Bar is only 234. This would indicate that there are also some 327 barristers leaving the Bar over the last 6 years. There are many reasons for leaving the Bar such as for judicial appointments, retirements and also simply leaving for better employments elsewhere. It is quite clear that judicial appointments could not have accounted for the whole figure of 327. The overall picture shows that while there is a steady growth of the Bar there is a healthy competition within the Bar such that some weaker members may be forced to leave the Bar.

41. We would also like to refer to the report of the Special Committee on Local Admission dated 2 December 2014 annexed to

this submission. As can be seen from the table, in the period of 14 years from 2001 to 2014, there is a marked trend for barristers leaving the Bar as their seniority grow.

42. The general view from the Young Bar is that there is insufficient work for the young barristers. This also supports the view that we do not have any short supply of barristers.

43. Given that the market could not absorb all those who want to be a practicing lawyer, it is inevitable that somewhere in the educating process there would be a bottle neck eliminating those who are less competitive. We see no reason why the bottle neck should not be at the stage of PCLL admission. After all the PCLL training is really directed at preparing practicing lawyers and it would even be a bigger waste of resources if after a full year of PCLL training, the holders of the PCLL then find themselves unable to find a trainee contract or are to be forced out of the Bar because of insufficiency of work.

#### **Question (12) Common Entrance Examination**

44. We understand that the proposal of the common entrance examination from the Law Society is only directed at the entrance to the solicitors' profession. The proposal is not well thought through. There is no information as to whether the proposed common entrance examination is meant to be an alternative route for entrance into the profession, or whether this examination is meant to be a replacement of the PCLL examination. There is no information as to whether there is to be an institution offering courses for the preparation for this examination and the contents of such examination. Likewise there is no information as to whether this is meant to be an entrance examination for trainee solicitors or it is meant to be an exit examination to be taken at the end of the trainee contract. In short the Law Society has not clearly indicated what the purpose of this CEE is and what mischief that this proposal is directed at.

45. On the whole, the Bar does not support such proposal.

### **Question (13) – pre-qualification vocational training for solicitors**

46. The Bar does not propose to opine on this question.

### **Question (14) – pre-qualification vocational training of pupils**

47. The Bar is happy with the current arrangement that pupils would have to accumulate enough ALE points before their full practicing certificates.

### **Question (15) – other views on the present legal education system and training**

48. The Bar Council is currently studying whether the pupillage system could be improved. For instance, whether there should be more stringent requirement for the pupil master to meet before he is allowed to take pupils, whether pupils should be paid or should receive some sort of financial assistance from their pupil masters during pupillage.

49. The Bar does not have a compulsory continuing professional development programme. It is accepted that the IBA has given certain guidelines for training and education of the legal profession, strongly advocating that there should be a compulsory continuing professional education programme for all legal professions. It is doubtful whether the IBA has in mind a pure referral profession such as the Hong Kong Bar when considering its proposal.

50. It is certainly accepted that it is fashionable for professions to have a compulsory professional development scheme. The solicitors have had their compulsory CPD programme for over 10 years now. However the anecdotal evidence derived from observation of the performance of solicitors does not indicate that there is any real impact on the standard of solicitors since the implementation of their CPD programme. It is noted that the English Bar has also implemented a compulsory CPD programme although we do not know how much benefit or improvement has been brought to the English Bar by this programme. It is however fair to point out that

the English Bar is no longer a pure referral profession, as the position in England today is that multi professional disciplines (including the Bar) is permitted and so it would appear that one could have direct access to barristers.

51 Traditionally with the Hong Kong Bar as a pure referral profession, it was seen that fair competition within the Bar is the best assurance for the maintenance of professional standards. It was thought that so long as the solicitors have done their duties well in only instructing barristers competent for the job, the interest of the lay clients would be properly protected. However, with the complexities of the modern-day legal services market, the prevalence of low-cost chambers accommodation and the significance of publicly funded work for a certain sector of the Bar amongst those with less of a following amongst solicitors who are selective on which barristers to seek advice from, it is seen important that the Bar take proactive steps to maintain its image of conscientiousness to forestall a decline of public confidence in the Bar as an honourable, self-regulating profession. Although in the last 10 years there are only 4 cases where a barrister is charged for an offence under § 6(d) of the Code and only one has been found guilty, we are conscious a single bad incident could jeopardize the good name of the profession.

52. The question of whether there should be compulsory CPD programme for the Bar is presently under review by the Bar Council and will soon be a question for consultation amongst its members. We have to point out that even though the Bar currently does not have a compulsory CPD programme, the Bar organizes talks and workshops throughout the year for its members. Committees on various practice areas are under reform to enable continuing professional development to be undertaken within the Bar in a more regular, sustained and structured fashion. Members and visiting silks, and other guest speakers who have established themselves in the respective areas will be requested to give more structured seminars and updates to provide opportunities of development for other members who desire to pursue certain area of practice. . Depending on the topics and the speakers many of the talks are very well attended even by practitioners of over 10 years standing. While members will benefit more from talks and workshops that they attend voluntarily out of their own interest, we are studying whether

compulsory CPD would give the push that may be needed for members take time out of their busy schedule to seek out development opportunities, whether to update or to broaden their knowledge.

Dated 16 December 2015

Hong Kong Bar Association

**Note for the Consultants**  
**Information on the Advanced Legal Education Programme**  
**of the Hong Kong Bar Association**  
**and**  
**Information on the Bar Qualifying Examination**

**The Advance Legal Education Programme**

1. The meeting between the representatives of the Hong Kong Bar Association (the “**HKBA**”) and the Consultants appointed by the Standing Committee on Legal Education and Training in relation to the Consultation Paper of the Comprehensive Review of Legal Education and Training in Hong Kong took place at 4:30 p.m. on 18 December, 2015.
2. At the meeting, the Consultations asked for more information on the Advanced Legal Education Programme (the “**ALE Scheme**”) run by the HKBA. This note is prepared for the purpose of providing the Consultations with more detailed information on the ALE Programme.

**Background**

3. The HKBA is committed to ensure that its members at all levels would provide legal service of the highest quality. To achieve this, steps have been taken to ensure that those joining the Bar should be adequately educated, trained and prepared before they are allowed to embark on full practice.
4. Since September 1998, the HKBA has employed a full time director (the “**Director of ALE**”) to take charge of organizing and administering its legal education programme. Since then, the Bar Council has been running an organized advanced legal education programme for all pupils. Under this programme, the Bar Council would regularly organize workshops and lectures open to all pupils.

5. After the programme had been operated for a few years, the Bar Council considered that the programme should be made compulsory for all pupils. In 2002, the Bar Council decided to introduce a compulsory legal education programme for all pupils during the terms of their pupillage to ensure that on top of the training they receive from their pupil masters, they would also receive training through a structured programme focusing on the practical skills required of a barrister such as advocacy and legal drafting. The compulsory programme would also contain courses designed to impart on the pupils legal knowledge on new or topical area of the law.
6. To implement the decision of the Bar Council to make the ALE Programme compulsory for all pupils, the *Barrister (Advanced Legal Education Requirement) Rules (Cap. 159AB)* (the “ALE Rules”<sup>1</sup>) were made by the Bar Council under Section 72AA of the *Legal Practitioners Ordinance (Cap. 159)* with the prior approval of the Chief Justice. The ALE Rules came into force in 2003 as part of the reform of the system of pupillage in the Hong Kong SAR.

### **Some Key Facts about the ALE Programme**

7. According to the s.4(2) of the ALE Rules, a pupil must both begin and complete the ALE Programme within his period of pupillage
8. In order to complete the ALE Programme, a pupil must: (a) attend such ALE courses as may be required by the Bar Council (s.4(1)(b) and s.3(2)(g) of the ALE Rules); and obtain a total of 14 ALE points by his attendance at ALE courses (s.4(1)(b) of the ALE Rules). Basically, all or nearly all the workshops and lectures are conducted by practising barristers, judges, magistrates and legal officers. These workshops and lectures are invariably held after court hours or on Saturdays. Thus the attendance of the ALE programme does not cause too much inconvenience to the pupils.

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<sup>1</sup> PDF copy of the complete ALE Rules can be found at URL:  
[http://www.legislation.gov.hk/blis\\_pdf.nsf/6799165D2FEE3FA94825755E0033E532/D56D8DD98BEBFF3C482575EE0046C300/\\$FILE/CAP\\_159AB\\_e\\_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/D56D8DD98BEBFF3C482575EE0046C300/$FILE/CAP_159AB_e_b5.pdf)

9. Of the 14 ALE points which must be obtained by pupils during their 12-month statutory pupillage, some are core points and others are general points. Allocation of the ALE points in the ALE Programme has changed over time. Currently, all pupils must obtain 4 core points as part of their 14 ALE points. These 4 core ALE points include 2 core points in Advocacy, 1 core point in Drafting, and 1 core point in Professional Conduct.
10. To give the Consultants an idea on the contents of the ALE Programme, a copy of the Summary of Advanced Legal Education Courses – 2014 is attached to the end of this Note as **Appendix 1**.
11. According to s.7(1) of the ALE Rules, where a pupil has failed to undertake and complete the ALE Programme in accordance with the ALE Rules, the Bar Council may:
  - (a). refuse to extend the validity of any limited practising certificate beyond the end of the pupil's period of approved pupillage;
  - (b). refuse to issue a new limited practising certificate; and
  - (c). defer issuing a practising certificate until such time as the pupil has completed the ALE Programme.
12. For those pupils whose period of pupillage has been reduced by the Chief Judge of the High Court (such as those pupils who are qualified lawyers in overseas jurisdictions and have substantial experience in advocacy), the Bar Council may, on application by these pupils in writing, exempt these pupils from any or all of the ALE requirements (s.8(1) of the ALE Rules). Furthermore, the Bar Council may, on application by a pupil in writing, exempt the pupil from any or all of the ALE requirements if it is satisfied that it is fair and reasonable to grant the exemption (s.8(2) of the ALE Rules).

## **The Barrister Qualifying Examination**

13. The Bar Qualifying Examination was administered under section 5 of the Barristers (Qualification for Admission and Pupillage) Rules (“**The Rules**”). By a combination of the provisions in sections 4(2)(a), (b) & (c) and 6 of the Rules, persons who want to sit for such examination must satisfy the Bar Council that (a) he holds a certificate of admission as a legal practitioner from the appropriate authority in his jurisdiction of admission and such certificate is currently valid and in force, (b) has practiced for at least 3 years in his jurisdiction of admission, and (c) is a person of good standing in his jurisdiction of admission.
14. There are five papers in this Bar Qualifying Examination: viz  
Paper I – (i) Contract and (ii) Tort  
Paper II – (i) Property (real & personal), (ii) Conveyancing and (iii) Equity & Trust  
Paper III – (i) Criminal Law, & (ii) Criminal Evidence and Criminal Procedure,  
Paper IV – (i) Hong Kong Legal System, (ii) Constitutional and Administrative Law and  
(iii) Company  
Paper V – (i) Civil Procedure & Evidence, (ii) Professional Conduct, & (iii) Advocacy.
15. Based on the experience of the candidate, the Bar Council may grant exemption to the candidate from sitting in any paper or any section of a paper but unless the Bar Council otherwise determines, in the case of a candidate whose qualification for admission is a common law jurisdiction, the candidate will get exemption from Paper I (Contract & Tort) automatically.
16. The statistics on the passing rate of each of the papers in the last 10 years is set out in Appendix II.

Dated this 19<sup>th</sup> day of December, 2015.

Hong Kong Bar Association

**Summary of Advanced Legal Education Courses – 2014**

No.	Date	Event	Presenter(s)/ Trainer(s)	ALE Point(s)
1.	22 January 2014	The New Companies Ordinance – Talk	Judith Sihombing	1 General
2.	5 February 2014	Human Rights Development in the United Kingdom – Talk	David Perry, Q.C.	Nil
3.	27 February 2014	Can a Secret Trail Ever Be a Fair Trial? – Talk	Tim Owen, Q.C.	Nil
4.	4 March 2014	Pitfalls in Criminal Practice – Talk	Osmond Lam	1 General
5.	20 March 2014	Judges and Basic Laws in Europe and in Hong Kong – Talk ^	Prof. Timothy Endicott	Nil
6.	10 April 2014	How to Handle Exhibits – Talk	Giles Surman	1 General
7.	25 April 2014	Criminal Appeals - New Evidence and Historic Appeals – Talk	Edward Fitzgerald, C.B.E., Q.C.	Nil
8.	28 April 2014	Family Law and Collaborative Law – Talk	Robin Egerton Kay Chan	1 General
9.	20 May, 18 June & 3 July 2014	Professional Conduct Workshop	Ian Pennicott, S.C. Anita Yip, S.C. Raymond Leung, S.C. Anson Wong, S.C.	1 Core
10.	22 May 2014	Judicial Attitudes to Tax Avoidance and the Impact of a General Anti-Abuse Rule – Talk	Malcolm Gammie, C.B.E., Q.C.	Nil
11.	27 May 2014	Advice to Counsel: How to Draft Pleadings – Talk *	Richard Khaw	1 General
12.	4, 11, 12 & 13 June 2014	Pupils Advocacy Programme *	Members of the Judiciary: HH Judge Browne HH Judge Gary Lam Merinda Chow, Magistrate  DoJ: Wesley Wong, S.C.  Members of HKBA: Russell Coleman, S.C. Robert Pang, S.C.	2 Core + 2 General

**Summary of Advanced Legal Education Courses – 2014**

			Roxanne Ismail, S.C. Nigel Kat Giles Surman Jonathan Wong Jonathan Chang Helen Au Edward Ng Tony Li Martin Wong Benson Tsoi Kay Chan Julian Cohen	
13.	16, 18 & 27 June 2014	Drafting of Pleadings Workshop *	Jat Sew Tong, S.C. Raymond Leung, S.C. Richard Khaw Michael Yin Victor Dawes Alexander Stock Elaine Liu	1 Core
14.	20 & 21 June 2014	Vulnerable Witness Handling - Training Programme ^^	HHJ Sally Cahill, Q.C. HHJ Joanna Korner, C.M.G., Q.C. HHJ Patricia Lynch, Q.C. Sarah Clarke Russell Coleman, S.C. Audrey Campbell-Moffat, S.C. Roxanne Ismail, S.C. Liza Jane Cruden	Nil
15.	26 June 2014	Damages For Breach of Arbitration or Exclusive Jurisdiction Clauses; and Latest Developments in Injunctions – Talk	Steven Gee, Q.C.	Nil
16.	2, 9, 10 & 11 July 2014	Pupils Advocacy Programme *	Members of the Judiciary: HH Judge Isaac Tam  DoJ: William Tam, DDPP David Leung, DDPP Martin Hui, SADPP  Members of HKBA: Kumar Ramanathan, S.C. Audrey Campbell-Moffat, S.C. Anson Wong, S.C.	2 Core + 2 General

**Summary of Advanced Legal Education Courses – 2014**

			Liza Jane Cruden Keith Oderberg Martyn Richmond Colin Wong Eugene Yim Jonathan Ah-Weng Lee Shu Wun Abigail Wong Wilson Leung Richard Fawls	
17.	5 July 2014	Civil Justice Reform Training Programme "CJR Update" – General Seminar #	The Hon. Mr. Justice Mohan Bharwaney Eugene Fung, S.C. Mark Reeves Denis Brock Menachem Hasofer Dmitri Hubbard	1 General
18.	14 July 2014	Proprietary Estoppel in the Chinese Joint Family: The Case of Cheung Yuk Luen (Deceased) Re-visited – Talk	John McDonnell, Q.C.	Nil
19.	16 July 2014	Adverse Possession: Landlord v Tenant - Talk	Edward Chan, S.C.	1 General
20.	8 September 2014	Update on Legal Aid Reforms and the Quality Assurance Scheme for Advocates in England & Wales – Talk	Nicholas Lavender, Q.C.	1 General
21.	9 October 2014	Memory Refreshing and Documentary Evidence – Talk	Audrey Campbell-Moffat, S.C.	1 General
22.	5, 12, 13 & 14 November 2014	Pupils Advocacy Programme *	Members of the Judiciary: HH Judge Gary Lam HH Judge Isaac Tam  DoJ: David Leung, DDPP Martin Hui, SADPP  Members of HKBA: Russell Coleman, S.C. Kumar Ramanathan, S.C. Robert Pang, S.C.	2 Core + 2 General

**Summary of Advanced Legal Education Courses – 2014**

			<p>Roxanne Ismail, S.C.  Raymond Leung, S.C.  Corinne Remedios  Nigel Kat  Liza Jane Cruden  Kevin Hon  Giles Surman  Martyn Richmond  Jonathan Wong  Colin Wong  Jonathan Chang  Helen Au  Edward Ng  Jonathan Ah-Weng  Lee Shu Wun  Tony Li  Martin Wong  Abigail Wong  Robin Egerton  Kay Chan  Christopher Chain  Richard Fawls</p> <p>Others:  Mr. Kevin Browne</p>	
23.	26 November - 24 December 2014	Duty Lawyer Orientation Visit	Court Liaison Officers	1 General (Upon Submission of Report)
24.	26 November 2014	Drafting of Pleadings Workshop *	Richard Khaw	1 Core
25.	27 November 2014	Advice to Counsel: Practical Help, Guidance & Tips with Respect to Asking Questions in Court (Both in Chief and in Cross Examination) *	Giles Surman	1 General
26.	9, 17 & 18 December 2014	Professional Conduct Workshop	Clive Grossman, S.C. Paul Lam, S.C. William Wong, S.C. Ian Pennicott, S.C. Anson Wong, S.C. Leo Remedios Lisa Remedios Juliana Chow	1 Core

**Summary of Advanced Legal Education Courses – 2014**

			Joseph Vaughan Sanjay Sakhrani Ling Chun Wai	
27.	10 December 2014	Risk Management: Counsel of Perfection? – Talk	Chris Sharrock Martin Giggins	1 General
28.	11 December 2014	Advice to Counsel: How to Draft Pleadings – Talk *	Russell Coleman, S.C.	1 General

- \* Course organized by Hong Kong Advocacy Training Council (HKATC)
- ^^ Course jointly organized by Hong Kong Advocacy Training Council (HKATC) and the Judicial Institute of the Hong Kong Judiciary
- ^ Course jointly organized by Hong Kong Bar Association (HKBA) and the Judicial Institute of the Hong Kong Judiciary
- # Course jointly organized by Hong Kong Bar Association (HKBA) and the Hong Kong Academy of Law

## Appendix II

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Year	No. of candidates taken BQE	Passing Rate				
		Paper I	Paper II	Paper III	Paper IV	Paper V
2014	4	N/A	25%	100%	0%	50%
2013	9	0%	13%	50%	13%	50%
2012	5	N/A	0%	50%	25%	0%
2011	3	N/A	0%	100%	33%	100%
2010	3	N/A	0%	100%	33%	100%
2009	2	N/A	0%	50%	0%	0%
2008	1	N/A	0%	0%	N/A	N/A
2007	2	N/A	0%	0%	0%	0%
2006	3	N/A	66%	N/A	0%	N/A
2005	6	N/A	25%	100%	50%	100%

Ms Vivien Lee  
Secretary  
Standing Committee on Legal Education and Training  
c/o 3/F Wing On House  
71 Des Voeux Road Central  
Hong Kong

By Email

Dear Ms Lee,

**Comprehensive Review on Legal Education and Training**

Thank you for your letter dated 7 October addressed to our Chief Executive, Mr. Charles Li.

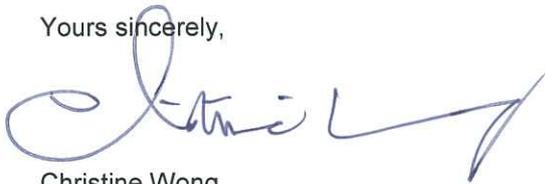
We would be delighted to share our thoughts on the Hong Kong system of legal education and training with the consultants through a meeting/interview.

By way of introduction, our legal team consists of 13 lawyers and two paralegals comprising lawyers qualified in Hong Kong, Mainland China, England and Wales and the US. We accept law students from Hong Kong and overseas universities in our summer internship programme. We interviewed a broad range of applicants in the past five years to build the existing legal team which advises on all legal and regulatory aspects relating to the business operations of Hong Kong Exchanges and Clearing Limited (HKEx) and the implementation of the group's strategic initiatives. We work extensively with local and international law firms servicing the financial industry and understand what clients need from legal practitioners in a highly competitive environment.

We would be most happy to share with the consultants what we look for in legal practitioners as external counsel and in young lawyers who seek to join the HKEx legal team, and hope that our observations could assist you in shaping proposals for Hong Kong.

We attach the Response Form and look forward to meeting the consultants at a mutually convenient time.

Yours sincerely,



Christine Wong

Chief Counsel and Head of Legal Services Department

Encl.

## **Consultation Paper on Legal Education and Training**

**Standing Committee on Legal Education and Training**

**Response of the Department of Law and Business  
Hong Kong Shue Yan University**

10 November 2015

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1. Challenges of legal practice in Hong Kong at present and in future

**The main challenges that confront legal practice in Hong Kong at present and in the future are twofold:**

- i. tailoring legal services to support and enhance business integration between mainland China and Hong Kong; and ,**
- ii. meeting the needs of globalization.**

***i. Integration between Hong Kong and Mainland China***

**The Peoples' Republic of China (mainland China) is the second largest economy in the world after the United States, and the fastest-growing economy with growth rates averaging 10 percent over the past 30 years. According to the 2015 World Investment Report, published by the United Nations Conference on Trade and Development (UNCTAD),<sup>1</sup> the recorded FDI inflows of Hong Kong were US\$103 billion in 2014, which is a year-on-year increase of 39 per cent. This places Hong Kong second only to Mainland China (US\$129 billion), and ahead of the US (US\$92 billion), the UK (US\$72 billion) and Singapore (US\$68 billion). In terms of outbound investment, Hong Kong was also the second largest (US\$143 billion), after the US (US\$337 billion), and ahead of Mainland China (US\$116 billion), and Japan (US\$114 billion).**

**In its 2015 report, UNCTAD specifically reported that the increase of outflows from Hong Kong in 2014 was partly a result of rapidly increased cross-border merger and acquisition activity. The report demonstrates the importance of Hong Kong as an interconnecting platform for direct investment. Foreign investors use Hong Kong as a podium to then invest in Mainland China and the Asia-Pacific region. Similarly, business entities from Mainland China are also increasingly using Hong Kong as a platform to engage in global investments and acquisitions.**

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<sup>1</sup> United Nations Conference on Trade and Development, World Investment Report 2015, UNCTAD: Geneva, (2015) available online at [www.unctad.org/wir](http://www.unctad.org/wir) last viewed on 7 November 2015.

Recent legal disputes such as *Noble Resources Limited v. Zhoushan Zhonghai Food and Oil Industrial Limited* (2009) further demonstrate the increase of cross-border activity, and importance of understanding the mutual recognition of awards between the two jurisdictions.

The information provided above demonstrates that increased knowledge and understanding of Mainland Chinese Law is already important for Hong Kong lawyers today, and will become essential to Hong Kong lawyers in the near future.

## *ii. Globalization*

Hong Kong will significantly benefit from the introduction and implementation of the One Belt One Road (OBOR) initiative, which currently involves over 60 countries and will affect more than 4 billion individuals. It is anticipated that Hong Kong will play an important role in the OBOR process by utilizing experiences and resources from shipping, trade, financial services, and other significant sectors. Accordingly, the legal profession must respond by ensuring that Hong Kong lawyers are equipped with a high level of understanding and working knowledge of laws in other key jurisdictions.

2. Needs of Hong Kong society regarding services to be provided by lawyers at present and in future

The needs of Hong Kong society is closely related to the information provided in question 1 above. An increase of cross-border services from both Mainland China and other jurisdictions will mean that members of the public will also require specialist legal advice related to Mainland China and key overseas jurisdictions.

3. New demands on the services to be provided by lawyers in Hong Kong in view of the following:

(a) Development and promotion of Hong Kong as an international legal services and dispute resolution centre in Asia Pacific

According to the results of a recent survey conducted by Queen Mary University of London,<sup>2</sup> Hong Kong has been identified as the third preferred seat of arbitration worldwide after London and Paris. The findings confirm that Hong Kong is a leading venue for arbitration and demonstrate the important role that arbitration plays in resolving both domestic and international complex commercial disputes in Hong Kong.

Following the promulgation of the Mediation Ordinance (Cap. 620) on 1 January 2013, Hong Kong has now become recognized on a global level as a leading

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<sup>2</sup> 2015 International Arbitration Survey: Improvements and Innovations in International Arbitration, Queen Mary University of London; sponsored by White & Case (6 October 2015).

jurisdiction offering mediation as an alternative method of dispute resolution in a wide range of disputes.

Accordingly, Hong Kong lawyers need to be equipped with the cutting edge knowledge and professional skills in alternative dispute resolution skills in both mediation and arbitration (among other forms of dispute resolution), be conversant with the law and process models and practices particularly in China and other Asian jurisdictions, so that they can effectively handle local, cross-border and international disputes, and advise their clients on the most suitable form of dispute resolution to suit the needs of their clients.

(b) the globalization of the legal services sector

According to our understanding, 'globalization' means increased political, economic, social and technological integration between different nations and cultures. To compliment the globalization of trade, and the lowering of barriers to the supply of goods and services in many countries, it is inevitable that legal services will also need to be liberalised since the relationship between trade and legal service are highly dependable.

The globalization of legal services is already rapidly developing in jurisdictions such as the United Kingdom, Australia and United States. It is expected to accelerate further as a result of increased technology, and the entry of large retailers into the legal services sector. It is also anticipated that new tie-ups will proliferate, whereby banks and financial service providers link-up with retailers of legal services to provide specially tailored legal services as an alternative to law firms.

Globalization will have a significant effect on the way that legal services are provided, and Hong Kong is not immune. Legal education in Hong Kong should inform legal professionals of the nature of such changes, and how to respond proactively to them; for example, by specializing and developing niches, or using technology and branding.

Furthermore, the implementation of the OBOR initiative will mean that knowledge of infrastructure and financial services of different jurisdictions will become essential.

(c) advancement of modern technology enabling legal services to be expedited through unconventional methods

The use of technology to enhance the legal services sector is crucial to the provision of future legal services. It is unfortunate that the profession has not yet embraced modern technological advances to its fullest extent, and more can be done to meet the demands of clients at present and in the future. Collaboration with both the technology and business sectors would be beneficial. This is an area that has plenty of scope, and if implemented could distinguish legal services in Hong Kong from those provided in other jurisdictions.

(d) the development of CEPA and the Mainland opening up its market for legal work which is Mainland related

**There are real and significant opportunities for Hong Kong lawyers within the mainland market. More could and should be done to prepare and assist Hong Kong students and lawyers with accessing the Mainland market.**

(e) emerging problems involving human rights and legal issues relating to environment, privacy, immigration and international justice, and/or other discrete emerging fields of law

**Issues related to human rights, the environment, privacy, immigration and international justice are extremely relevant yet, lag behind many other jurisdictions in the world. More emphasis on legal education and training should be placed on all of the areas mentioned above.**

4. New demands on services not yet identified

**Social structures and the ways in which social interaction takes place are changing, and the legal profession needs to adapt accordingly. It is imperative that lawyers possess a range of soft skills that are relevant to the modern environment and the profession, so that they can maintain excellent communication channels. Training is essential not only to law students but also as a matter of continued professional development.**

**Providing good quality legal services also requires good business acumen. The development of business management skills are essential to legal professionals so that they understand how to attract, develop and maintain a sustainable client base.**

**Exchange programmes, cross-culture collaboration and study tours are some ways in which extra-jurisdictional knowledge and experience can be enhanced. The lawyers of tomorrow will need a wider range of language skills, experience of living and working overseas, along with an adaptable and inclusive global view.**

5. It is anticipated that Hong Kong University will provide full details regarding qualifying law programmes offered by that University.

**No comment is provided on the programmes offered by Hong Kong University.**

6. It is anticipated that City University will provide full details regarding qualifying law programmes offered by that University.

**No comment on the programmes offered by City University is provided.**

7. It is anticipated that the Chinese University of Hong Kong will provide full details regarding qualifying law programmes offered by that University.

**No comment on the programmes offered by Chinese University is provided.**

8. Are each of the law programmes offered by the three universities capable of meeting the challenges of legal practice and the needs of Hong Kong society?

**No comments are provided on the programmes offered by the three institutions.**

9. LL.B programmes

**No comments are provided with regards to the LLB programmes offered.**

10. PCLL programmes

**General comments regarding the PCLL Law programmes and their operation are as follows:**

(a) Standards of the PCLL graduates at the three universities may be different

**The consistency of standards is one area that may require review. Although the Bar Association and Hong Kong Law Society do have representatives sitting on the respective examination boards, and appoint external examiners, the professional bodies may not be involved in the standard of marking. It would be beneficial to the profession if professional bodies were involved in the process of review.**

(b) Law graduates who are not admitted into the PCLL in any one of the three universities on the first application will be disadvantaged from becoming a lawyer in Hong Kong

**According to anecdotal evidence provided by the graduates of our institution, admission to the PCLL programme is a one-off test. A student who fails to enroll may be unable to become a lawyer in Hong Kong since the chance of gaining admission in the following year is significantly hindered. In other words, application is based on a “now or never” basis and it is unlikely that law graduates would have a second chance. In 2013/2014, a total number of 2516 applications for the PCLL programmes were received, and only 699 applicants were admitted.<sup>3</sup>**

(c) Differences in GPA scores

**Anecdotal evidence provided by graduates of our institution suggests that the lack of consistent GPA scores between the universities is disadvantageous to law graduates when seeking admission. Many local law students and law students from overseas felt frustrated at the PCLL admission process because of the lack of consistency and the unfair competition in such process. Different schools of law may or may not have adopted a grading curve as part of their grading system. Even if they do, the curve can vary across different schools of law. Inevitably this**

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<sup>3</sup> These statistics are based on the reports provided in The Standing Committee on Legal Education and Training, Annual Report 2014, 1 January 2014 to 31 December 2014.

kind of variations has caused the differences in GPA scores among qualifying degree graduates and hence led to the dilemma of graduates in choosing which PCLL provider they should put as their first choice. For example, there are two local graduates from the same school of law with the same GPA score. It is not uncommon for one of them to be rejected by their home PCLL provider and the other one to be admitted to the part time PCLL programmes provided by another school of law. For law students from overseas, the situation is more pronounced and it is much harder for them to evaluate their chances of admission.

(d) Entrance degree dilemma: JD, Local LLB or Overseas LLB

**No comment is provided on the JD/LLB pathway dilemma.**

(e) Perceived preference of law firms selecting JD graduates

**No comment is provided on the preference of law firms.**

11. Quality assurance mechanisms provide and the standards of legal education and training in Hong Kong

It is advisable to set up new or additional mechanisms for measuring the quality and standard of legal education and training in Hong Kong:

**Anecdotal evidence suggests that graduates experience significant difficulties when transferring from the study of law to working as a trainee solicitor/pupil. Practical lawyering skills are essential and more emphasis needs to be placed on legal education in equipping law students with soft and hard practical skills. Training also needs to be more client focused with emphasis on interviewing and advising. Focus on practical training will enable graduates to make a smoother transition from student to competent legal professional. The CEE could be a novel way of introducing such practical lawyering skills that are sensitive to market needs.**

12. Views on the proposed Common Entrance Examination

**It is anticipated that the regulation of the PCLL programme would be enhanced if a self-standing Common Entrance Examination (CEE) is implemented. This would in turn allow the existing PCLL programme providers to expand the size of its class and new programme providers to join the market to accommodate all of the applicants. On this basis, there would be potentially enough PCLL seats for all the applicants and the 1300 students may be eligible to take the CEE. Allowing 1330 students to take the exam does not necessarily mean that all students will pass the exam. If the passing rate is set at 50%, it is expected that the new system will still produce only 650 lawyers and the rest would not meet the standard. The difference between the current system and the proposed one is that the half who failed the CEE would be allowed to make a second attempt or even third attempt**

until a point in time that they can succeed. It is submitted that the CEE would bring fairness to the qualification system and this would be in the interest of the public.

13. Views on pre-qualification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination

**No Comment is provided with regards to pre-qualification vocational training of trainee solicitors, or Overseas Lawyers Qualifying Examination.**

14. Views on current arrangements for pre-qualification vocational training of pupils

**No Comment is provided with regards to the current arrangement for pre-qualification vocational training of pupils.**

15. Any other views on strengths and weaknesses of the present system of legal education and training in Hong Kong

**No Comment is provided on strengths and weaknesses of the present system.**

16. Further consultation

**The Department of Law and Business would be willing to participate in an interview during the week of 14 December 2015.**

Initial Submissions  
of the  
Faculty of Law, The University of Hong Kong  
on the  
Consultation Paper of the Comprehensive Review of Legal Education and  
Training in Hong Kong,  
Standing Committee on Legal Education and Training

**1. Introduction**

- 1.1 The HKU Faculty of Law welcomes the opportunity to make these initial submissions to the Panel of Consultants of the Standing Committee on Legal Education and Training (SCLET). The fundamental educative mission of modern law faculties in the context of designing and delivering “qualifying law programmes” is two-fold: firstly, to equip graduates with sufficient core knowledge and skills in the study of law for a career in the legal profession, and secondly, to provide exposure to a more general liberal education going beyond the more specific needs of the legal profession. The challenge is to strike an appropriate balance between the two. The HKU Faculty of Law is keenly aware of this and strives to balance these missions and not to sacrifice one mission in pursuit of the other.
- 1.2 Much has changed in the conditions of and provision for legal practice and legal education in Hong Kong since the Roper and Redmond Review in 2000-2001. The dynamic changes in the HKU Faculty of Law’s educational programmes have been responsive to the evolving challenges and needs in Hong Kong society since the handover in 1997, with a continual process of evolution and development. Some of these developments include:
- a) extension of the LLB degree programme from three years to four years, giving students a sounder grounding not only in core subjects but also allowing greater breadth of study, including the option of choosing minors and specialisation;
  - b) extension of the successful law and business, and law and government, double degrees to a five year fully integrated programme, as well as the introduction of a new double degree programme in law and literary studies (likewise now a fully integrated five year programme) These double degree programmes have the advantage of encouraging and developing interdisciplinary learning and thinking, a quality which is increasingly important in the workplace;

- c) introduction of a new intensive two-year JD programme with an enrolment limit of 50 students in order to ensure quality. This programme taps into the pool of students who already have another non-law degree, enabling them to study law in a condensed period of time, focusing mainly on the core areas with smaller room for electives;
- d) significant changes to the PCLL programme, in terms of its curriculum design and quality assurance mechanisms. To achieve a more skills-based practical curriculum, some of the substantive law content of the former PCLL has been folded back to the LLB (and JD) as PCLL-requisites;
- e) introduction of a new part-time PCLL programme to provide more flexibility and opportunities for law students seeking to qualify;
- f) introduction of new international joint degree programmes with leading overseas law schools including Kings College London, University of British Columbia, University of Pennsylvania, Zurich University, and (soon to be concluded) University College London. These programmes provide a unique opportunity for our students to have the experience of substantial “immersion” in a jurisdiction apart from Hong Kong, encouraging an international and comparative attitude towards the law;
- g) increasing the number of HKU law students going on exchange for 1 or 2 semesters (with over 100 students now going out each year to leading Mainland and international law schools – on average 50% of the graduating class) as well as increasing international exchange students studying each year at the Faculty (now with around 100 students coming each year from leading law schools around the world);
- h) increased range of elective course offerings in our areas of strength, particularly as a result of increasing the length of the degree to 4 years (5 years for double degrees): Chinese law, corporate and financial law, human rights and public law, intellectual property and information technology law and international law;
- i) establishment of the Clinical Legal Education Programme in 2010 and the Refugee Clinical Legal Education Programme in 2009, both of which have given law students greater opportunities to learn experientially the practice of law as well as to assist the underserved in the community;
- j) introduction of a capstone mooted course for all LLB and double degree students as well as the requirement to complete one designated research requirement prior to graduating;
- k) increasing student participation in the research activities of the five research centres (Law and Technology Centre, Centre for Chinese Law, Centre for Medical Ethics and Law, Centre for Comparative and Public

Law and Asian Institute of International Financial Law) and opportunities for student knowledge exchange;

- l) greater opportunities for students to serve as editors to the three law review journals housed in the Faculty; and
- m) introduction of new LLM programmes in Information Technology and Intellectual Property, and Arbitration and Dispute Resolution, in addition to our existing general LLM, LLM in Corporate and Financial Law, LLM in Chinese Law, LLM in Human Rights and Master of Common Law (MCL), to further opportunities for continuing education and life-long learning, with further programmes set for introduction in the near future to reflect the needs of the profession and the community (in areas such as compliance and regulation, and law and medicine).

1.3 The HKU Faculty of Law's current mission statement was carefully crafted to reflect not only its traditional role in producing excellent Hong Kong legal practitioners but also with an eye to educating future leaders in law, business and government in Hong Kong, Mainland China, Asia and beyond. That statement reads as follows:

- a) To instill in our students a strong commitment to the values inherent in the Rule of Law and advance accountability, justice and fairness in society.
- b) To train future leaders of the community by equipping our students with the highest level of analytical, professional and practical skills; critical acumen; and sensitivity to the wider social context in which the law operates.
- c) To generate cutting edge and timely research that engages with, and offers innovative solutions to, legal issues that arise in an increasingly interconnected world.
- d) To transform and disseminate our knowledge to empower and to serve the wider community in Hong Kong and the Asia-Pacific Region.

1.4 The current SCLET review must be seen against the background of other reviews of Hong Kong law faculties conducted in recent times. In particular, HKU, as part of its regular review of faculties, conducted a review of the Faculty of Law in 2015 ("Faculty Review"). As the recent University Faculty Review considered all aspects of the Faculty and its contribution to legal education, the findings of this review may be relevant to the SCLET review.

1.5 The panel that conducted the 2015 Faculty Review consisted of academics from the HKU Faculties of Education, Social Sciences, and Business and Economics, a solicitor lay member (Mr Herbert Tsoi, former President of the Law Society of Hong Kong), the Dean of the Faculty of Law of University of

New South Wales (Professor David Dixon), and the Director of the Centre for East Asian Studies at the University of Pennsylvania Law School (Professor Jacques deLisle). The following excerpt from the review report provides useful evidence of how the HKU Faculty of Law has been responding to the changes and demands of the legal marketplace in recent years:

“4.1 The Faculty has made remarkable progress since the Review in 2000. It has achieved a strong reputation globally, and is recognized as one of the top law schools in the region and the preeminent law school locally. Among the indicators of the Faculty’s international standing are its development of formal relationships and reciprocal visits by counterpart members of the professoriate around the world, and exchange students and other collaboration with leading universities in the Mainland, the common law world, and elsewhere. The most significant change during the period since the last review has been the Faculty of Law’s development as a highly regarded, internationally significant research institution.

4.2 The Faculty continues to attract the top local students to its LLB and PCLL programmes, which have undergone significant curricular reform and development to cope with the demands of a changing legal marketplace and an evolving world more generally. The Faculty has developed innovative programmes including the Juris Doctor, several LLM programmes, double-degrees with other Faculties at HKU, joint degree programmes with law schools abroad, and other opportunities for study and training outside Hong Kong. These initiatives appeal to new generations of high quality students, and address their educational needs and aspirations. The programmes have played a significant role in drawing students from Mainland China and abroad. The Faculty is commended for providing professional legal education of such high quality.

4.3 The Faculty has introduced experiential learning opportunities such as the Clinical Legal Education Centre within the LLB programme. It is encouraged to broaden these experiences for students. The creation of the position of Career Development Manager is also applauded and should be actively called to the attention of students and graduates.

4.4 ...The students and recent alumni met by the Review Panel expressed strong satisfaction with the quality and value of their education. Leading practitioners met by the Review Panel indicated that law firms in Hong Kong prefer HKU graduates to those of other local institutions, and the overall employment rate of graduates is highly satisfactory. Alumni hold leading positions in law and public life in Hong Kong.”

1.6 The review panel also noted in its report that in the 2015 QS ranking of the world’s top 200 law schools, the HKU Faculty of Law maintained its place in

the top 20 law schools in the world and was one of only three Asian law schools in the top 20.

## 2. Challenges of Legal Practice in Hong Kong (Q1)

- 2.1 The past, present and future challenges of legal practice in Hong Kong stem mainly from both the new constitutional order established after 1997 as well as significant economic and social changes which have taken place and which continue to evolve rapidly. The **160 articles of the Basic Law** have had a profound influence on the shape of the legal system and all aspects of life in Hong Kong. The relationship between the Chinese central authorities and the Hong Kong special administrative region is an evolving one. Whatever area of law one practices, the impact of the Basic Law has been such that all legal practitioners must have a competent working knowledge of the general principles of ‘one country, two systems’, the system of rights protection, the political structure and unique approach to separation of powers, the economic, social and cultural systems under the Basic Law, the external affairs authority of Hong Kong, and the role of the Standing Committee of the National People’s Congress in the Hong Kong legal system.
- 2.2 **Human rights law and litigation** has grown significantly and had great impact in many aspects of law beyond criminal law and administrative law. There are four anti-discrimination laws (sex, disability, family status, race) and the Equal Opportunities Commission has been active in exploring the possible expansion of these laws. The former and current Chief Justice have made references to the rising number of judicial review cases and warned against using the courts to solve political issues. Privacy, personal data protection, media freedom, freedom of assembly and protest, academic freedom, Internet freedom, access to information are at the heart of many, if not most, of the issues of the day.
- 2.3 The **Court of Final Appeal (CFA)** was established in 1997 to replace the Judicial Committee of the Privy Council as Hong Kong’s apex court. With four permanent judges including the Chief Justice, it has contributed to the development of a distinctive Hong Kong jurisprudence in many areas. With a distinguished foreign judge (from Australia, United Kingdom or New Zealand) sitting in almost 90% of all cases, the jurisprudence has been enriched with a wealth of comparative law authorities. On average the CFA decides about 25 appeals per year, which is two to three times the number of Hong Kong decisions decided by the Privy Council pre-1997. This means practitioners have had to work harder to keep up with more/new law coming from the final court, especially given the high incidence of lower court reversal (more than 50%). In many cases, the CFA has demonstrated its independence from English authorities as it charts its own course.
- 2.4 The Basic Law requires Hong Kong to “provide an appropriate economic and legal environment for the maintenance of the status...as an **international**

**financial centre.**” Hong Kong must also practice an “independent taxation system” and “strive to achieve a fiscal balance”. Lawyers have played an instrumental role in serving these constitutional aims. With international and regional financial crises, the accelerated rise of the Chinese economy, and the growing interdependence of the Hong Kong and Mainland economies, the challenges and opportunities for Hong Kong lawyers have been substantial.

2.5 Everything seems to be “**cross-border**” nowadays. There are cross-border families, cross-border parallel traders, cross-border students, cross-border crimes, cross-border pregnant mothers, and so on. The “border” here is not only Mainland-Hong Kong, but also Macau-Hong Kong, Taiwan-Hong Kong, Asia-Hong Kong and beyond. In 2014, 250 million people crossed the Hong Kong border at control points other than the airport. In the same year, 15 million vehicles passed land boundary control points, the majority of which were goods vehicles. The increasing social and economic integration of the two systems of the Mainland and Hong Kong has been quite obvious. It has affected all aspects of legal practice. Unless one has a niche practice, success in legal practice today requires fluency in English, Cantonese and Putonghua, basic knowledge of the Chinese Mainland legal system, and awareness of how relevant cross-border conflicts are resolved. Increasingly Hong Kong practitioners and law firms are trying to find ways to provide and offer legal services more directly to Mainland businesses and people. The challenges and opportunities will only increase once the Hong Kong – Zhuhai – Macau Bridge and the Beijing-Guangzhou-Shenzhen-Hong Kong High-Speed Railway are completed. Particular mention should be made of the need to continue to develop expertise in cross-border financial, corporate, securities and commercial transactions in the light of Hong Kong’s position as an international financial centre and as a “super-connector” to the Mainland.

2.6 Hong Kong has experienced **substantial regulatory change** since 1997. Major legislative reform has been seen in recent times in the areas of competition law, company law, food safety regulation, anti-money laundering and counter-terrorist financing law, environmental and health protection (eg motor vehicle idling, product eco-responsibility, anti-smoking), housing safety and efficiency, and broadcasting and communications. The Securities and Futures Ordinance 2003 was a major revamp of the law and has been the subject of several cases before the CFA. The Competition Ordinance, which establishes the Competition Commission, will come into force on 14 December 2015. Following the Global Financial Crisis of 2008, there has been a continuing series of legal and regulatory changes to enhance financial stability and Hong Kong’s role as an international financial centre. Looking ahead, challenges lie in reforming the law of insolvency and laws concerned with corruption and bribery.

2.7 The changes introduced by the **Civil Justice Reform** came into effect in 2009 after nine years of study and deliberation. It has had a noticeable effect on how civil proceedings are now conducted and administrated. It has also given rise to increased attention paid to **alternative dispute resolution mechanisms**. With much support by the government, the arbitration law was substantially

reformed in 2011 and a new Mediation Ordinance came into force in 2013. The government continues to promote Hong Kong as a leading regional dispute resolution centre. Most recently, research from Queen Mary University of London and White & Case recognized Hong Kong as the third most significant venue for arbitration (following London and Paris and ahead of Singapore and Geneva).

- 2.8 It is a well known that property prices in Hong Kong have soared since their low point in 2003. Hence, **land and conveyancing transactions** remain an important source of work for Hong Kong lawyers. However, land law in Hong Kong is unique, complex and increasingly connected with administrative regulation, sometimes with a constitutional dimension.
- 2.9 There is growing concern with the **state of criminal justice** in Hong Kong. As the law becomes more complex (given constitutional influence), it remains an area in which it is difficult to find local expertise and experience amongst practitioners and judges. Too often there are cases in which individuals have been wrongfully convicted or detained. The legal aid payment differential between criminal and civil cases is such that most practitioners prefer the latter. A substantial number of defendants still face criminal trials without representation. Needless to say the rewards of private practice in civil cases far exceed that of criminal law practice.

### 3. Needs of Hong Kong Society (Q2)

- 3.1 **Needs of business.** Regulation in the financial and commercial sectors has become increasingly complex, with layers of regulation from local, regional and international sources. The compliance and risk industry has greatly expanded in recent years. Businesses also require multi-jurisdictional legal expertise and inter-disciplinary teams that can handle complex transactional work including financing and initial public offerings. The need of the business and financial sectors for legal services tracks the positioning of Hong Kong as an international financial centre and a gateway to the Mainland. Cross-border, and compliance and regulatory expertise, just to name two examples, need to be developed and disseminated. The Faculty has responded to this with the work of its Asian Institute of International Financial Law to research and grow this kind of expertise, and the overflow into electives in the LLB, JD, and the LLM programmes (both General LLM and the specialist LLM in Corporate and Financial Law). Our double Bachelor of Business Administration and LLB programme provides unique opportunities for students to develop significant inter-disciplinary skills in this sector.
- 3.2 **Social Needs.** The rise of certain social phenomena in recent years have given rise to the need to develop and transmit legal expertise in a variety of different areas. The Faculty responded to the advent of the Basic Law and the growth of public interest and constitutional and administrative law litigation by developing a vibrant research programme within its Centre for Comparative

and Public Law, with the consequent enrichment of core law courses and elective offerings in the LLB, JD and LLM programmes (both the General LLM and the specialist LLM in Human Rights). The concern for the less fortunate and disadvantaged members of society has found expression in the Faculty's two Clinical Education programmes (one targeted at those who may not be able to afford legal services, and another at refugees), both of which are electives in our law qualifying and LLM programmes. There are many other examples of the Faculty responding to emerging needs. One is the establishment of the Law and Technology Centre (LTC) and the specialist LLM in Intellectual Property and Information Technology, together with overflow into electives for the qualifying law programmes. Another is the setting up of the Centre for Medical Ethics and Law (CMEL) which has overflowed into electives for the qualifying law programmes. Both Centres are interdisciplinary and jointly hosted by the Faculty and the Department of Computer Science (LTC), and by the Faculty of Medicine (CMEL).

3.3 **Needs of government and other public bodies.** As noted above, since 1997, there has been continual expansion and evolution of the law in Hong Kong, driven by the Basic Law as well as ongoing economic and social changes. As a result, there is an ever-increasing need for legal expertise in government and other public bodies to navigate the increasingly complex legal and regulatory environment in Hong Kong as well as the Mainland and around the world. Quite a few statutory public bodies have been established since 2000 and many require in-house and external legal expertise. Some of those bodies include the Competition Commission, the Financial Reporting Council, the Hong Kong Internet Registration Corporation Ltd, the Construction Workers Registration Board, the Hong Kong Domain Name Registration Company Ltd, the Appeal Board Panel under the Lifts and Escalators Ordinance, the Inspectors' Registration Committee, the West Kowloon Cultural District Authority and the Independent Police Complaints Council. The Faculty's double Bachelor of Social Science (Government and Laws) and LLB programme was designed to impart the kind of interdisciplinary expertise increasingly needed by Government.

3.4 **"Traditional" but Continuing Needs.** There remains a cluster of rather less glamorous, but equally important needs in the traditional core of the law. One example is the need to continue to develop and impart expertise in land law and conveyancing. Another example is the need to service and improve the criminal justice system. Land law and criminal law and procedure is part of the compulsory core for practice in all our programmes. The challenge is to maintain expertise in these subjects and the Faculty has worked hard to ensure that there are sufficient faculty members teaching and researching in these areas.

#### **4. New Demands on Services Provided by Lawyers (Q3-4)**

4.1 Most of the demands listed at Q3 of the Consultation Paper are not entirely new to Hong Kong, and the three law schools have been responding to these

demands from perspective of legal education and curricula reforms. Some emerging fields of law include competition law, innovation and entrepreneurship, robotics and artificial intelligence, and cultural heritage.

- 4.2 As for new demands on services not yet identified, this will depend on the path of the future integration between China, Taiwan, Macau and Hong Kong, the progress of the Asian Infrastructure Investment Bank, the Chinese “One Belt, One Road” initiative, the development of the Trans-Pacific Partnership Agreement, ASEAN and other regional trade and investment arrangements and their relevance to Hong Kong, the development of further anti-corruption measures, and the local government support for greater legal aid, especially legal aid clinics.

## **5. Capability of Law Programmes to Meet the Challenges of Legal Practice and Needs of Society (Q5, Q8-9)**

- 5.1 HKU now offers the following six qualifying law programmes:

- a) Bachelor of Laws (LLB) (4 years)
- b) HKU Double Degree Programmes (all 5 years):
  - i) Bachelor of Business Administration (Law) (BBA(Law)) and Bachelor of Laws (LLB) (BBALaw&LLB)
  - ii) Bachelor of Social Sciences (Government and Laws) (BSocSc (Govt & Laws)) and Bachelor of Laws (LLB) (BSGovernmentLaw&LLB)
  - iii) Bachelor of Arts in Literary Studies (BA) and Bachelor of Laws (LLB) (BA&LLB)
- c) Juris Doctor (JD) (2 years intensive)
- d) Postgraduate Certificate in Laws (PCLL) (1 year full time / 2 years part time)

A summary of the syllabi is found in the Appendix. In addition to these basic programmes, a small number of students embark on International Joint and Double Degree programmes:

- Joint Programme with University of British Columbia (LLB (HKU) – JD (UBC)) (3 years HKU, and 2 years UBC)
- Double Degree Programme with University of Zurich (LLB (HKU) – MLaw (Zurich)) (3 years HKU, and 1.5 years Zurich)
- Joint Programme with University of Pennsylvania Law School (JD (HKU) – LLM (UPenn)) (2 years HKU, and 1 year UPenn)

The HKU Faculty of Law is currently concluding a joint degree with University College London (LLB (HKU) – LLB (UCL) in 4 years) which is expected to launch in 2016.

- 5.2 In general, we believe the HKU Faculty of Law’s law programmes have been capable of meeting the challenges of legal practice and the needs of Hong Kong society. In particular, we would note the following features of the HKU qualifying law programmes.
- 5.3 Building beyond the traditional. There is a general consensus that the “traditional” core areas of the law are adequately covered in the LLB, Double Degree and JD programmes. The challenge is to deal with education beyond the strictly legal, and the more recent and emerging trends or areas in the study and practice of the law. The Faculty has been actively engaging in questions of whether, how much and how they are to be incorporated in the curriculum.
- 5.4 A liberal education and optimizing choice. In the context of preparing graduates for legal practice, the HKU Faculty of Law has been fully aware of the need to go beyond the law core and to provide sufficient general liberal education and to address the “new” phenomena raised in the Consultation Paper such as the “globalization of legal services” and the aspiration of Hong Kong to be an international legal services and dispute resolution centre, the opening up of the Mainland market, the interface between law and technology, and “emerging fields of law” concerning the environment, privacy, human rights, compliance regulation, to name a few. The challenge is in the question of how and when elements of these “non-traditional” areas of law are to be introduced. Should it be in the qualifying law programme, the PCLL, vocational training, or even in continuing legal education such as non-degree executive courses and Masters programmes? The approach of the Faculty has been to favour student choice and to work towards the provision of opportunities to engage in these areas, rather than to create more compulsory or core subjects, which would have the disadvantage of limiting diversity in legal education, both with regard to student and faculty choice. The primary strategy of the faculty has been to identify an absolutely essential core of compulsory subjects or courses, and then to leave the rest to the interests and inclination of the student. The fundamental philosophy underlying this is that the compulsory core will provide a sound grounding in legal thinking, analysis and skills which, together with other PCLL pre-requisites, prepares the student for the professional training in the PCLL. The student will also be able to pick up more specialized areas of law, either as electives in the qualifying programmes (including the PCLL), or later on as part of continuing legal education or in an advanced degree like an LLM. Apart from its primary function as a provider of the qualifying programmes, the Faculty also sees itself as a supplier of subsequent learning in the form of graduate law programmes and of other legal education activities such as conferences and workshops, many of which earn Continuing Professional Development points for practitioners.

- a) LLB. Out of 240 credits in the 4-year LLB programme, 48 credits are language and University Common Core requirements applicable to all undergraduate students. Another 36 credits of free electives enable students to choose to do even more non-law courses or to pursue more law courses, depending on their own preferences. Depending on student choice, the non-law component will be in a range of 20% (where students do not choose any non-law electives) to 35% (where students use all free electives for non-law courses). We believe this to be an appropriate apportionment and one that provides a high level of student choice.

There is also the need to factor in the more interdisciplinary and contextual law courses which are part of the compulsory core law component of the LLB. Courses such as Law and Society and Introduction to Legal Theory contribute significantly to general liberal education purposes. Similarly students who use free electives to read law courses may well choose law electives which have a significant interdisciplinary approach. Examples of these electives are Law and Literature, Law and Social Theory and Law and Development in the PRC. There are many others.

Not to be underestimated is the contribution of teaching methodology. Even in the most “core” areas of Contracts, Torts and Criminal Law, few reputable law schools nowadays teach only “black-letter law”. Thus, Contracts and Torts often involve economic perspectives, and Criminal Law often engages moral theories.

- b) Double degrees and JD. There is generally little concern that students of these two kinds of programmes are not receiving sufficient general liberal education. Double Degree students will have to spend a very significant proportion of their time reading for the non-law degree (while at the same time completing exactly the same core of law courses as LLB students), and JD students will already have had a full University, and possibly work, experience.

The JD is designed with a view to deliver, in comparison to the undergraduate degrees, a more condensed programme on the understanding that the candidates have already enjoyed academic experience in their first (non-law) degree programme, and for many of them, some years of working experience. In comparison to the pure LLB, “broadening” subjects like Law and Society and Introduction to Legal Theory are not part of the compulsory core. The 12 credits of Legal Research and Writing in the LLB come in the more compact 6 credits of Legal Research and Methods. The skills-oriented Mooting and Dispute Resolution in the LLB is not compulsory. Business Associations is not compulsory, but remains a PCLL prerequisite. Introduction to Chinese Law is compulsory to all but those with a substantial background in Chinese Law. Elective choice is restricted in two ways – all must take at least one “International, Comparative and Theoretical” law elective, and

those with only a Chinese law background must take a “Common Law” elective.

Compared with the regular LLB programme, those in both the JD and Double Degree programmes enjoy fewer opportunities to read electives, either in law or non-law subjects. In effect these students have already, in effect, exercised their options by choosing to embark on either a double degree programme, or on an initial non-law degree before joining the JD programme.

5.5 Core knowledge for business and commercial practice. As highlighted above, the needs of business and finance continue to be a major driving force in the development of Hong Kong and the legal profession. In particular, increasing integration with the Mainland combined with major legal and regulatory changes in the commercial sphere are central concerns for the profession and for Hong Kong’s future development. In this respect, the HKU Faculty of Law has continued to increase the range of course offerings in related areas, with students benefiting particularly from the increase of length of the LLB in being able to take advantage of these offerings. In addition, the BBALaw & LLB continues to draw very high quality students seeking an education spanning law and business. Further, the Faculty’s LLM offerings continue to expand, particularly in business related areas, with the LLM in Information Technology & Intellectual Property, LLM in Corporate and Financial Law and LLM in Alternative Dispute Resolution as well as planned new offerings in compliance and regulation. A major change has taken place in the expected career path law graduates with the growth in in-house legal roles and the need for broader perspectives to support future career development, both in traditional firms and at the bar as well as in other roles such as in-house, corporate and government.

5.6 Globalisation and internationalisation. The concern here is that law students should have a degree of exposure to the law and legal systems of jurisdictions outside of Hong Kong SAR. Instead of creating yet another compulsory subject, the Faculty has adopted a combination of strategies in response to this need:

- a) Embedding elements of internationalism and comparativism in the teaching of core law courses: Few, if any, University law courses can get by these days with just teaching the law of Hong Kong. The teaching of constitutional law, for example, is to a significant extent, a comparative exercise where the law of several jurisdictions (including the jurisprudence of international courts) have to be studied. This is helped along by the fact that members of the Faculty, almost invariably, are either originally trained in a jurisdiction outside of Hong Kong, or have spent a significant period of study in an institution outside of Hong Kong.
- b) International and comparative electives: A glance at the Faculty’s elective offerings for both LLB and JD will reveal a considerable raft of subjects which require the students to study the law or legal system of a

jurisdiction outside of Hong Kong, either on its own or comparatively. In addition, the JD programme has a requirement of at least one elective from a list of International, Comparative and Theoretical courses.

- c) Visiting Faculty: The “internationalization” of both core and elective subjects receives a considerable boost from the presence of Visiting Faculty who come from many different jurisdictions, and who bring along with them a wealth of knowledge of foreign legal systems which they impart to students.
- d) Student exchange programmes: The Faculty has a vibrant student exchange programme. Students may choose to study for one or two semesters at a partner law school outside of Hong Kong. Approximately 50% of our LLB students would have had an exchange experience where they would inevitably have been exposed to another jurisdiction. The objective of both the Faculty and the University (in its “Horizons Programme”) is that all undergraduate students will in the next few years have opportunities to pursue at least one overseas and one Mainland experience during their course of study.
- e) Student body: The student body is itself increasingly diverse, reflecting the attractiveness of Hong Kong, HKU and the Faculty of Law. This is because of the significant corps of exchange students and masters students who come from the Mainland and overseas. In addition, approximately 10% of undergraduate law students now come from the Mainland or overseas.
- f) International Joint and Double Degrees - UBC, UPenn, Zurich: The various international joint and double degree programmes provide opportunities for an even deeper international experience for students, both for HKU students going out as well as for overseas students coming in to enrich the student cohort.

5.7 Mainland (Chinese) Exposure. This is a sub-set of the previous concern and is targeted specifically at sufficient exposure to the law and legal system of Mainland China. In recognition of the importance of this element in legal education, we have again adopted a combination of measures:

- a) Compulsory Core: All our programmes require students to read Introduction to Chinese Law (LLB), or Introduction to Chinese Law and Legal System (JD, unless the student is already trained in Chinese Law). This ensures that all our graduates have, at least, a basic knowledge of Mainland Law. We are about to make this experience even better by launching a pilot scheme to enable part of this course to take place in a reputable Mainland law school in collaboration with Faculty members there. The greater immersion in the Mainland jurisdiction should significantly improve the course.

- b) Mainland Law Electives: We have a particularly rich LLB and JD Elective offering – probably the most extensive outside of the Mainland. This is made possible by some 8 or 9 Mainland-trained Faculty members – possibly the largest representation in a law school outside of the Mainland – in addition to wide expertise in Mainland legal issues among other faculty members. Furthermore, we also receive a steady stream of Visiting Faculty who offer Mainland Law electives. Opportunities are further broadened through the China Practice elective in the PCLL as well as the LLM Chinese Law. Further, all masters programmes have a significant number of Mainland related courses in specific areas. Finally, the MCL brings both Mainland judges and government officials in addition to very good Mainland law graduates to HKU, enhancing the diversity of the student population.
- c) Student exchange to Mainland schools: Each year, the Faculty offers LLB and Double Degree students a number of student exchange opportunities with top Mainland law schools, where they can choose to spend one or two semesters.
- d) Extra-curricular Lectures and Seminars: The Faculty’s Centre for Chinese Law hosts a great many lectures, seminars and conferences on Mainland Law which are open to students.
- e) Use of Chinese in Law: The Faculty has developed over more than 10 years a highly intensive programme in use of Chinese in law, involving one on one oral and written interaction with specialist instructors. The PCLL has recently introduced an elective on Use of Chinese in Legal Practice.

5.8 Research led teaching: Expertise from the LLM Corporate and Financial Law, LLM Human Rights, LLM Information Technology & Intellectual Property, LLM Alternative Dispute Resolution and LLM Chinese Law often overflow into LLB and JD electives, providing opportunities for upper year students to participate in a wide range of specialized courses. Opportunities for extra-curricular learning stem from student engagement in the many research projects conducted by the Faculty five research centres.

5.9 Skills and dispute resolution. While the lion’s share of skills and dispute resolution training rests with the PCLL (see below), and of course with the vocational training phase, the Faculty is aware of the need to introduce elements of it in the LLB and JD programmes:

- a) Skills core: The LLB and Double Degree programmes require 12 credits of Legal Research and Writing and 6 credits of Mooting and Dispute Resolution. The JD programme contains a condensed 6 credits of Legal Writing and Research.

- b) Skills and dispute resolution electives: The Faculty has generous elective offerings in the field of Skills and Dispute Resolution. For example, LLB electives include: Introduction to Negotiation Theory and Practice, Mediation, Alternative Dispute Resolution, Arbitration Law, Commercial Dispute Resolution in China, Online Dispute Resolution. JD skills and dispute resolution electives include Current Issues in International Arbitration and Dispute Settlement, Arbitration Law Workshop, Online Dispute Resolution, Financial Dispute Resolution: Hong Kong and International Perspectives. JD offerings also include Clinical Legal Education, and Clinical Legal Education – Refugee Stream.
- c) Mooting opportunities: There are an ever increasing number of extra-curricular domestic and international mooting competition opportunities for both LLB and JD (and PCLL) students. A few of them, notably the Jessup Moot Competition, are credit-bearing electives.
- d) Clinical legal education and experiential learning: Clinical legal education courses (Clinical Legal Education Programme (LLB/JD), Refugee Clinical Legal Education Programme (LLB/JD/LLM), Human Rights in Practice (LLB/JD/LLM)) offer additional opportunities to bring real-world experience to course-based skills and knowledge, assisting both the development of the student as well as supporting underserved members of the community.

5.10

Emerging areas. The Consultation Paper identifies a number of “emerging” areas – human rights, environmental law, privacy, immigration, and international justice. The list could go on –regulation and compliance, medical law and ethics, and intellectual property and information technology, just to name three. Some of these will be engaged by one or more of the core subjects. For example, a fair amount of human rights issues will be discussed in Constitutional Law. In the main, however, most of them will not be squarely part of the core curriculum, and we do not think that they can or should be. The principal strategy here is as follows:

- a) To provide sufficient electives: The Faculty is strong on human rights electives (eg, Globalization and Human Rights (LLB), Human Rights and Governance (LLB), Business and Human Rights (JD)). It has a respectable slate of environmental law electives (eg, Comparative Environmental Law (LLB and JD), International Environmental Law (LLB), Hong Kong Environmental Law (JD)). Privacy and Data Protection is offered to both LLB and JD students. International Protection of Refugees and Displaced Persons is also offered to both LLB and JD students. Similarly, International Criminal Law is offered in both the LLB and JD programmes. These electives are run by a judicious combination of resident and visiting Faculty. These are reinforced by an ever broadening range of electives in the Faculty’s other areas of strength (eg. corporate and financial law, IT and IP, etc).

- b) Extracurricular programmes: Once again opportunities abound for legal education afforded by the flurry of extra-curricular conferences, seminars and lectures. Just to give one example, a major international Privacy Conference is held every year in the Faculty where much can be learnt from the papers delivered by privacy scholars and practitioners from around the world.

- 5.11 Impact of the 4-year LLB degree. Need for 5 years? The question of a 4 or 5 year LLB programme appeared to have been extensively discussed in the Standing Committee on Legal Education and Training (Annual Report 1 September 2007 to 31 December 2008, page 1) where it was decided that the 4-year LLB should remain notwithstanding the “3+3” change in secondary education. The change from a 3 to 4 year LLB in 2004 should rather be seen as a precursor of the general addition of another year of University education to other disciplines in 2012. The 2004 change had a two-fold rationale – to enable more substantive law to be taught in the LLB in order to allow the PCLL to focus on practical training, and to enable students the “broadening” option of taking more non-law electives. The Faculty does not see the decision to retain the 4 year LLB in 2012 to have resulted in a “loss” of some kind. This is because “gain” made in 2012 by the other (non-law) programmes was already made for the LLB in 2004. Simply, the 2004 changes in the other (non-law) programmes put them on par with the LLB.
- 5.12 The primary educational measure employed by the University to “compensate” for the one-year loss in secondary education is the Common Core requirement. LLB students, as with all other undergraduates of HKU, are required to read 36 credits (six 6-unit courses) of Common Core subjects. That leaves the remaining 24 credits (60 – 36 credits) to be put to good use in strengthening the law (or elective) component of the LLB – as compared with the old 3-year LLB.
- 5.13 It may be too early to tell if there if there are “adverse effects”, but the Faculty’s experience is that there has not been any detriment to the quality of the LLB programme or of the progress of the students, nor have we heard complaints of this nature by either faculty or students. The Faculty’s position is that the Standing Committee’s decision to maintain a 4-year LLB is a sound one and there is no reason to alter it.
- 5.14 Similarly, the Double Degree Programmes are also under the same requirement of 24 credits of Common Core courses (so there is some “saving” as a result of studying two degrees and the consequent “broadening” inherent in that kind of programme)). At the same time, the 5 year double degree programmes require exactly the same 126 core law credits as the 4 year LLB, and a varying degree of credits for law and free electives. As with the 4 year LLB, our experience has been that the quality of the law component of the 5 year Double Degree programmes have not been compromised. In fact, during the curriculum reform process, we consciously took the opportunity to bring the legal components of the LLB and Double Degrees in line to enhance the experience of the students as well as maintain consistency of legal training.

5.15 Finally, given that UK LLB programmes remain 3 years and Australian double degrees remain 5 years, any extension of the LLB to 5 years and/or the Double Degrees to 6 years would likely have a highly detrimental impact on the attractiveness of Hong Kong law programmes.

5.16 The PCLL. As the most long-standing PCLL in Hong Kong, it is our mission and vision to, *inter alia*, provide the highest standard of professional legal education to intending lawyers in Hong Kong, which:

- a) keeps abreast of the community demands and expectations of legal services so that it remains the most comprehensive, relevant and competitive programme which can draw out the talents, both locally and from overseas common law jurisdictions; and
- b) delivers the best quality experiential learning and hands-on training experiences to our students so that they can be best adaptable to the fast-changing demands and newly emerged legal problems.

5.17 Our PCLL aims to provide students with:

- a) a general professional education by equipping them with basic skills and knowledge to perform with competence and professional care and attitude legal work in specified fields; and
- b) a general foundation for subsequent practice by enabling them to develop new skills in response to employer and client needs.

5.18 By the end of the programme, students should be able to demonstrate competence in typical transactional knowledge and fundamental and core lawyering skills with professional care and attitude, whilst achieving a degree of specialization by way of electives which suits their interest and career choices.

5.19 Our PCLL curriculum comprises a compulsory Core for all students and 3 Electives chosen by students (subject to sufficient enrolment and human resources constraint) with skills training and ethical awareness as shown in the diagrams below. In addition to Professional Practice and Management as a discrete subject, ethical (and tax) issues in various areas of legal practice are being taught pervasively.

Skills set

Problem solving Document analysis Issue identification Legal research		
Research memo writing	Litigation-specific	Transaction-specific

Advice writing Pleadings drafting Affidavit drafting Interviewing Conferencing Non-trial advocacy File and case management	Pleadings drafting Affidavit drafting Interviewing/conferencing Opinion writing Advocacy (non-trial and trial) Negotiation/mediation	Document drafting Letter writing Interviewing Negotiation/mediation
Use of Chinese language in legal practice		

### Practice areas

Core practice areas	Elective practice areas	
Civil Litigation Criminal Litigation Corporate & Commercial Transactions Property Transactions I	Litigation-specific	Transaction-specific
	Commercial Dispute Resolution Matrimonial Practice and Procedure Personal Injury Litigation Property Litigation Trial Advocacy Employment Law and Practice	Drafting Commercial Agreements Listed Companies Property Transactions II Wills, Trusts and Estate Planning China Practice
	Use of Chinese in Legal Practice	
Professional Practice and Management		

5.20

We believe this model and our aims align and both fit well with the local circumstances. We are not just training graduates to satisfy the demands of the large law firms. After all, with more than 800 registered law firms in Hong Kong, a vast majority of which (over 70%) are either sole proprietorships or with no more than two partners. Moreover, there is also a separate and independent barrister branch of the legal profession. In selecting the electives, we always advise the students to take into account the expectations from their prospective employers or pupil masters and their career aspirations. The model is also flexible enough to adapt to the changing demands and needs for legal services. Indeed, the curriculum has continued to evolve since the Roper-Redmond review. Changes have been made in response to feedback provided by the legal profession, the judiciary and our graduates. For instance, we started off with 9 electives in 2008/09 and have increased to 12 by now. In the last three years, all the electives have been up and running in the full-time PCLL. We expect further changes in the future. We are considering expanding the list to include other niche practice areas such as IP Litigation, compliance work and mediation, in conjunction with what has been doing at our Faculty-

level LLMs and our proposed LLM in Legal Practice, with a view to meeting the rising and changing demand for legal practice and continuing professional development.

- 5.21 PCLL courses are offered in the form of large group sessions (LGs) and small group sessions (SGs). LGs are used primarily for transmission of transactional knowledge, and other types of skills demonstrations, focused practice exercises in drafting and writing where feedback in the form of common strengths and weaknesses is provided and large-group discussions. SGs are used primarily for the practice of oral and written skills where one-to-one feedback is especially important and for small-group discussions and problem solving.
- 5.22 The typical size of a small group in the core subjects is 10. The group size in the electives vary from 8 to 14, depending on the nature of the course, number of students enrolled, the availability of teachers and classrooms. In allocating students to small groups, we try to ensure a good mix of students within a group with reference to their educational background. Students will then stay together in the same small groups at least for the Core and may not change to another group. At least one full-time teacher will be the Training Group Leader primarily responsible for each group and will also perform the functions of a personal tutor from whom students of the group can seek advice on matters of a personal nature. Each small group will be conducting the same SGs usually on the same days to ensure progress on more or less the same pace. In each SG students collaborate and help each other learn through giving and receiving feedback, helping each other solve problems and engaging in the common purpose of achieving the objectives of our PCLL.
- 5.23 Contemporary professional legal education and training commonly call for a combination of learning methods with an increasing emphasis on experiential learning, including learning in real life and learning by realistic simulations, with or without the aid of technology. Case files adapted from real cases are being used so that students go through the whole transaction or process, or just truncated parts of it, and carry out the lawyering tasks as instructed by teachers.
- a) Our PCLL has also recently drawn from the experience in other jurisdictions and attempted to both apply information technology in transactional learning and to make use of lay people to play the role of clients and assess students' communicative competence. For example, from February 2013 (the second semester of 2012/13) to November 2015 (the first semester of 2015/16), over 1,250 such client interviews have taken place, benefitting about 1,000 PCLL students in total over the four academic years, full-time and part-time. On our introduction, CUHK PCLL ran their pilot scheme in 2014/15 and will expand it this academic year.
  - b) We utilize the MOODLE e-learning platform for our students' learning. Some of the teachers are more advanced in this relatively new venture to

facilitate transactional learning (e.g. in the WTEP elective). Some of us are working on designing on-line quizzes (e.g. in the Listed Companies elective).

## **6. Specific Concerns Regarding the Law Programmes (Q10)**

### ***(a) PCLL admission***

- 6.1 The HKU PCLL has as its main sources of students local LLB, double-degree LLB and JD graduates, local graduates of external LLB and CPE programmes, as well as overseas returnees with qualifying law degrees from common law jurisdictions or UK GDL. We admit the largest number of students, currently having an annual target intake of 340 students (comprising of 260 full-time students and 80 part-time students), of which 117 full-time places are government-funded. We are the only provider for a regular part-time PCLL.
- 6.2 The number of applicants who designate our PCLL as their first preference always exceeds the number of places we offer. We adhere to the admissions benchmark set by the Law Society of Hong Kong. The same admissions policy applies to both full-time and part-time PCLLs. The selection is made primarily on academic merit. Specifically, we consider the average mark of all law subjects taken by the applicants. Allocation of government-funded places is also done on the basis of academic merit.
- 6.3 In the last two years:
- a) About 40% of the total PCLL places at HKU were given to non-HKU applicants. Two-thirds to 70% of the full-time intake held a HKU law degree (including JD). The proportion in the part-time programme was much lower, just about a quarter to 30%. The remaining places in the part-time PCLL are mainly filled by graduates with the London International LLB and Common Professional Examination operated by MMU/SPACE or UK providers, and from City University and Chinese University of Hong Kong.
  - b) About three-quarters to 80% of the government-funded places are given to HKU graduates. The balance of places was shared among other categories of applicants, with UK LLB graduates having the largest share.
- 6.4 Inability of law graduates becoming Hong Kong lawyers for not being given a PCLL place. There are two aspects to this issue. First, a concern that there are simply not enough PCLL places; and secondly, while the total number of PCLL places may be sufficient, the criteria for admission fail to capture deserving applicants.

- a) *Are there enough PCLL places?* This is not an easy question to answer definitively. Subject to the capacity and resources of the three PCLL providers, it is at least in theory possible to increase the number of self-financing PCLL places. However, there are at least two other concerns which will have to be addressed.
  - i) *How many additional PCLL graduates the job market can absorb?* The question of how many lawyers a particular jurisdiction needs depends on a number of factors. The lawyer-population ratio in Hong Kong was 1.16 per 1,000 in 2013, according to a study conducted by the Ministry of Law, Singapore<sup>1</sup>, which places it in between Singapore (0.83) and London (2.64) among the cities listed and compared. It is unclear if Hong Kong needs more lawyers. However, if it is thought to be unfortunate for someone to go all the way to complete an LLB and then be told that he or she cannot go further, it is even more unfortunate for another to complete not only an LLB, but also the PCLL and even vocational training, and then be told that there is no job to be had (see further 10.2 below).
  - ii) As the pool of PCLL students gets larger, the likelihood will increase that the average quality of students and the pass rate will be reduced. This will pose challenges to the PCLL providers on all fronts from admissions, facilitating students' learning and quality assurance.

Notwithstanding the difficulty of the exercise, the Faculty is prepared to enter into negotiations with all the stakeholders about the possibility of increasing the number of PCLL places.

- b) *“Deserving” applicants who slip through the cracks?* This will be further addressed below.

6.5 Perception of unfair competition. We do not have any quota nor do we reserve any number of places for our own graduates who must compete along with other applicants for a place. We do not differentiate LLB and JD applicants from the same local institution either, on the understanding that they are graded on more or less the same basis. On the other hand, the admissions process is not, and cannot be, an exact science yielding definitive answers, particularly when dealing with cross-institutional comparisons. In arriving at an admission decision, we take into account a number of factors:

- a) We rank among applicants from the same institution; we are considering asking for their ranking within their cohort.
- b) We keep track and consider the record of how graduates from different institutions perform at the PCLL. We may take into account, for example,

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<sup>1</sup> See <https://www.mlaw.gov.sg/content/dam/minlaw/corp/News/4th%20Committee%20Report.pdf>.

the relative pass rates, when discussing marginal applicants for the last few places. In this regard, our general observations have been:

- i) Overall, HKU law graduates generally do better than graduates from the UK and clearly out-perform graduates from other local institutions. They are at least comparable to Australian graduates in terms of first attempt pass rate and more often than the others finish the PCLL with an overall distinction. This may be explained by the fact that the quality of the student intake into both our LLB and JD programmes is extremely high, equaling, and perhaps even surpassing, that of some, if not all, of the top-tier law schools in England and Wales and Australia.
  - ii) The better the results in the law degree, the higher the chance of passing the PCLL at first attempt.
  - iii) The respective pass rates of HKU LLB, double degree and JD graduates (albeit the latter number is relatively small) at the PCLL are comparable to each other.
- c) All else being equal, and subject to academic merits being sufficient, we tend to follow the applicant's selection of preferences in deciding whether he/she gets a full-time or a part-time place.

In contrast, we have never had regard to the fact that an applicant has already procured a pupillage or traineeship; to do otherwise would give an unfair advantage to those who had done so before entry to the PCLL over the others. In any event, such offer of a pupillage or a training contract is no guarantee of success in the PCLL.

6.6 A 2:1 degree holder cannot gain admission to the PCLL. This constitutes just a tiny proportion of the pool of applicants. Some of them might have failed to pass all the conversion examinations required upon graduation of their law degrees while some might have missed the deadline of filing certain documents. For the rest, some applicants, particularly those from the UK, may have been screened out despite their Second Class (Upper Division) law degree because they may not have done well in their foundational courses in their first year of legal studies, the results of which are not counted at their overseas universities towards the classification of their degrees while our primary focus is on the average of all law subjects taken over the entirety of an applicant's law degree. This has been made clear to prospective applicants through our external website, law fairs and public information sessions.

6.7 No second chance. Each year we have to turn away a significant number of applicants on the basis that their law average marks are just not competitive enough. These applicants can always re-apply. They are not prejudiced in any way by their previous rejections and their re-applications are considered afresh

alongside the others in that particular year. In order to boost their chances, there are at least two alternatives for them.

- a) Pursuant to the discretion given to the Admissions Team as confirmed at the meeting of the Admissions Sub-committee of the PCLL Academic Board in March 2014, since 2014/15, 10 part-time places have been set aside for allocation based on a balance of the candidates' legal knowledge, legal work experience and interview performance. The Admissions Team first selects those among the unsuccessful candidates with relevant work experience for interview (15 interviews for 2014/15 and 32 for 2015/16). We have been tracking their performance, both in class and in examinations. Among the first group, all except one are now studying in their Year 2 although the first attempt pass rate was not on par with the other students admitted purely on the basis of academic merit. The existing data base, however, is too small to warrant any significant change in the short term.
- b) On the advice of our Admissions Team, some of those unsuccessful applicants sought the opportunity to 'redeem' themselves by taking another qualifying course, such as the GDL or the local CPE, before re-applying. In recent years, a number of them succeeded in improving their marks and were given a place.

6.8 Criteria adopted by the 3 PCLL providers in assessing graduates of overseas universities. It merits repeating that the task of admissions is not an exact science, nor do we think it should be. There is unlikely to be any substantial difference in the way overseas law degrees are assessed across the 3 providers, but there will inevitably be differences in detail. Again the weight given to "strength elsewhere" may also differ. We do not see this to be a problem. In fact a degree of diversity in admissions policy goes some way to ameliorate the problem of deserving applicants "slipping through the cracks" of a rigid criterion set in stone for all 3 providers. In any event, it also merits repeating that the PCLL Academic Boards have oversight over admissions policy, and if the profession detects any unacceptable differences, the matter would have already been raised there, but it has not. If, however, it is felt that the admissions process might benefit by a greater degree of uniformity, we are prepared to work with the other two PCLL providers, the legal profession, and other stakeholders, with a view to a common criterion for admission.

6.9 The varying admissions standards from year to year. Applicants need to compete among themselves for a limited number of PCLL places and the competitors are bound to be different from one year to another. It follows that that the minimum standards required for admission will also change accordingly. The 'cut-off' point may also be affected by the apparently common phenomenon of "grade inflation", which the PCLL admissions team has been monitoring closely, and which may have to be taken into account in assessing "merit".

A few possible options to modify the admissions system. On the assumption that both the number of PCLL places and of law graduates wishing to obtain a place do not change appreciably, there will always be a significant number of law graduates who will not be able to practice. If it is thought to be desirable that a higher proportion of unsuccessful candidates (who will not get a place on the basis of LLB or JD grades alone) should nonetheless have a chance of gaining a place, a number of possibilities have been suggested to achieve that. Most of these options, however, require a host of details to be worked out, sometimes between several parties, and will almost certainly add pressure to the already tight timeframe for making all admission decisions without delay. None seems to offer a perfect solution. We just raise them in case the Consultants might wish to explore further.

- a) *Increasing the number of self-financing PCLL places at one or more of the three existing law schools in Hong Kong.* This has been discussed in paragraph 6.4 above.
- b) *The three law schools in Hong Kong, in consultation with the legal profession, working out and agreeing on a common set of criteria for admission to PCLL.* This has been discussed in paragraph 6.8 above.
- c) *Grading the Conversion Examinations.* Currently, the conversion examinations are marked on a pass or fail basis. Grading the conversion examinations and then using the results as a relevant admission factor may enable non-HK law students who did not do well in their LLB subjects to improve their grades sufficiently to gain admission. Details like the number of attempts which will be permitted and, if more than once, whether the highest or the average mark should be taken will need to be discussed. This is, however, outside the remit of the law schools and cannot be done without the support of the Conversion Examination Board.
- d) *Alternative PCLL entrance examination route.* This suggestion would carve out a certain proportion of PCLL places (say, 25%) for which candidates will compete for a place in a competitive entrance examination. The other 75% will follow the existing admission by academic merit. This will spare the majority of students the need to take the entrance examination (because of their academic merits), but allow the remaining students to compete in an entrance examination for the remaining places. Again, a number of details will need to be worked out, for example, the precise proportion of entrance examination places, whether or not the entrance examination will be standard for the 3 providers, whether there should be a short-list of applicants entitled to take the examination (and if so how many should be on that list), when and where overseas students can take this, who pays for the cost of the exam, what if exam marks are appealed and to what extent performance in this exam may add to the overall academic merit.
- e) *Improving the existing HKU scheme of discretionary places (6.7a) above).* One way of refining it is to gradually increase the number of

discretionary places, and perhaps to introduce an aptitude test, written and/or oral, for all those shortlisted for an interview.

Despite all these practicalities and issues, the Faculty is very willing to enter into negotiations with the profession and other stakeholders to explore all possible and practicable avenues in the effort to improve the admissions system.

- 6.11 Dispel the unfounded rumours and misconceptions. To compete for the best law students from overseas, the Faculty will have to be more proactive in reaching out to various prospective groups. In addition, we need to dispel certain misconceptions and myths of applicants, their parents and the recruitment/training managers of the law firms by organizing presentations, information sessions, visits or even press interviews.
- 6.12 Demand for more government-funded places. In our view, this is more imminent. Since the reduction of the government-funded places from 170 to 117 and the prohibition of cross subsidies, we have had two groups of students separated according to their funding mode: government-funded and self-financing. The self-financing fee is set with reference to, inter alia, the actual staff cost involved and has been increasing over the years. On the other hand, the bursaries have been provided by way of a set off against part of the tuition fee to alleviate the financial burden on some of our self-financing students – most of them are indeed our LLB or double-degree LLB graduates with a 2:1 degree. The average number of applications in recent years is at least about 20. An increase in government-funded places to the HKU PCLL will help address the issue.

***(b) Differences in curriculum structure and content***

- 6.13 Although the three PCLL programmes are subject to the same set of benchmarks and expectations of the two professional bodies, there are bound to be differences in their approaches. In our view, such diversity in approach encourages healthier competition among the PCLL providers and gives better service to the profession and the students. The quality assurance mechanisms, in which representatives from the profession play a significant role, should be able to address any concern of such differences. The HKU experience has been that there has never been a situation when a serious concern with the quality of the PCLL has been raised in the Academic Board, or found to be incapable of being satisfactorily resolved.

***(c) Standards of the PCLL graduates***

- 6.14 The strongest evidence that the quality of our PCLL (and indeed all the three PCLL programmes) has not been a real concern to the profession is the long-standing and intimate involvement of the profession in the design, delivery, assessment and supervision of the programmes (see 7(b) below).

- 6.15 Assessment in the HKU PCLL. A formal open-book examination remains the norm. Some courses are examined by way of both formal examinations and continuous assessment. Students are informed of the assessment method of a course by the course co-ordinator, normally at the beginning of the course. Regarding the Core, students are required to pass all 8 assessments (13 components in total), 6 written and 2 oral.
- 6.16 All written assessments and suggested answers are vetted and commented on by the subject external examiners before the examinations take place. Involvement of the external examiners in marking follow the standard procedures. After internal marking by two internal examiners in each course, all failure and distinction scripts, together with scripts of just a borderline pass mark, will be sent to the external examiners for third marking. The external examiners will also be given a master mark sheet covering all students who have taken the examination. External examiners have the right of access to any other script for comparison and benchmarking purposes. Any divergence of views among the internal and the external examiners is normally resolved by open and frank discussion (and sometimes persuasion) before the marks are finalized and approved by the Board of Examiners, of which all external examiners are also members.
- 6.17 The HKU PCLL pass rate. The HKU PCLL pass rate at the first attempt has been on average above 80% over the past three years. It is our understanding that reputable Legal Practice Courses overseas regard this pass rate acceptable and normal. The pass rate after supplementary exams increases to on average above 95% over the same period. Annually the Board of Examiners award overall distinction to the top 10% of the cohort. The top five students in each of the last three years or so have been all HKU LLB or mixed degree (MD) LLB graduates.
- 6.18 The Chief External Examiner is invited to submit an annual comprehensive report, covering all key aspects of the PCLL, particularly on learning and assessment. They are all positive, with no particular concern raised by the Chief External Examiner.

***(d) Differences in the standards of graduates among the three PCLLs***

- 6.19 There are bound to be some differences in the approaches of the three PCLL providers, but with the establishment in 2003 of the SCLET, the oversight provided by this statutory body has ensured that any differences in standards will not be great.
- 6.20 Furthermore, although there exists no common examinations, the quality assurance mechanisms, particularly through the involvement of external examiners who are representatives from the profession, should again address any concerns of any such difference. The HKU experience has been that there has never been a situation when a serious concern with the quality of our

PCLL students and graduates has been raised by the external examiners and/or the Academic Board, or found to be incapable of being satisfactorily resolved.

- 6.21 Possible option of a common assessment. This is different from the Common Entrance Examination proposed by the Law Society which will be dealt with in Part 8 below. This common examination (or assessment) may take a form of all assessments of a PCLL course, one examination paper (or assessment) of the course, or just a part of the examination (or assessment) to be agreed among the three law school and the professional bodies. It has been tried out before but failed. This does not mean that the issue cannot be re-visited. Our Faculty is willing to discuss this with the two other law schools and the profession if the Panel of Consultants considers it desirable.

### ***(e) Employment of PCLL graduates***

- 6.22 The employment situation of our PCLL graduates has also been positive. The graduate employment surveys for 2012 and 2013 show that more than 70% of our PCLL graduates who were seeking full-employment had secured employment by the end of May of the graduating year or before, and the employment rate had reached 100% by December of the same year (on average about 8% of the graduates went for further studies). According to the 2013 survey, the minimum monthly salary was HKD14,000, the mean was around HKD32,000, the median was HKD35,000, and the maximum was HKD45,000. The returns to the University's survey also showed that a good number of our graduates has been employed by top city firms and chambers in Hong Kong, as well as the Department of Justice.
- 6.23 Perceived preference of law firms for JD graduates. We do not think there is sufficient evidence that there is such a preference generally amongst law firms. It could well be that certain employers have such a preference, but it has not been our experience that it is in any way widespread or deeply held. It seems to us more likely that most firms keep an open mind and try to assess the quality of the graduate, whether from the LLB, Double Degree, or JD, from a Hong Kong law school or elsewhere.
- 6.24 The Faculty may wish to make further submissions with respect to Question 10 after meeting with the consultants.

## **7. Adequacy of Existing Quality Assurance Mechanisms (Q11)**

- 7.1 There are in place a number of quality assurance mechanisms at several levels for all our qualifying law programmes. Our view is that, in combination, they have worked well. They provide, in our view, ample opportunity for close scrutiny of our programmes by external experts of international renown, and by all significant stakeholders in legal education in Hong Kong. While we are certainly not closed to the idea that these systems can be improved upon – and

we shall be very happy to discuss this with the various stakeholders – we believe the existing system to be very satisfactory.

***(a) LLB, Double Degree and JD mechanisms***

- 7.2 External Examiners. Every academic programme, and this includes the law qualifying programmes, offered by the Faculty is subject to a regime of regular and comprehensive review by External Examiners. An External Examiner is appointed to oversee each programme. He or she would be a legal academic of international reputation (from outside of Hong Kong) with much experience in legal education, often of several jurisdictions. The External Examiner is given access to all relevant material and produces a report each year commenting on all aspects of the design and delivery of the programme. The External Examiner visits the Faculty once during his or her term (which cannot be renewed for a particular person) and during his or her stay of a week confers with faculty and students to aid in the writing of the report. The Report is very seriously considered by the Faculty which has to draft a response for the University Teaching and Learning Quality Committee of the Senate which oversees and monitors the External Examiner review system.
- 7.3 Student Evaluation Review. The University Teaching and Learning Quality Committee also conducts an annual review of the student evaluation data for each of the Faculty's programmes. A meeting is held between the Vice-President of Teaching and Learning and the Directors of the Programmes to discuss how concerns arising from the student evaluation exercise are to be addressed.
- 7.4 Faculty Review. A comprehensive review of the Faculty, which includes its law qualifying academic programmes, is conducted once every few years. The Faculty has gone through such an exercise earlier this year. A Review Panel is appointed by the University comprising members from other faculties within HKU and leading legal academics from outside of Hong Kong. The Panel visits the Faculty over several days to interview faculty members, students and external stakeholders such as the profession and the alumni. A report is produced and the Faculty is under a duty to respond to the recommendations therein. The Academic Board of the University oversees the implementation of the recommendations.

***(b) Additional mechanisms for PCLL***

- 7.5 The PCLL programme enjoys substantially the same quality assurance mechanisms as the other law programmes. It is part of the Faculty Review and the Student Evaluation Review. In order to increase the involvement of the profession and other external stakeholders in the PCLL mechanisms, the PCLL has additional measures.
- 7.6 Since the Roper-Redmond Report, the quality assurance system of the PCLL has been enhanced. The Government and the legal profession have been

monitoring the PCLL and its standards very closely. This is carried out mainly by two bodies:

- (a) the SCLET; and
- (b) The PCLL Academic Board with three sub-committees overseeing admissions, curriculum and staff (full-time and part-time) employment respectively, in which 40% of its membership go to the profession, another 40% to the Faculty, and the remaining 20% shared by the Judiciary, the DoJ and lay members. The Chairperson is not a Faculty member.

In addition, the Law Society of Hong Kong sends their representatives to monitor the conduct of our classes from time to time.

- 7.7 We have two external examiners appointed by the profession for each of our cores and litigation-specific electives, one external examiners for transactional electives plus a Chief External Examiner nominated jointly by the two professional bodies. Their involvement in the assessment process has been explained above. The oral assessments of advocacy skills are largely conducted by members of the profession.
- 7.8 These mechanisms commonly exist in all the three PCLL providers. The HKU experience shows that the existing quality assurance mechanisms have been working and working reasonably well. We have not heard from our external members any concern raised so far but we are happy to discuss any feasible and reasonable suggestion from the profession to further enhance the system.

## **8. Proposal of a Common Entrance Examination ('CEE') (Q12)**

- 8.1 Most, if not all, of the issues surrounding the concerns articulated in the Consultation Paper and the CEE Proposal have in our view been comprehensively addressed in a "Joint Submission" from the three Law Faculties (and PCLL providers) to the Legislative Council Panel on Administration of Justice and Legal Services (9 Dec 2013, LC Paper No CB(4)234/13-14(01)).<sup>2</sup> The Faculty has no reason to depart from its position that the current PCLL system has worked well, and that improvements are best worked out within the current structures. The Faculty believes that the proposed CEE, whether it is to be in replacement of, in addition, or as an alternative to the PCLL will not solve any genuine concerns, but is likely to create fresh problems of its own.
- 8.2 CEE, in addition to the PCLL: This version is perhaps the easiest to respond to. This suggestion would add another step to the path to qualifying as a legal

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<sup>2</sup> <http://www.legco.gov.hk/yr13-14/english/panels/ajls/papers/aj1216cb4-234-1-e.pdf>.

practitioner. On top of the PCLL, another examination – the CEE – will, it appears, be required. We do not understand what this version of the CEE would be testing for which cannot be done in the PCLL. It certainly will not address any real or perceived “bottleneck” concerns. If it is thought that it is unduly difficult to qualify as a practitioner, then this version of the CEE only makes matters worse, as presumably some would fail the test. Nor will it address any of the apparent concerns about the PCLL as it will still be there.

8.3 CEE, as an alternative to PCLL: This version of the CEE is actually inconsistent with its label – if the CEE is to be an alternative to the PCLL, it is no longer a “common” entrance examination. Presumably, this version of the proposal will have law graduates choosing between a PCLL route and the alternative CEE route. It is not clear what the shape of the alternative CEE is to be. It follows that as it is an alternative to the PCLL, then it ought to serve a similar function as the PCLL – ie to provide the necessary training to law graduates to bridge academic and practitioner legal education. [If, however, it is conceived to be merely an essentially self-studied examination, then it is not sensible that those who choose the PCLL have to undergo extensive training, but those who opt for the CEE only have to pass an examination.] In effect, the alternative CEE becomes yet another PCLL-type provider. We cannot understand how the apparent concerns with the existing 3 PCLL providers can be addressed by creating yet another PCLL-type provider. It seems to us much more rational for the profession and other stakeholders to engage the 3 PCLL providers in discussion about how to improve the existing programmes. Indeed this is something which ought to happen, and which in fact does already happen, at the Academic Boards and the Standing Committee on Legal Education and Training.

8.4 CEE, in substitution of the PCLL: This is, by far, the most radical version. We have expressed our belief that we now have a system which works well. Substantial changes such as this require sound argument and evidence that it will produce a system which is significantly better than what we have now. We see neither argument nor evidence forthcoming. Again, it is unclear what the shape this “exclusive” CEE is going to take. There are at least two possibilities:

a) CEE takes over the functions of the PCLL: This means that the CEE will need to perform essentially the same functions as the 3 PCLL programmes. This means that the CEE will become a sole mega-PCLL provider. It certainly will not solve either the “bottleneck” concerns or any of the admission problems articulated. It can perhaps be predicted that it will bring a certain uniformity to the PCLL programme. If such uniformity is desirable, the “option of a common assessment” discussed in paragraph 6.21 above should already be able to achieve this, and a CEE would not be necessary. However, we have doubts as to whether this kind of uniformity is desirable and attractive. Within reason, the differences which exist between the three existing PCLL providers is an asset which ought to be preserved, as long as the quality of students admitted, and of the legal education provided, is not compromised (and it has never been so

suggested). Within reason, different admissions policies help to prevent deserving applicants from slipping through the cracks, and different course content and teaching methodology enables the providers to develop their own emphasis, style and specialisations that may respond to the different needs of different employers. This diversity can only be for the good of the Hong Kong legal profession. To exchange that for the dead hand of a single monopolistic provider would, we believe, be a poor deal.

- b) CEE replaces the PCLL programmes with a set of examinations: This is the most dangerous suggestion of all. The existing PCLL programmes are not merely a set of examinations but primarily a tried and tested programme of learning and training in practitioner-oriented law designed to bridge the gap between university and practice. To replace them with examinations, either self-studied or with private coaching, will mean a new generation of lawyers who will not have had such training going on to vocational training. The qualifying law programmes (LLB or JD) will then be under pressure to greatly increase the skills training component, to the detriment of both general liberal education and academic study of the law. There are other adverse consequences. The partial government funding for the PCLL programmes is likely to be lost, and those who want optional examination coaching sessions will have to pay dearly for it. Even more disturbingly, it is known that the experience of some neighbouring jurisdictions with such a CEE is that students are incentivised to take only the CEE seriously and strongly tempted to pay rather less attention to any other stage of their legal education, especially the underlying law degree programme. This version of the CEE proposal will have us exchange a careful scrutiny of how well the student performed over 3-5 years of legal education (which the PCLL admissions process does) and the year long full time training of the PCLL for performance in a single set of examinations taken over a few days. This cannot be for the good of the legal profession or the society at large.

8.5 The Faculty may wish to make additional submissions on Question 12 after meeting with the consultants.

## **9. Vocational Training of Trainee Solicitors, Solicitors and Pupils (Q13-14)**

- 9.1 This is another indispensable and crucial stage of the overall legal education and training system in Hong Kong to ensure quality legal services and continuing professional development for legal practitioners. The Joint Submission of the Three Law Faculties of 2013 raised the concern that insufficient attention has been paid in the past to the final traineeship phase of legal education. No matter how well the PCLL is designed and taught, it is still classroom learning and training. PCLL graduates cannot, and cannot be expected to, “hit the ground running”. The two-year traineeship for solicitors is the final bridge to practice. It is here that they are immersed in the “real

world” of practice under the supervision of an experienced solicitor before they can go it alone. The concerns are essentially these.

- 9.2 There has, to our knowledge, not been a systematic review of the traineeship process, nor are any structural quality assurance mechanisms in place to generate systematic information about the process. To a large degree, any belief or view about the success or otherwise of the traineeship system is necessarily anecdotal, which in itself is not particularly satisfactory.
- 9.3 What we do know is that much depends on the commitment of solicitors who supervise the trainees. With such a large number of law firms engaged in it – 836 on 31 December 2014<sup>3</sup> – there is reason to be concerned about whether and to what extent a minimum quality of supervision is preserved satisfactorily. This concern about consistency and quality must surely be much greater than the apparent concern over the similar issue with respect to 3 PCLL providers.
- 9.4 There is much experience in other jurisdictions as to the kind of improvement which could be made to an essentially unregulated traineeship system. The Scottish traineeship system (<http://www.lawscot.org.uk/education-and-careers/the-traineeship/during-your-traineeship/>), or the UK Professional Skills Course (<http://www.sra.org.uk/trainees/resources/professional-skills-course-information-pack.page>.) may serve as an example to be seriously considered if any of those measures therein would be an improvement on the Hong Kong system.

## **10. Other Views on the Strengths and Weaknesses of the Present System (Q16)**

- 10.1 We have seen and indeed participated in the reinstatement of trust and co-operation between academia and the legal profession, particularly over the PCLL reform. There seems to have been increasing appreciation and understanding as to what the PCLL can be expected to provide to students within its limited time span.
- 10.2 The double cohort years. With the implementation of the new academic structure while the duration of the undergraduate law programmes has not been further extended, the two cohorts admitted to read for the LLB in 2012/13 will graduate at the same time in 2016, whereas students pursuing the double-degree law programmes will graduate together in 2017. While we have made plans and the Government has agreed to provide ear-marked additional funding based on the principle of “no better no worse”, the issue of the employment prospects of the enhanced number of PCLL graduates in these two years is more difficult to address. The professional bodies, notably the Law Society of Hong Kong, cannot, understandably, make any commitment.

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<sup>3</sup>[http://www.hklawsoc.org.hk/pub\\_e/admission/AdmissionasaSolicitor/pdf/Booklet\\_on\\_becoming\\_a\\_solicitor.pdf](http://www.hklawsoc.org.hk/pub_e/admission/AdmissionasaSolicitor/pdf/Booklet_on_becoming_a_solicitor.pdf).

The employment market depends on the economic situation which can be volatile. This reinforces the comment made in 6.4(a) above. As far as our Faculty is concerned, we have recently recruited a Career Advice Director who is also a qualified lawyer to offer advice and recommendations to students on career planning and job hunting. The Faculty is also considering making advance PCLL offers and/or to couple the latter with offers of admission into our masters' programmes. The Faculty will continue to work on other possible solutions with a view to alleviating the situation.

## **11. Conclusion**

- 11.1 It has been almost 15 years since the Roper and Redmond Report. It is timely to evaluate the situation. While the current legal education and training system, which features both a division of labour and partnership between gown and town, needs continual review, improvement and fine-tuning, we do not see any evidence that drastic change is required or desirable.
- 11.2 Building on the good working relationship with the legal profession and all other stakeholders which have been developed over the last decade or so during the PCLL curriculum reform (following the Roper and Redmond Report), we shall continue to do our best to maintain a constructive dialogue and active cooperation with the professional bodies under the existing framework and system, so that the necessary refinement and improvement can be made to encounter the challenges ahead.

## Appendix

This is a summary. The complete syllabi, course descriptions and electives offered can be found online <http://www.law.hku.hk/dm/>.

### **Bachelor of Laws (LLB)**

#### First Year (60 credits)

Law and society (6 credits)

Law of contract I (6 credits)

Law of contract II (6 credits)

Legal research and writing I (6 credits)

The legal system of the Hong Kong SAR (6 credits)

Core University English OR Free elective (if exempted from Core University English) (6 credits)

Common Core course (24 credits)

#### Second Year (60 credits)

Law of tort I (6 credits)

Law of tort II (6 credits)

Constitutional law (6 credits)

Criminal law I (6 credits)

Criminal law II (6 credits)

Land law I (6 credits)

Land law II (6 credits)

Legal research and writing II (6 credits)

Common Core course (12 credits)

#### Third and Fourth Years (120 credits, 60 credits per year)

Commercial law (6 credits)

Introduction to Chinese law (6 credits)

Introduction to legal theory (6 credits)

Business associations (6 credits)

Administrative law (6 credits)

Equity and trusts I (6 credits)

Equity and trusts II (6 credits)

Mooting and dispute resolution (6 credits)

Disciplinary [Law] electives (30 credits)

Free [Law or non-law] electives (36 credits)

Practical Chinese for law students<sup>13</sup> (6 credits)

### **Bachelor of Business Administration (Law) (BBA(Law)) and Bachelor of Laws (LLB)**

Professional Core in Law [156 credits]

(All courses 6 credits, unless specified)

Year 1

Law of contract I  
Law of contract II  
The legal system  
Law and society  
Legal research and writing I

Year 2

Law of tort I  
Law of tort II  
Legal research and writing II

Year 3

Commercial law  
Business associations  
Constitutional law  
Administrative law

Years 4 or 5

Criminal law I  
Criminal law II  
Introduction to Chinese law  
Land law I  
Land law II  
Introduction to legal theory 4  
Equity & trusts I  
Equity & trusts II  
Mooting and dispute resolution  
Disciplinary (Law) electives (30 credits)

Free electives [36 credits] – any courses except Common Core courses [For the Business stream only]

3 Free electives in Year 3, (18 credits)

3 Free electives in Year 4 or 5 (18 credits)]

**Bachelor of Social Sciences (Government and Laws) (BSocSc (Govt & Laws)) and Bachelor of Laws (LLB)**

Semester I or II (Year 1):

Legal research and writing I (6 credits)  
Law and society (6 credits)  
The Legal System of the Hong Kong SAR (6 credits)  
Law of contract I (6 credits)  
Law of contract II (6 credits)

Semester III or IV (Year 2):

Law of tort I (6 credits)  
Law of tort II (6 credits)  
Legal research and writing II (6 credits)

Constitutional law (6 credits)  
Administrative law (6 credits)

Semesters V and VI (Year 3):

Criminal law I (6 credits)  
Criminal law II (6 credits)  
Land Law I (6 credits)  
Land law II (6 credits)

Semesters VII, VIII, IX and X (Years 4 and 5):

Introduction to Chinese law (6 credits)  
Commercial law  
Introduction to legal theory (6 credits) (6 credits)  
Business associations (6 credits)  
Equity and trusts I (6 credits)  
Equity and trusts II (6 credits)  
Mooting and dispute resolution (6 credits)  
Disciplinary Electives from the Department of Law (30 credits)

Semester VII to X (Years 4 and 5):

Free Electives (12 credits): 12 credits of advanced free electives offered within the same curriculum (both Law and PPA (Department of Politics and Public Administration)) or another curriculum offered by other faculties/departments/centers

**Bachelor of Arts in Literary Studies (BA) and Bachelor of Laws (LLB)**

Year 1

Law of contract I (6 credits)  
Law of contract II (6 credits)  
The legal system of the Hong Kong SAR (6 credits)  
Law and society (6 credits)  
Legal research and writing I (6 credits)

Year 2

Introduction to law and literary studies (6 credits) (cross-listed as LLAW3188)  
Law of tort I (6 credits)  
Law of tort II (6 credits)  
Constitutional law (6 credits)  
Legal research and writing II (6 credits)  
Administrative law (6 credits)

Year 3

Criminal law I (6 credits)  
Criminal law II (6 credits)  
Introduction to Chinese law (6 credits)  
Land law I (6 credits)  
Land law II (6 credits)

*Advanced Interdisciplinary Electives (6 credits)*

Law and literature (6 credits)

Law, meaning, and interpretation (6 credits)  
Language and the law (6 credits)  
Law and film (6 credits)  
Legal fictions: United States citizenship and the right to write in America (6 credits)  
Advanced legal theory (6 credits)  
Law, culture, critique (6 credits)

#### Year 4

Commercial law (6 credits)  
Introduction to legal theory (6 credits)  
Business associations (6 credits)  
Equity & trusts I (6 credits)  
Equity & trusts II (6 credits)  
Mooting and dispute resolution (6 credits)

#### *Advanced Interdisciplinary Electives (12 credits)*

Law and literature (6 credits)  
Law, meaning, and interpretation (6 credits)  
Language and the law (6 credits)  
Law and film (6 credits)  
Legal fictions: United States citizenship and the right to write in America (6 credits)  
Advanced legal theory (6 credits)  
Law, culture, critique (6 credits)

#### Year 5

Disciplinary (Law) electives (18 credits)  
Advanced Interdisciplinary Core Course (6 credits)  
Research project in law and literary studies (6 credits)  
Electives (36 credits)

### **Juris Doctor (JD)**

#### First year (66 credits)

Law of contract I (6 credits)  
Law of contract II (6 credits)  
Criminal law I (6 credits)  
Criminal law II (6 credits)  
Law of tort I (6 credits)  
Law of tort II (6 credits)  
Legal research and methods (6 credits)  
The legal system of the Hong Kong SAR (6 credits)  
Constitutional law (6 credits)  
Administrative law (6 credits)  
Elective (Law) (6 credits)

#### Second year (78 credits)

Commercial law (6 credits)  
Dissertation (6 credits)  
Equity and trusts I (6 credits)  
Equity and trusts II (6 credits)

Land law I (6 credits)  
Land law II (6 credits)  
Electives (Law) (42 credits)

There are 48 credits of electives in total:

- (a) All students must take one 6-credit elective course listed under “International, Comparative and Theoretical Perspectives in Law (“ICT electives”)”.
- (b) Students with no substantial background in Chinese Law must take “Introduction to Chinese law and legal system”. Students with a substantial background in Chinese Law must take one 6-credit elective course listed under “Common Law electives”.

## HKU PCLL – Admissions Criteria

1. I supplement paragraph 6.6 of our Faculty's initial submissions with reference to the specific request from the panel of Consultants.
2. Attached is a copy of PowerPoint slides we used in our public information session held in January 2014. Slide number 21 makes a specific reference to 'all LAW subjects' average'. We have been using the same version with necessary modifications since then. Before that, we used 'primarily on academic results of law degree or equivalent' but forewarned potential applicants that 'standard needed to be achieved varies from year to year' and we did not take a 2:1 degree on its face value. This change was brought about when (i) the local classification of honours for LLB and JD links with a student's cumulative grade point average of ALL subjects taken; and (ii) the number of 2:1 (and above) law graduates in and outside Hong Kong in aggregate exceeds the number of PCLL government-funded places.
3. The reference to 'all LAW subjects' average' also appears on our external website ([www.pcll.hk](http://www.pcll.hk) OR [www.ple.hku.hk/pcll](http://www.ple.hku.hk/pcll)), a link of which is also provided on our Faculty site ([www.law.hku.hk/postgrad](http://www.law.hku.hk/postgrad) OR [www.law.hku.hk/programmes/overview.php](http://www.law.hku.hk/programmes/overview.php)). Specifically, it can be seen in paragraph 14 of the Notes to Applicants ([www.ple.hku.hk/pcll/application/2015-16%20Notes%20to%20Applicants.pdf](http://www.ple.hku.hk/pcll/application/2015-16%20Notes%20to%20Applicants.pdf)) and the Question 'How do you make admissions decisions and how do you allocate the full time government-funded places, the full-time self-funded places and the part-time self-funded places?' on the FAQ page ([www.ple.hku.hk/pcll/faq.php](http://www.ple.hku.hk/pcll/faq.php)), links to which are on the Application page ([www.ple.hku.hk/pcll/application.php](http://www.ple.hku.hk/pcll/application.php)).

Submitted by

Wilson CHOW  
Head, Department of Professional Legal Education  
The University of Hong Kong  
18 December 2015



11 November 2015

Ms. Vivian Lee  
Secretary  
Standing Committee on Legal Education and Training  
3/F Wing On House  
71 Des Voeux Road  
Central  
HK

Dear Ms. Lee

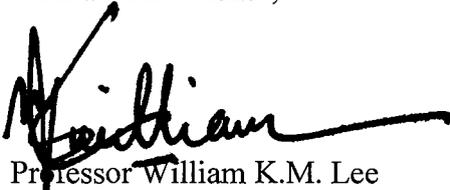
Thank you for your letter of 7 October 2015.

Our Law subject group within the School's College of Humanities and Law has prepared a detailed response to the questions raised by the Consultants who are carrying out comprehensive review on the Legal Education Training and this is attached at Annex I. They would be pleased to be contacted for follow up as necessary, via the College Associate Head, Dr. Tommy Ho.

From the School wide perspective, HKU SPACE is a major provider of self-financed opportunities in legal education from sub-degree to postgraduate level. This is within the School's mission to provide continuing and professional education and lifelong learning opportunities in the HK community and beyond. In the context of law in particular we provide preparatory courses for non HK law graduates to take the Conversion Examinations and we also offer opportunities for non-law graduates to obtain a qualification that will give them eligibility to apply for the PCLL. We are ready to contribute further in the area of self-financed legal education to meet community needs and we look forward to hearing the outcomes of the review.

As a general point, we do not think that it is the role of higher education institutions to be the gatekeeper to the profession. Rather, the role is to be a gateway to the professions to provide would-be entrants with the academic and skills preparation that is required. Entry to the profession itself should be for the profession to decide, dictated by market demand at particular times. Our experience also in a general sense is that mature students and those with non law first degrees do perform well in their law studies and indeed, anecdotally we believe, in the profession.

With all best wishes,



Professor William K.M. Lee  
Director

## Responses to Survey

1. What are the challenges of legal practice in Hong Kong at present and in the near future?

Two major challenges appear to be ahead:

- a) Short term: Job opportunities for new lawyers particularly in the branch of barrister in the next few years.

The double cohort of law students will graduate in 2016 and that of double degree students in 2017. The impact of the upsurge in the number of law graduates cannot be accurately predicted at the moment, but it goes without saying that significant pressure will be exerted on the legal services market in 2017 and the ensuing two or three years.

Whereas the three Universities may increase the number of PCLL places to mitigate the strong competitions for vocational training opportunities, there is less room to maneuver when it comes to job markets in legal services. Unless there is an unexpected boom in the solicitors' market, by reason that solicitors firms have to pay a prescribed minimum wage to the trainee solicitors, it is unlikely that the solicitors will be able to absorb too many of the increased number of PCLL graduates. Many of the PCLL graduates will inevitably turn to the Bar to try their luck. By reason that there is no requirement for a pupil master to pay his/her pupils, the Bar in theory is more flexible in taking up PCLL graduates. For over a decade, young barristers have found it more and more difficult to survive than their predecessors. If there are really more young barristers joining the legal professions because of the effect of the double cohort, the young practicing barristers will find it even more difficult to survive, not to mention to establish themselves in the long run.

- b) Long term: Will the common law system still be adopted in Hong Kong after 2047?

Under the Basic Law, "One Country Two Systems" is guaranteed up until 30 June 2047. There is uncertainty over the survival of the common law system in its present form after 1 July 2047. If the Chinese legal system is going to replace the common law system in 2047, the challenges to legal professionals in Hong Kong will be tremendous.

2. What are the needs of Hong Kong society regarding services to be provided by lawyers in Hong Kong at present and in the near future?

a) Judicial review

There is a general impression that since 1997 more and more Hong Kong citizens are taking advantage of judicial review to challenge the decisions of the administration or other public authorities. The recent social atmosphere and political movements in Hong Kong make one believe that this trend will continue to increase.

b) Legal representation at litigation

There are constant needs of legal representation in litigation in civil and criminal courts and tribunals, as well as courts at different levels. In civil litigation, however, there is a notable number of unrepresented litigants.

c) Legal advice

Many people come across justiciable problems in one way or another at all times in their daily lives. They need proper legal advice on how to deal with these justiciable problems.

It is possible that demand for services such as will drafting and power of attorney will increase as a result of the growing ageing population.

3. Are there new demands on the services to be provided by lawyers in Hong Kong in view of

a) The Government's policy to develop and promote Hong Kong as an international legal services and dispute resolution centre in Asia Pacific,

No comment. At least, no notable rise in demand for legal services in Hong Kong is observed.

The globalization of the legal services sector,

Given that legal costs in Hong Kong are relatively high in comparison with other common law jurisdictions such as England and India, it is expected that globalization of legal services will decrease, rather than increase the demands on the legal services to be provided by Hong Kong lawyers. In some cases, hiring a London QC may be less expensive than hiring a top Hong Kong SC. On the other hand, simple pleadings can be prepared by some Indian lawyers charging very affordable fees via the internet.

- b) The advancement of modern technology enabling legal services to be expedited through unconventional methods,

No comment.

- c) The development of CEPA and the Mainland opening up its market for legal work which is Mainland-related, and

No comment.

- d) Emerging problems involving human rights and legal issues relating to the environment, privacy, immigration and international justice, and/or other discrete or emerging fields of law that consultees consider of particular importance?

The Non-refoulement Claim system for refugees has significantly increased the demand for legal services. At present, such legal services are monopolized by the Duty Lawyer Service.

The promotion of mediation by the judiciary and the administration has undermined the demand for legal services. Mediators without proper legal training have increased competition for work which has traditionally been within the catchment area of the legal professions.

4. Are there any other new demands on the services not yet identified? What are they?

No comment.

5. What are all the qualifying law programmes (qualifying law degrees, PCLL and conversion courses) offered by the Hong Kong University (HKU) with their detailed curricular?

As an extension arm of the University of Hong Kong, HKU School of Professional and Continuing Education (SPACE) offer law programmes in the form of part time continuing education and full time sub-degree education. The College of Humanities and Law (The College) is the designated college within SPACE for offering law programmes.

### **Full Time**

For full time sub-degree programmes, there are an Associate Degree in Legal Studies (AALS) offered by the HKU SPACE Community College and a Higher Diploma for Legal Executives (HDLE) offered by the HKU SPACE Po Leung Kuk Stanley Ho Community College (HPSHCC). Each year, about 50 and 30 students are admitted to these two full time programmes respectively.

There are only 7 law subjects in the AALS. Although some graduates of the AALS got articulation to LLB programmes at the University of Hong Kong and City University of Hong Kong, and there are a couple of English universities giving credits to graduates from the AALS when these graduates are admitted to their LLB programmes, the AALS is a stand-alone programme and there is no built in articulation pathways to any local or overseas LLB programmes.

The HDLE is recognised by the Hong Kong Law Society as an approved programme meeting the benchmarks for legal executives courses so that if graduates from this programme work in a law firm as paralegal, they are permitted to use the professional title of “Legal Executive”.

The HDLE is also recognized by the Institute of Paralegals (UK) as an approved course leading to the title Associate Paralegal (HK).

The general descriptions of these two sub-degree programmes are attached hereto as Annex 1 and Annex 2.

### **Part Time**

The College also offers both part time degree and sub-degree level law programmes.

#### Sub-degree level

At the sub-degree level, there is the Advanced Diploma in Legal Studies (ADLS). The programme is a three-year part time programme preparing students for articulating to an LLB programme or entering into the legal professions as paralegals.

The ADLS is an open entry programme offered in two different streams: general and professional. It is the professional stream which adopts medium class size and interactive teaching for the purposes of meeting the Law Society's benchmarks for legal executive courses and is accredited by the Law Society as such. Students who wish to use the professional title of "Legal Executive" upon completion of the programme must satisfy the minimum academic requirements stipulated by the Law Society.

The ADLS is also recognized by the Institute of Paralegals (UK) as an approved course. Regardless whether they graduated from the General or Professional streams, all students who have successfully obtained the Diploma in Legal Studies ("DLS" which is an intermediate award of ADLS) and join the Institute of Paralegals are eligible to use the title of Associate Paralegal (HK).

All DLS holders who have 3 years' relevant working experience also enjoy a limited right of audience to appear before a District Judge in the District Court and before a Master in the Court of First Instance according to Practice Directions of the Hong Kong Judiciary.

The qualification of DLS is also recognized by the University of London International programmes as an entry requirement for their LLB programme.

In addition, students who obtain a Distinction on the DLS and are over 25 years old will be eligible to enter the Common Professional Examination of England and Wales programme, Graduate Diploma in English and Hong Kong Law, offered by Manchester Metropolitan University (MMU) in collaboration with the College, no matter whether the students received a bachelor degree or not.

A general description of the curriculum of the ADLS is attached as Annex 3.

#### Degree level

As mentioned, the College offers the Graduate Diploma in English and Hong Kong Law in collaboration with the MMU. This is a two year part time programme. Graduates of the programme are eligible for applying for PCLL courses in Hong Kong provided that all the prerequisite requirements for PCLL are also satisfied. In practice, the graduates can study one further year to receive an LLB award by the MMU and

complete all the law subjects currently needed to apply for admission to the PCLL courses.

The College also offers preparation courses for the University of London International programmes in LLB. The courses offered include all compulsory subjects and popular optional subjects for the University of London LLB programme. The College provides only tuition and revision but is not responsible for any assessments. It is up to the students to decide when they are ready to sit the exams which are administered by the University of London International Programme.

The brochures for the two degree level programmes are attached as Annex 4 and Annex 5.

The College also offers preparation courses for PCLL Admission Conversation Examination. The Conversion Exams are mainly for students who are unable to demonstrate competence in any of 11 local law subjects for the PCLL admission. The preparation courses are designed to assist such students to sit the Conversion Exams.

A brochure for Conversion Exams is attached as Annex 6.

There are other law programmes leading to SPACE qualifications including the Executive Diploma/ Certificate in Legal Risk for Enterprise Risk Management and Postgraduate Diploma in Finance and Law. These SPACE qualifications programmes are usually designed to satisfy the needs of the market.

The brochures for the aforesaid programmes are attached as Annex 7 and Annex 8.

6. Qualifying law programmes of the City University

No comment.

7. Qualifying law programmes of the Chinese University

No comment.

8. What is your view on whether each of the law programmes offered by the three universities is capable of meeting the challenges of legal practice and needs of Hong Kong Society? What are your proposals, if any, in making improvements to the said law programmes to ensure that they are

best capable of meeting those challenges and needs, or do you propose to introduce an alternative model of legal education and training system in order to achieve the same? And if so, what is the alternative model you propose and how will it satisfy such purposes?

No comments on the law programmes offered by the three local universities.

Under the Legal Practitioners Ordinance, at present only holders of PCLL are eligible to enter the legal professions. All graduates from the LLB and JD programmes of the three local universities are eligible to apply for admission into the PCLL courses. Moreover, graduates from LLB or equivalent programmes of overseas universities who also have passed the required Conversion Exams are also entitled to apply for the PCLL courses. From times to time, there are expressions of public opinion that the limited number of PCLL places have created an impediment to those who desire to enter the legal professions.

As a provider of continuing legal education, the College agrees in principle that an alternative route for entering the legal professions should be available to those who fail to secure a PCLL place. A public exam in the format of the Overseas Lawyers Qualifying Examination may be one of the most feasible alternatives.

The College understands that the Law Society is also exploring the possibility of administering a public exam (CEE) for candidates entering into the solicitor's profession. By reason that the Law Society has not released the report to the public, it is not clear whether the Law Society is proposing to have the exam as an entry requirement in addition to the PCLL or as an alternative route in tandem with the PCLL. The College reserves comments on the Law Society's proposal.

9. Since September 2004, LLB has been a 4 year programme, ...

No comment.

10. There are certain concerns expressed regarding the law programmes and their operation, for instance,

- a) The standard of the Post-graduate Course in Laws (PCLL) graduate at the three universities may be different;

No comment.

- b) Law graduates who are not admitted into the PCLL programme in any one of the three universities the first time round will for almost all practical purposes be unable to become a lawyer in Hong Kong;

No comment.

- c) The perception of unfair competition that may possibly be caused by the differences in GPA scores (i) between LLB graduates and JD graduates, (ii) between local graduates and graduates from overseas universities, and (iii) the criteria adopted by the three universities in recognizing overseas universities and their GPA scores;

No comment.

- d) The dilemma of students in choosing whether to do a law degree or a non-law degree followed by a JD and whether to do their first law degree overseas or in Hong Kong as these degrees take different periods to complete and may have an effect on their chances of getting admitted into the PCLL programmes, and

No comment.

- e) The perceived preference of law firms in taking JD graduates as they may be considered as more mature and possibly better lawyers?

No comment.

- f) Other concerns

While the College agrees in principle that alternative routes for entering into the legal professions should be available, the College also has concerns about the possible repercussions created as a result of increase in number of potential lawyers. The main worry is whether this measure which may only delay the disappointment of young people's aspiration for entering into the legal professions.

11. Do existing quality assurance mechanisms provide an adequate check on the standards of legal education and training in Hong Kong? Is it advisable to set up any new or additional mechanism for measuring the quality and standard of legal education and training in Hong Kong? Is so, what methods do you suggest?

No comment. The existing system does not appear to have any serious problems.

12. The Law Society of Hong Kong has proposed to introduce a common entrance examination (CEE) in Hong Kong mainly aiming at achieving consistency and fairness in assessments and standards for all candidates seeking admission to the profession. The CEE might be considered as taking over the PCLL as an entrance threshold into the legal profession, or it might be treated as an alternative or additional route to enter the legal profession. What are your views on the proposed CEE?

Please see answer to Question 8 above.

The College accepts in principle to have some form of mechanism such as CEE as an alternative to the PCLL, but does not believe this should replace the PCLL.

13. What is your opinion on the current arrangements for the prequalification vocational training of trainee solicitors, including the Overseas Lawyers Qualifying Examination? If you opine that improvement is needed, what methods do you suggest?

No comments.

14. What is your opinion on the current arrangements for the prequalification vocational training of pupils? If you opine that improvement is needed, what methods do you suggest?

No comments. A general observation is that pupils in Hong Kong are not paid. Although the Bar Association does encourage pupil masters to remunerate pupils for work the latter has carried out, it is not a mandatory measure. The hard reality is that majority of young barristers may not have adequate income in their first couple years of practice. The present arrangement of pupillage makes it more difficult for students lacking means to enter the Bar.

15. Do you have any other views on the strengths and weaknesses of the present system of legal education and training in Hong Kong which you would like to share with us? What are your suggestions in removing or eliminating such weaknesses and maintaining or enhancing such strengths?

The College takes the view that on the whole the present system of legal education and training is doing a good job. The PCLL as the only ticket for students to enter the legal profession needs further discussion. Ideally, there should be some form of alternative such as the CEE available. Given that the PCLL programmes are heavily oversubscribed each year, an alternative option will not significantly affect the interests of the three local universities offering the PCLL programmes.

Ideally, the alternative option should be in the form of an open exam. The exam should test both knowledge and skills requisite for the legal professions. The exam can be administered by the two legal professional bodies or by an independent academy or similar institution.

16. Please also express your wish or willingness to be interviewed.

The College is willing to provide further information if requested either in the form of written responses form or interview.

ASSOCIATE DEGREE

HIGHER DIPLOMA

APPLICATION &amp; ADMISSION

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# Associate Degree

Associate of Arts in Legal Studies

PROGRAMME CODE: CC 88 - 207

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ccadmissions@hkuspace.hku.hk

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Your Choice

Programme Outline

Progression Paths

Professional Recognitions

## Programme Aims & Features

The Associate of Arts in Legal Studies programme is designed to provide a balanced mix of professional legal education and broadbased education to support all-round personal development, which is a good stepping stone for those who would like to further their studies in law or other bachelor's degree programmes.

### Professional and outstanding teachers

Legal courses of this programme are mainly **taught by qualified lawyers** with extensive teaching experience. Students would have the opportunities to know more about legal concepts and theories, and practical experiences in the legal profession.

### Flexible programme structure

Students may choose to do a variety of courses in Social Sciences and Business. Having acquired the essentials of professional legal knowledge, students can pave their way for further studies and career development in an extensive range of areas, such as law, government, politics, administration, education, journalism, management, finance, accounting and human resources.

### Professional Recognition

Graduates who have taken relevant courses in the programme will be exempted from 2 papers in the Professional examinations of the Association of Chartered Certified Accountants (ACCA). Furthermore, students can apply for Affiliate grade membership of the Institute of Paralegals, a UK-based body, while studying for the Associate of Arts in Legal Studies. By becoming an Affiliate member then, upon completion of the programme, one is automatically eligible for Associate membership.

### Opportunities for Further Studies

In the past several years, many year one students and graduates of this programme have received offers from local universities to continue their studies in various bachelor's degree programmes, including social sciences, law, government and laws, business and arts.

Graduates are eligible to apply for admission to the full-time top-up degree programmes offered locally by **HKU SPACE Centre for Degree Programmes** in collaboration with the following university:

#### Middlesex University

- Bachelor of Arts (Hons) Media and Cultural Studies
- Bachelor of Arts (Hons) Publishing, Media and Cultural Studies
- Bachelor of Arts (Hons) Journalism, Media and Cultural Studies

#### **The University of Western Australia**

- Bachelor of Arts (Asian Studies) - Japanese Language Pathway
- Bachelor of Arts (Asian Studies) - Korean Language Pathway
- Bachelor of Arts (Communication and Media Studies) - Communication Studies Pathway
- Bachelor of Arts (Communication and Media Studies) - Language Studies Pathway

#### **University of Hull**

- Bachelor of Arts (Honours) Criminology
- Bachelor of Arts (Honours) Criminology with Psychology
- Bachelor of Arts (Honours) Criminology and Sociology
- Bachelor of Arts (Honours) Sociology

#### **Edinburgh Napier University**

- Bachelor of Arts (Honours) Social Sciences

#### **Special Entrance Requirement**

Applicants are also required to have obtained Level 3 or above in the HKDSE English Language, or obtained Level 3 / Grade D or above in the HKCEE English Language or Grade E or above in AS Use of English in the HKALE, or equivalent.

**Higher Diploma for**  
**Legal**  
**Executives**  
**法律行政人員**  
**高級文憑**



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**legal** /'li:ɡəl/  
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# Higher Diploma for Legal Executives

## 法律行政人員高級文憑

////// PROGRAMME CODE 課程編號

HP 83-808 2 Years (Years 1 & 2) 兩年 (一年級及二年級)

Legal Executives in law firms enjoy professional status and may be given certain limited rights of audience in accordance with the Court's Practice Direction to represent lay client. To use the title "Legal Executive (LE)", graduates of this programme must meet the new Benchmark standard of The Law Society of Hong Kong (HKLS).

律師事務所的法律行政人員不單擁有專業地位，並可根據法院的實務指示，獲授若干有限度的出庭發言權，代表客戶出庭應訊。本課程的畢業生須符合香港律師會所訂的基準，才可使用「法律行政人員」的專業名銜。

## Programme Aims and Features

### 課程目標及特點

This programme aims to assist students to develop professional skills to work in legal field and provides students with a strong academic foundation for further academic pursuit in law. It is designed to prepare students to work as Legal Executives in law firms and government. It is modelled after a popular part-time programme "Advanced Diploma in Legal Studies" as accredited by the HKLS.

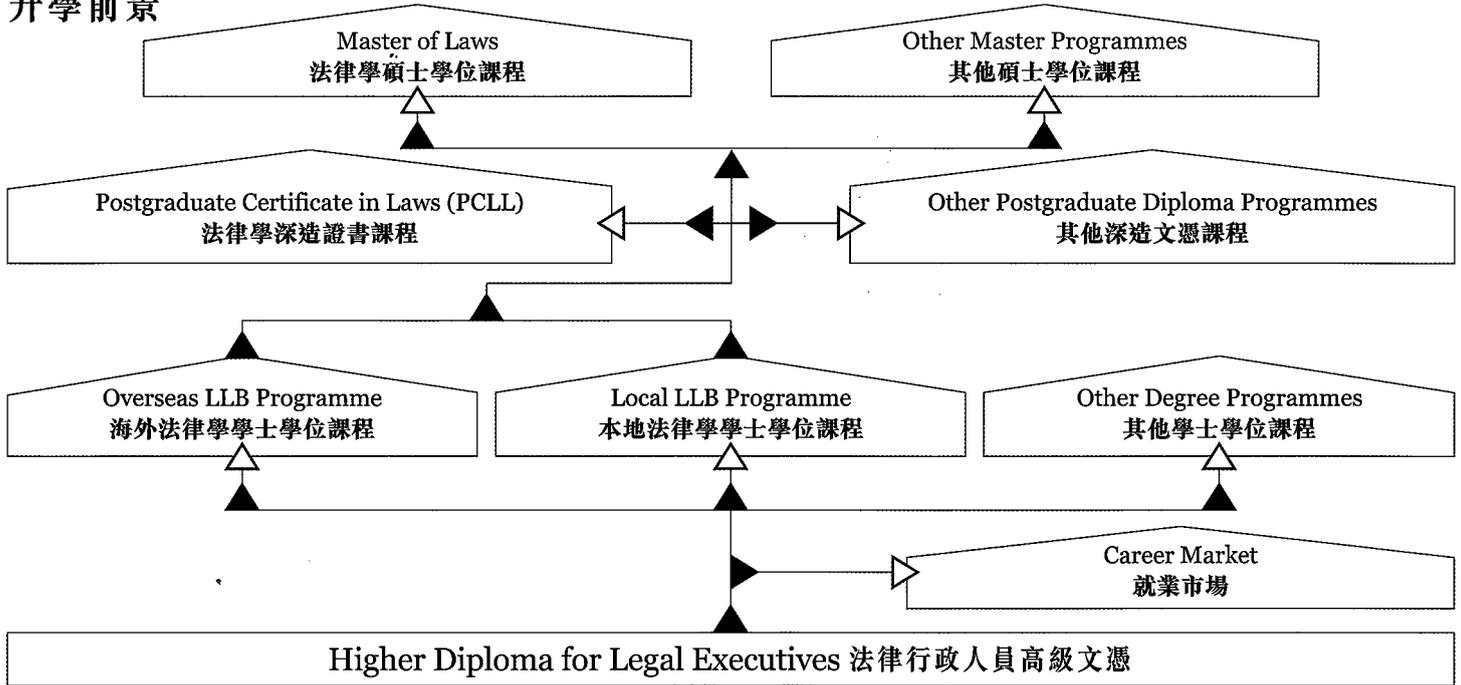
In accordance with the HKLS's Benchmark, students will attend interactive sessions in medium class size groups based on pre-assigned and pre-read materials so that students can get more interaction with teachers and peers. Lectures are taught by experienced practitioners and legal academics, which workshops focused on law-related work and skill-based tasks have been included as part of this programme. Students will learn about substantive Hong Kong law and practice as well as acquire practical skills to work in the legal field.

香港大學專業進修學院 (HKU SPACE) 開辦的兼讀制 *Advanced Diploma in Legal Studies* 一向深受歡迎，並獲香港律師會評審認可。為迎合律師行及政府對法律行政人員的要求，現再開辦全日制課程，並稱之為「法律行政人員高級文憑」課程。這課程不僅旨在培訓學生法律專業實務的技能，也為學生升讀更高層次法律課程奠定穩固的基礎。

課程設計按照香港律師會所訂下的基準，採用小班形式的互動的教學，學員透過預先自學已分派的教材，參與課堂討論，務求讓學生有更多機會與講師及其他同學互相交流、互相啟發。課程均由具經驗的律師及法律學者任教，學生可透過不同形式的工作坊認識香港實體法律，從而掌握法律界所需的實用技巧。

# Opportunities for Further Studies

## 升學前景



# Professional Recognition

## 專業資格

### Professional Accreditation



#### • U.K. Institute of Paralegals

The Higher Diploma for Legal Executives programme (“HDLE”) is recognised by the Institute of Paralegals, the U.K. professional body for paralegals which sets national competency standards for paralegals and others.

(see [www.InstituteofParalegals.org](http://www.InstituteofParalegals.org))

HDLE students can join the Institute as student members. Once successfully completed, they can take Associate Membership (which confers a professional title: Associate Paralegal and letters after one’s name: **A.Inst.Pa.**).

After a minimum of one year’s paralegal work experience, HDLE holders can obtain Institute Fellowship (which confers a professional title: Certified Paralegal and letters after one’s name: **F.Inst.Pa.**).

#### • The Law Society of Hong Kong

Under The Law Society of Hong Kong’s Benchmark<sup>#</sup>, HDLE graduates will be eligible to use the title “Legal Executive” in law firms.

#### • Association of Chartered Certified Accountants (ACCA)<sup>+</sup>

HDLE graduates can apply for Paper F4 exemption from the Association of Chartered Certified Accountants (ACCA)<sup>+</sup>.

<sup>+</sup> Subject to re-accreditation (for 2016 graduates).

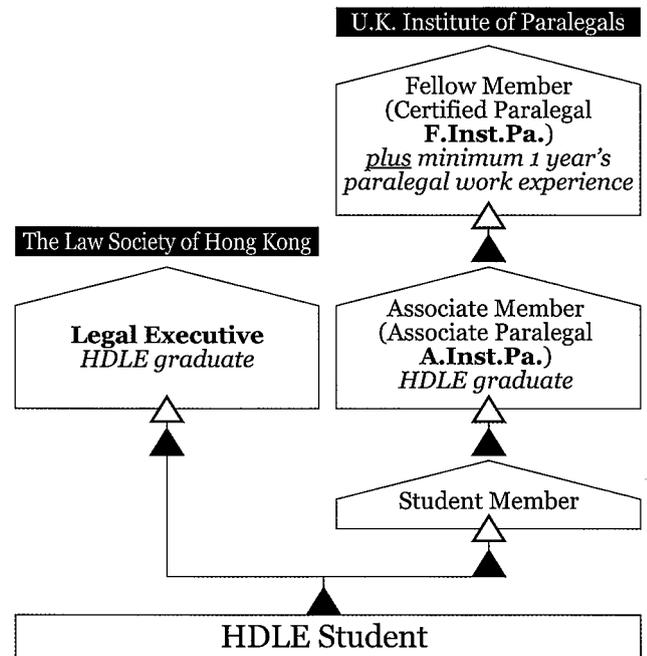
# Career Prospects

## 就業前景

Job opportunities can be found in both public and private business sectors, such as solicitor’s firms, barristers’ chambers, law enforcement bodies and government.

畢業生可投身各律師、大律師事務所等專業機構、執法機構及政府。

### Professional Pathways



# Support by Legal Practitioners

## 法律業界的支持

"Legal executives are the oil that fires the engine of much of the work of a law firm. Not only will legal executives perform a vital role in a wide range of legal work undertaken by law firms and private businesses, but also the role of legal executive can provide a platform for further development of a professional career in law. It is a significant advantage in a very challenging recruitment market for aspiring legal executives to demonstrate their training and ability by having a dedicated qualification that focuses on the needs and requirements of a successful legal executive in Hong Kong. The Higher Diploma for Legal Executives programme fulfils this need admirably and is welcome addition to the available options for people wishing to pursue this career path."



**Pádraig Walsh**

Partner, Hong Kong  
Bird & Bird  
International Law Firm



**James O'Connell**

Head of Policy  
Institute of Paralegals  
Solicitor, England & Wales  
Solicitor, Hong Kong

"HDLE recognised as an international qualification."

"The Institute of Paralegals warmly welcomes this excellent, practice-orientated HDLE."

"Although law and procedure tends to be jurisdiction-specific, this HDLE programme provides students with many skills which are recognised and needed in all jurisdictions."

# Student Sharing

## 學生分享

**Chris Lee 李文達**

Advancement to Bachelor Degree (Honours) in Laws,  
Newcastle University (UK)

升讀英國紐卡索大學 (Newcastle University) 法律學 (榮譽) 學士

"Excellent materials were provided and courses were attentively taught by professional lecturers. These made my studies easier and much efficient than expected."



**Pearl Lee 李瑩惠**

Advancement to Senior Entry (Year 3), BSocSc (Hons) in  
Criminology, City University of Hong Kong

升讀香港城市大學犯罪學榮譽社會科學學士高年級入學 (三年級)

Two degree offers received:

- Senior Entry (Year 3), BSocSc (Hons) in Criminology, City University of Hong Kong
- Senior Entry (Year 3), BSocSc (Hons) in Asian and International Studies, City University of Hong Kong

獲兩個大學學位課程取錄:

- 香港城市大學犯罪學榮譽社會科學學士高年級入學 (三年級)
- 香港城市大學亞洲及國際研究榮譽社會科學學士高年級入學 (三年級)

"I have gained professional legal knowledge of different legal disciplines which turned into a strong knowledge foundation for my further study."

**Alley Chan 陳安怡**

Advancement to Bachelor of Arts, The University of Hong Kong (HKU)

升讀香港大學文學士

Two degree offers received:

- Bachelor of Arts, The University of Hong Kong (HKU)
- BSocSc (Hons) in Criminology, City University of Hong Kong

獲兩個大學學位課程取錄:

- 香港大學文學士
- 香港城市大學犯罪學榮譽社會科學學士

"I did acquire legal knowledge in different areas of law, which gave me a comprehensive picture of the legal system. My critical thinking and presentation skills were greatly enhanced."



**Ko Ho Him 高皓謙**

Advancement to Senior Entry (Year 2), BBA (Hons) in Global Business  
Systems Management, City University of Hong Kong

升讀香港城市大學工商管理榮譽學士 (環球商業系統管理) 高年級入學 (二年級)

Two degree offers received:

- Senior Entry (Year 2), BBA (Hons) in Global Business Systems Management, City University of Hong Kong
- BSocSc (Hons) in Politics and Public Administration, The Open University of Hong Kong

獲兩個大學學位課程取錄:

- 香港城市大學工商管理榮譽學士 (環球商業系統管理) 高年級入學 (二年級)
- 香港公開大學政治及公共行政社會科學 (榮譽) 學士

"All the lecturers are experienced legal professionals with in-depth legal expertise. This programme has equipped me well for further study or the workforce."

**Harry Chiang 蔣泓鋒**

Advancement to Senior Entry (Year 3), BSocSc (Hons) in Public  
Policy, Management, and Politics, City University of Hong Kong

升讀香港城市大學公共政策、管理與政治榮譽社會科學學士高年級入學 (三年級)

Two degree offers received:

- Senior Entry (Year 3), BSocSc (Hons) in Public Policy, Management, and Politics, City University of Hong Kong
- Senior Entry (Year 3), BSocSc (Hons) Administration and Public Management, City University of Hong Kong

獲兩個大學學位課程取錄:

- 香港城市大學公共政策、管理與政治榮譽社會科學學士高年級入學 (三年級)
- 香港城市大學行政及公共管理榮譽社會科學學士高年級入學 (三年級)

"The programme provided a valuable opportunity for us to understand the Hong Kong legal system and different areas of law. Its practical nature equips me with concrete legal knowledge to handle different cases during my internship in a local law firm."



**Billy Cheung 張軒龍**

Advancement to 2-year, BSc in Information Management, The  
University of Hong Kong (HKU)

升讀香港大學兩年制資訊管理理學士

"I was given a wealth of opportunities to examine the real-world applications of legal knowledge. Under the well-designed curriculum, I mastered valuable research skills and examination techniques."

**Regina Lai 黎倩如**

Advancement to Senior Year, BBA (Hons) in Management, The Hong  
Kong Polytechnic University

升讀香港理工大學管理學 (榮譽) 工商管理學士高年級入學

Two degree offers received:

- Senior Year, BBA (Hons) in Management, The Hong Kong Polytechnic University
- Senior Year, BSocSc (Hons) Policy Studies and Administration, City University of Hong Kong

獲兩個大學學位課程取錄:

- 香港理工大學管理學 (榮譽) 工商管理學士高年級入學
- 香港城市大學政策與行政榮譽社會科學學士高年級入學

"My critical thinking and analytical skills have been greatly improved. Not only did I acquire a great deal of legal knowledge, but also my eagerness for learning grew substantially over time."

# Programme Structure

## 課程結構

### Higher Diploma Year 1\*

#### 高級文憑一年級\*

- General English III 英文 (三)
- English for Academic and Professional Purposes Part I 學術及專業英語 (一)
- Practical Chinese 實用中文
- Introduction to Multimedia 多媒體學導論
- Introduction to Law and Hong Kong Legal System 法律導論與香港法律制度
- Law and Contractual Transactions 合同交易與法律
- Land Law and Conveyancing 土地與物業轉易法律
- Legal Writing and Drafting 法律文書與文件起草技巧
- Business Associations 商業組織法律
- Criminal Law and Criminal Procedure 刑事法律及程序
- Torts Law and Personal Injury Practice 侵權法與人身傷害實務指引

### Higher Diploma Year 2\*

#### 高級文憑二年級\*

- English for Academic and Professional Purposes Part II 學術及專業英語 (二)
- English for Business 商用英語
- Advanced Chinese Language 高級中國語文
- Intra- and Interpersonal Competencies 內省及人際才能
- Professional Responsibility and Advocacy 專業責任與控辯技巧
- Family Law and Matrimonial Practice 家庭法及婚姻實務
- Civil Procedure I and II 民事程序 (一) 及 (二)
- Law of Succession and Probate Practice 遺囑繼承法及遺產實務
- Negotiation and Handling Disputes 處理糾紛與談判
- Using Legal and Company Forms for Business 公司及法律文書的商業運用
- Introduction to the Mainland Legal System 中國法律制度導論

\* The choice of the courses in the programme may be replaced by another course under the same category depending on availability in a particular semester.

課程所提供之科目不限於上表，書院將視乎情況編排其他相同範疇學科。

## Minimum Entry Requirements

### 最低入學資格

#### 2-year Higher Diploma Programme

##### 兩年制高級文憑課程

##### HKDSE 香港中學文憑考試

- Level 2 or above in three subjects<sup>^</sup> PLUS Level 2 or above in Chinese Language and a minimum Level 3 in English Language, or equivalent; OR
- 香港中學文憑考試其中三科<sup>^</sup>考獲第二級或以上成績，及中國語文考獲第二級或以上成績，和英國語文考獲第三級或以上成績，或具同等學歷；或

##### HKALE 香港高級程度會考

- Pass in one AL subject or two AS subjects in the HKALE; AND three passes in the HKCEE\* PLUS Level 2 / Grade E or above in Chinese Language and a minimum Level 3 / Grade D in English Language, or equivalent; OR
- 香港高級程度會考考獲一科高級程度科目，或兩科高級補充程度科目合格；及香港中學會考考獲三科合格\*，以及中國語文考獲第二級 / E 級或以上成績，和英國語文考獲第三級 / D 級或以上成績，或具同等學歷；或

##### OTHERS<sup>#</sup> 其他<sup>#</sup>

- Equivalent qualifications will be considered by the College.
- 書院亦會考慮同等學歷之申請。

## Mature Students<sup>#</sup>

### 成人學生<sup>#</sup>

Applicants who do not possess the above academic qualifications, but are aged 21 or above and with relevant working experience will be considered by the College.

申請人如未能符合最低入學資格，但年滿二十一歲並具相關工作經驗，書院亦會考慮其申請。

<sup>^</sup> Applicants are allowed to use not more than two Applied Learning (ApL) subjects in the application. The recognition of the ApL subjects is as follows: "Attained with distinction" is deemed equivalent to Level 3 in the HKDSE; and "Attained" is deemed equivalent to Level 2 in the HKDSE.

可包括不多於兩科應用學習科目：「達標並表現優異」相等於香港中學文憑考試第三級；及「達標」相等於香港中學文憑考試第二級。

\* Applicants are allowed to use not more than two Applied Learning (ApL) subjects in the application. Successful completion of an ApL subject will be recognised as comparable to a HKCEE pass (not including Chinese Language and English Language).

可包括不多於兩科應用學習科目：如修畢一科應用學習課程，將等同一科香港中學會考科目合格（不包括中國語文及英國語文）。

<sup>#</sup> The Law Society of Hong Kong's Benchmark 香港律師會基準

Applicants who do not possess the above academic qualifications, but are aged 21 or above and have 3 years law-related working experience will be considered by the College. These applicants, if admitted, will still need to fulfill the English Language proficiency requirements of The Law Society of Hong Kong's Benchmark before they are eligible to use the professional title "Legal Executive" in law firms. They will be reminded that if they are admitted to this programme, their eligibility to use the "Legal Executive" title is subject to their achievement of a minimum:

- Level 3 or above in English Language in the HKDSE since 2012; OR
- Level 3 or above in English Language in the HKCEE, or Grade D or above in English Language (Syllabus B) or equivalent in the pre-2007 HKCEE; OR
- Overall score of 6 or above in IELTS (International English Language Testing System).

申請人如未能符合以上最低入學資格，但年滿二十一歲並具三年相關法律工作經驗，書院亦會考慮其申請。透過這途徑被取錄的申請人須符合香港律師會以下的基準，才可使用「法律行政人員」的專業名銜：

- 自2012年起的香港中學文憑考試英國語文考獲第三級或以上成績；或
- 香港中學會考英國語文考獲第三級或以上成績，或於2007年以前的香港中學會考英國語文（課程乙）考獲 D 級或以上成績，或具同等學歷；或
- IELTS (International English Language Testing System) 總分達到 6 級或以上成績。



# Tuition Fee

## 學費

The tuition fee for the academic year 2015 – 2016 is as follows:

2015 至 2016 年度的學費如下：

Higher Diploma Year 1 高級文憑一年級	▶ 港幣HK\$55,000
Higher Diploma Year 2 高級文憑二年級	▶ 港幣HK\$52,500*

All fees will be paid in two equal installments and are subject to annual revision.

學費每年將分兩期繳交，書院每年會因應情況調整學費。

\* Tuition fee will be revised in the academic year 2016 – 2017.

學費將於 2016 至 2017 年度作出調整。

# Financial Assistance

## 學費資助

Government Grants and Loans:

- Financial Assistance Scheme for Post-secondary Students (FASP)<sup>®</sup>
- Non-means-tested Loan Scheme for Post-secondary Students (NLSPS)<sup>®</sup>
- Continuing Education Fund (CEF)

政府資助：

- 專上學生資助計劃<sup>®</sup>
- 專上學生免入息審查貸款計劃<sup>®</sup>
- 持續進修基金

<sup>®</sup> Not applicable to the Diploma in Foundation Studies programme. Students of the Diploma in Foundation Studies programme can apply for financial assistance via the Extended Non-means-tested Loan Scheme.

不適用於基礎專上教育文憑課程。修讀基礎專上教育文憑課程的同學，可申請「擴展的免入息審查貸款計劃」。

# Scholarships for Newly-admitted Students

## 新生入學獎學金

The College has established scholarships of HK\$3 million for applicants with outstanding results in the 2015 HKDSE. The applicant could be awarded the scholarship upon successful admission to the College. Awardees may receive a maximum of a full first-year scholarship.

書院設立 300 萬元新生入學獎學金，給予在 2015 年香港中學文憑考試中考獲優良成績的申請者。同學若成功入讀由書院開辦的課程，有機會獲頒獎學金。成功被甄選的同學最高可豁免首年學費。

# Other Scholarships, Bursaries and Sponsorships

## 其他獎學金、助學金及計劃贊助

With the generosity of the Directors of Po Leung Kuk et al, numerous scholarships, bursaries and sponsorships are established as an encouragement to students who have excelled in their studies or made significant contributions in serving fellow students or the community.

- Overseas Exposure Scholarships
- Academic Merit Scholarships
- Service Awards
- Bursaries
- Po Leung Kuk Padma and Hari Harilela Endowment Scholarship
- “Mainland Experience Scheme” Sponsorships

為鼓勵同學爭取更佳成績，並積極貢獻社區、服務同學，書院設立多項獎學金、助學金及計劃贊助，蒙各界人士或公司慷慨捐贈，包括：保良局董事會成員、社會賢達，以及其他團體。

- 海外學術交流獎學金
- 學術卓越獎學金
- 傑出服務獎
- 助學金
- Po Leung Kuk Padma and Hari Harilela Endowment Scholarship
- 「內地體驗計劃」贊助

# HKU SPACE Po Leung Kuk Stanley Ho Community College

## 港大保良何鴻燊社區書院

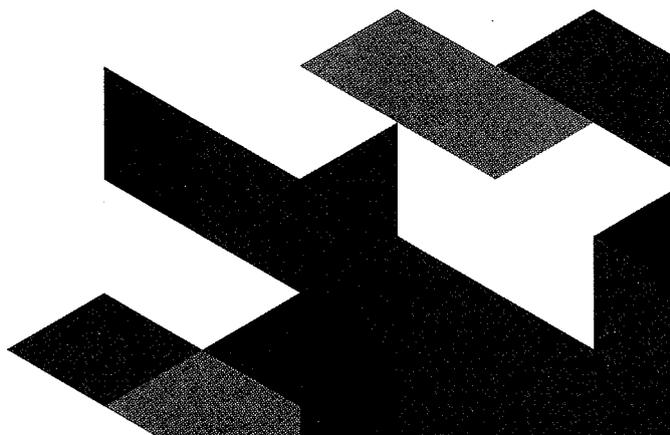
66 Leighton Road, Causeway Bay, Hong Kong  
香港銅鑼灣禮頓道 66 號

☎ 3923 7000

☎ 3923 7111

🌐 <http://hkuspace-plk.hku.hk>

✉ [enquiry@hkuspace-plk.hku.hk](mailto:enquiry@hkuspace-plk.hku.hk)



# Advanced Diploma in Legal Studies

## (2015-16)

### Introduction

The Advanced Diploma allows students to further their knowledge of Hong Kong law by studying three additional modules drawn from a wide variety of options. This is useful for those wishing to learn Hong Kong law for their career development and for those considering formal training in the law.

# Students from the Diploma in Legal Studies - Professional Stream (*with effective from 2008-09*) must take “Legal Writing and Drafting” and “Professional Responsibility and Advocacy” as two of these modules if they wish to meet the requirements set by the Law Society of Hong Kong for qualifying as a *Legal Executive*.

### Programme Structure

This three-year part time programme has three exit points:

- Year 1 Certificate in Legal Studies
- Year 2 Diploma in Legal Studies
- Year 3 Advanced Diploma in Legal Studies

There are 13 Modules in total on this programme. 5 compulsory core Modules are taught in each of the Certificate and the Diploma (10 Modules in total in Years 1 and 2). 2 compulsory core Modules and 1 elective Module in Year 3 to complete the Advanced Diploma.

Eligible students studying for Advanced Diploma in Legal Studies should complete all modules over a maximum period of 3 years.

#### Certificate in Legal Studies

- Module 1: Hong Kong Legal System and Legal Method
- Module 2: Civil Procedure 1 and 2
- Module 3: Law of Obligations 1 and 2
- Module 4: Business Associations
- Module 5: Hong Kong Basic Law

#### Diploma in Legal Studies

- Module 6: Criminal Law and Criminal Procedure
- Module 7: Land Law and Conveyancing
- Module 8: Family Law and Matrimonial Practice
- Module 9: Law of Succession and Probate Practice
- Module 10: Introduction to the Mainland Legal System

## Advanced Diploma in Legal Studies

- Module 11: Professional Responsibility and Advocacy<sup>#</sup>
- Module 12: Legal Writing and Drafting<sup>#</sup>
- Module 13: An Elective:
  - Company Law and Corporate Governance
  - Disputes Resolution
  - Hong Kong Commercial Law and Practice

## Schedule of Lectures

### Modules offered in 2015-16:

Course No. LW 56-101-59 (51) Company Law and Corporate Governance 	Course No. LW 56-101-57 (51) Legal Writing and Drafting <sup>#</sup>	Course No. LW 56-101-61 (51) Professional Responsibility and Advocacy <sup>#</sup>
October 10, 2015	January 04, 2016	April 08, 2016
October 17, 2015	January 11, 2016	April 13, 2016
October 24, 2015	January 18, 2016	April 15, 2016
October 31, 2015	January 25, 2016	April 20, 2016
November 07, 2015	February 01, 2016	April 22, 2016
November 14, 2015	February 15, 2016	April 27, 2016
November 21, 2015	February 22, 2016	April 29, 2016
November 28, 2015	February 29, 2016	May 04, 2016
December 05, 2015	March 07, 2016	May 06, 2016
December 12, 2015	March 14, 2016	May 11, 2016
<b>Examination Date:</b> May 25, 2016	<b>Examination Date:</b> June 1, 2016	<b>Examination Date:</b> June 8, 2016

Lecture Time : 7:00-10:00 p.m. (Weekdays); 2:30-5:30 p.m. (Saturdays)

Examination Time : 7:00-9:00 p.m.

Venue : Hong Kong Island Learning Centre or HKU Main Campus

### Course Fees

\$7,000 per module (inclusive of examination fee)

*N.B.: All course fees once paid are non-refundable and non-transferable.*

### Admission Requirements

All those who have successfully completed the HKU SPACE Diploma in Legal Studies are eligible.

## Course Syllabus

### Company Law and Corporate Governance

This course will examine the corporate vehicle, its registration requirements, regulation, capital raising, and winding up. It will explore the range of theoretical and practical legal issues concerning corporate activities including the enforcement of various corporate governance provisions. Specifically, it will cover the rules relating to membership, meetings, directors' activities, conflicts of interest, reporting, notifications, inspections, audits and investigations.

### Legal Writing and Drafting

This course will introduce students to the basic principles of effective legal writing and provide the opportunity for students to practice the key skills required to produce good written legal material. Topics addressed will include the clear identification of the purpose of the written piece, its planning, writing, editing and ultimately its presentation. Students will practice drafting legal forms and documents in a variety of legal contexts using simple sentences in clear English, in the active voice and with accurate grammar.

### Professional Responsibility and Advocacy

Law Society of Hong Kong: statutory authority, Council, committees and directorate, membership, practicing certificate, risk management, CPD, professional indemnity scheme, admission and trainee solicitors, legal executives.

Professional Conduct: Hong Kong Solicitors' Guide to Professional Conduct; relationships with clients, other lawyers and duty to the Court, confidentiality, conflict of interest, fiduciary duty - handling client money, trust accounts, undertakings.

Misconduct: complaints procedures, investigations, discipline and powers.

Advocacy: taking client instructions, techniques, tactics and preparation for applications, effective speaking, appropriate use of language, presentation and etiquette.

Applications: uncontested application before a master in chambers, application for a three-minute hearing, taxation hearing before a taxing master.

## Applications

### Visas

To study in Hong Kong, all non-local applicants are required to obtain a student visa issued by the Immigration Department of the HKSAR Government, except for those admitted to Hong Kong as dependants, who do not need prior approval before taking up full time and part-time studies. Non-local applicants issued with a valid employment visa also do not need prior approval to pursue part-time studies. It is the responsibility of individual applicants to make appropriate visa arrangements.

### HKU SPACE Mileage Scheme for Learning

For enquiries about learning mileage redemption status students may access terminals at enrolment centres, or use the SOUL platform (<http://hkuspace.hku.hk>). HKU SPACE enrolment staff can also help with this information either at the counter or by phone (Hotline: (852) 3761-1111). HKU SPACE reserves the right to interpret and amend the terms and conditions of the Scheme.

### Continuing Education Fund (CEF)

This module has been included in the list of CEF reimbursable programmes. Applications should be made directly to the Fund after enrolling on the course. For more details, call 3142-2277 or see <http://www.sfaa.gov.hk/cef>.

## Remarks:

1. Modules to be offered subject to sufficient enrolment.
2. Enrolment is on a first-come first-served basis. The deadline is 2 weeks before the course starts.
3. Although we can confirm this timetable is correct, we reserve the right to make changes.
4. Detailed timetables showing venues for each module you have enrolled on will be sent out one week before the start of that course. If you do not receive a timetable one week before a course starts, please e-mail [helen.wu@hkuspace.hku.hk](mailto:helen.wu@hkuspace.hku.hk) or telephone 2520-4665.

## Payment Method

- By cheque payable to "HKU SPACE"
- By cash or EPS or credit card (at enrolment counter)

Applicants should fill in the enclosed application form and send or take it together with the course fee at any of the following locations:

- (1) **HKU Campus**, Room 304, 3/F, T.T. Tsui Building, The University of Hong Kong, Pokfulam Road, Hong Kong (*Exit A2, HKU MTR Station*)  
Weekdays : 8:30 a.m. to 6:00 p.m.                      Saturdays : Closed  
Telephone : (852) 2975 5680                                  Facsimile : (852) 2546 3538
- (2) **Admiralty Learning Centre**, 3/F, Admiralty Centre, 18 Harcourt Road, Hong Kong (access via the Shopping Arcade escalators through *Exit A, Admiralty MTR Station*)  
Weekdays : 8:30 a.m. to 7:30 p.m.                      Saturdays : 8:30 a.m. to 5:30 p.m.  
Telephone : (852) 3761 1111                                  Facsimile : (852) 2559 4666
- (3) **HKU SPACE Po Leung Kuk Community College (HPCC) Campus**, 1/F, HPCC Campus, 66 Leighton Road, Causeway Bay, Hong Kong  
Weekdays : 9:00 a.m. to 5:30 p.m.                      Saturdays : Closed  
Telephone : (852) 3923 7171                                  Facsimile : (852) 3923 7188
- (4) **Fortress Tower Learning Centre**, 14/F, Fortress Tower, 250 King's Road, North Point, Hong Kong (*Exit B, Fortress Hill MTR Station*)  
Weekdays : 8:30 a.m. to 7:30 p.m.                      Saturdays : Closed  
Telephone : (852) 3762 0888                                  Facsimile : (852) 2508 9349
- (5) **Island East Campus**, 2/F, 494 King's Road, North Point, Hong Kong (*Exit B3, North Point MTR Station*)  
Weekdays : 8:30 a.m. to 7:30 p.m.                      Saturdays : 8:30 a.m. to 5:30 p.m.  
Telephone : (852) 3762 0000                                  Facsimile : (852) 2214 9493
- (6) **Kowloon East Campus**, 1/F, 28 Wang Hoi Road, Kowloon Bay, Kowloon (*Exit B, Kowloon Bay MTR Station*)  
Weekdays : 8:30 a.m. to 7:30 p.m.                      Saturdays : 8:30 a.m. to 5:30 p.m.  
Telephone : (852) 3762 2222                                  Facsimile : (852) 2305 5070
- (7) **Kowloon West Campus**, G/F, 38-46 Nassau Street, Mei Foo Sun Chuen, Kowloon (*Exit B, Mei Foo MTR Station*)  
Weekdays : 8:30 a.m. to 7:30 p.m.                      Saturdays : 8:30 a.m. to 5:30 p.m.  
Telephone : (852) 3762 4000                                  Facsimile : (852) 2302 1609

## For Academic and Enrolment Enquiries

College of Humanities and Law, HKU SPACE

Room 803B, 8<sup>th</sup> Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong

Weekdays : 9:00 a.m. to 5:30 p.m.

Saturdays: Closed

Telephone : 2520 4665

Facsimile : 2865 4507

E-mail : [helen.wu@hkuspace.hku.hk](mailto:helen.wu@hkuspace.hku.hk)

Website : <http://hkuspace.hku.hk/prog/adv-dip-in-legal-studies>



**HKUSPACE**

香港大學專業進修學院  
HKU School of Professional and Continuing Education



# Certificate in Legal Studies

and

# Diploma in Legal Studies

Course No. LW 56-101-01

<http://hkuspace.hku.hk/prog/cls>

# Certificate in Legal Studies

and

# Diploma in Legal Studies

Course No. LW 56-101-01

## Introduction

The Diploma in Legal Studies is a part-time and highly flexible programme in Hong Kong law and legal practice. For more than 25 years, it has been one of the popular starting points for studying law in Hong Kong with more than 5,000 students graduating from this course. Many have since gone on to pursue successful careers as lawyers, while others have put the legal skills gained from this course to use in advancing in their existing careers.

Whichever of these paths you're interested in, the wide range of opportunities open to graduates of this programme makes it an ideal course to pursue. The course offers great flexibility to meet the needs of part-time students who have heavy work and/or family commitments. Classes are usually limited to a maximum of two per week. Although most students complete the Diploma in two years, students who need more time may take up to five years if they wish.

## Programme Structure

Students study five modules each year. Teaching is by experienced lawyers and other legal experts.

### Year 1: Certificate in Legal Studies

- Hong Kong Legal System and Legal Method
- Civil Procedure 1 and 2
- Law of Obligations 1 and 2 (Contract and Tort)
- Business Associations
- Hong Kong Basic Law

### Year 2: Diploma in Legal Studies

- Criminal Law and Criminal Procedure
- Land Law and Conveyancing
- Family Law and Matrimonial Practice
- Law of Succession and Probate Practice
- Introduction to the Mainland Legal System 

## Benefit by Enrolling Early

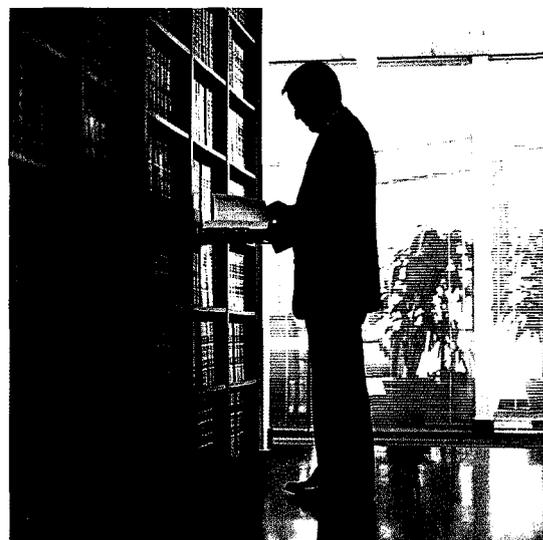
Upon enrolment, all students receive a free account on SOUL, HKU SPACE's e-Learning system. This allows immediate access to comprehensive course materials, including textbooks/workbooks covering the early part of the course, coursework assignment questions and past examination papers. It also provides students with a free email account hosted by HKU SPACE.

## General Stream

Most students enroll on the General Stream, which has been the main format for the course throughout the past 25 years. Year 1 classes are normally held on HKU main campus.

A smaller number of places are sometimes available on the Professional Stream of the course at a higher course fee. The Professional Stream is mainly intended for those working in law firms and, if places are currently available, a separate insert to this brochure will provide further details.

**Students on the General and Professional Streams study the same subjects and sit the same examinations.**



## What Qualifications/Professional Recognition will I receive?

### **Certificate in Legal Studies**

All students receive a Certificate in Legal Studies awarded by HKU SPACE after passing the examinations for Year 1 of the course.

### **Diploma in Legal Studies**

All students receive a Diploma in Legal Studies awarded by HKU SPACE after passing the examinations for Year 2 of the course, and then become eligible to continue on to a wide variety of other courses (see the section on "Progression Opportunities.")

### **Right of Audience**

Diploma holders with at least 3 years' legal work experience currently have a limited right of audience to appear before a District Judge in the District Court and before a Master in the Court of First Instance, according to Practice Directions issued by the Hong Kong Judiciary.

## Become a Paralegal

A Paralegal is someone who does legal work but is not a lawyer. This may include helping case work, liaising with clients or drafting legal documents. While some work in law firms, many others work in private companies, government departments and statutory organisations in Hong Kong.

For many students, working as a Paralegal is a useful first step towards qualifying as a lawyer.

Paralegals are sometimes also called Legal Executives, which is the title recognised by the Law Society of Hong Kong. However you can become a Paralegal, even if you do not meet the Law Society's requirements for recognition as a Legal Executive.

## Institute of Paralegals

The Diploma in Legal Studies is an Approved Course accredited by the Institute of Paralegals, a UK-based body that sets professional standards for paralegals and administers the "Route to Qualification" career path for paralegals.

All students who successfully complete the Diploma in Legal Studies and join the Institute of Paralegals are eligible to use the title of Registered Paralegal (HK) and the letters "R.Inst.Pa (HK)" after their name even if not working in a law firm.

Completion of the Diploma in Legal Studies also provides an accelerated career path for paralegals. Graduates of the Diploma in Legal Studies are eligible to become Certified Paralegals (HK) after only two years practice experience and can then use the letters "M.Inst.Pa (HK)" after their name. The Institute describes Certified Paralegals as broadly equivalent to Legal Executives. However you can become a Registered or Certified Paralegal even if you do not meet the Law Society's requirements for recognition as a Legal Executive.

The Institute is a membership organisation, with an annual fee and continuing professional development requirements. It is currently offering free Affiliate (HK) membership to students on the Diploma in Legal Studies for the duration of their studies on this course.

HKU SPACE is not associated or affiliated with the Institute of Paralegals, and all membership inquiries should be directed to the Institute. For further information, see <http://www.theiop.org>.

## Course Materials

All students are supplied with comprehensive course materials, including detailed manuals specifically developed for this programme. All students also receive a free reader's card allowing access to University of Hong Kong libraries.

## Assessments

To be eligible for the award of Certificate in Legal Studies and Diploma in Legal Studies a student must ordinarily attend not less than 70% of scheduled classes and satisfactorily complete all assessments. Assessment includes coursework assignments (which are 25% of the final grade) and final examinations (which are 75% of the final grade).

## Timetable

Classes are normally scheduled from 7:00 p.m. to 10:00 p.m. on weekday evenings or some Saturday afternoons from 2:30 p.m. to 5:30 p.m. Wherever possible, classes are limited to a maximum of two per week.

## Examinations

Year 1 examinations are normally held in June, August and October/November. You may choose to sit all your examinations at whichever of these sittings you prefer. An examination fee of \$600 is payable for each sitting, but covers examinations in all five modules during that sitting. You may also choose to start studying on Year 2 of the course before completing your examinations for Year 1.

## Course Fees

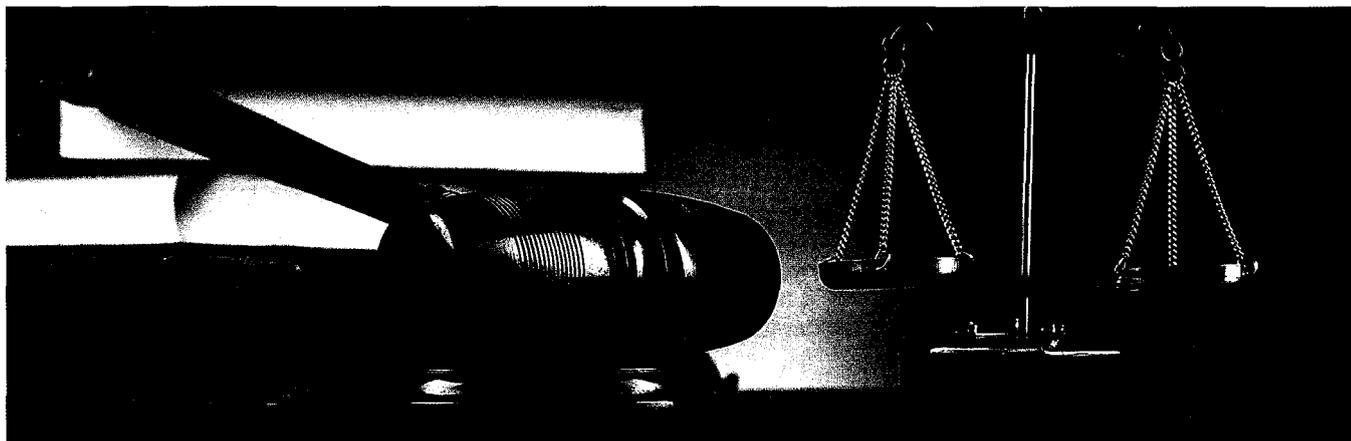
For current course fees, please refer to the course timetable or visit the course Web site at <http://www.hkuspace.hku.hk/prog/cls>.

## Continuing Education Fund

The Year 1 Certificate in Legal Studies is included in the list of Reimbursable Courses under the Hong Kong SAR Government's Continuing Education Fund, and many students claim reimbursement of up to \$10,000 in course fees from the Fund after successfully completing Year 1 of the course.

The Year 2 module on "Introduction to the Mainland Legal System" is also included in the list of Reimbursable Courses. Students who do not claim reimbursement after Year 1 of the course may instead be eligible for reimbursement of part of their fees for Year 2 of the course.

Applications should be made directly to the Fund after enrolling on the course. For more details, call 3142 2277 or see <http://www.sfaa.gov.hk/cef>.



## Admission Requirements

Enrollment on these courses is on a first come first served basis, and many intakes are full several months before the course starts. **Students are strongly recommended to apply as early as possible to avoid disappointment and enjoy the benefits of immediate access to course materials.**

There are no formal admission requirements for entry onto the course. However students are expected to have sufficient proficiency in English to be able to follow the course.

Please note that the programme is intended for those having the right to live and study in Hong Kong and it is the responsibility of applicants to determine their eligibility to study.

## Progression Opportunities

One of the great advantages of this course is the wide variety of progression opportunities open to students who successfully complete the Diploma in Legal Studies, including:

- Progress to the University of London International Programmes LL.B. degree. Students who successfully complete the Diploma in Legal Studies no later than July are guaranteed places on the very popular University of London LL.B. first year preparation courses run by HKU SPACE. In addition, successful completion of the Diploma in Legal Studies also allows direct entry into many other University of London degree programmes;
- Progress to the Common Professional Examination (C.P.E.) of England and Wales (Graduate Diploma in English and Hong Kong Law). Students who obtain a Distinction on the Diploma in Legal Studies no later than July are guaranteed a C.P.E. place. Applicants are normally expected to be either over the age of 25 or already hold a recognised bachelor's degree, however applicants under this age will also be considered. The C.P.E. is a two-year, part-time programme offered by Manchester Metropolitan University (MMU) in collaboration with HKU SPACE. Upon finishing the C.P.E. students can, if they wish, study part-time for a further year to receive an LL.B awarded by MMU and complete all the law subjects currently needed to apply for admission to P.C.L.L. courses in Hong Kong;
- Apply for full-time law programmes offered by the University of Hong Kong and other local universities. The Diploma in Legal Studies may assist non-JUPAS applicants over the age of 25;
- Progress directly to Year 2 of the BA Honours Law Degree at Middlesex University in the United Kingdom, with exemption from Year 1 of the course;
- Apply for many other full-time law degree programmes overseas;
- Receive credit exemptions when studying several other degree programmes offered in association with HKU SPACE. This includes credit for 8 out of 24 subjects on the Bachelor of Information Studies of Charles Sturt University, and direct entry into Year 2 of BA (Hons) in Journalism, Media and Cultural Studies, BA (Hons) in Media and Cultural Studies and BA (Hons) in Publishing, Media and Cultural Studies of Middlesex University.

## Advanced Diploma in Legal Studies

Students who successfully complete the Diploma in Legal Studies are also eligible for progression to the Advanced Diploma in Legal Studies offered by HKU SPACE.

This allows students to further their knowledge of Hong Kong law by studying 3 further modules drawn from a wide variety of options covering commercial, civil, criminal, intellectual property and land law. The Advanced Diploma can normally be completed in 6-12 months.

For further information and current course fees, please refer to the separate course brochure for the Advanced Diploma in Legal Studies or visit the course Web site at <http://hkuspace.hku.hk/prog/adv-dip-in-legal-studies>.

# Applications

Applicants can quickly and conveniently enroll online for most intakes.  
Please visit <http://www.hkuspace.hku.hk/prog/cls> for further information.

Or applicants can fill in the enclosed application form and send or take it together with the course fee to any of the following locations:

## **HKU SPACE, HKU Campus**

3/F, T.T. Tsui Building  
The University of Hong Kong  
Pokfulam Road, Hong Kong

Weekdays: 8:30 am to 6:00 pm  
Saturdays : Closed  
Telephone: 2975 5680  
Fax: 2546 3538

## **HKU SPACE, Town Centre, Admiralty Learning Centre**

3/F, Admiralty Centre, 18 Harcourt Road  
Admiralty, Hong Kong  
(Exit A, Admiralty MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3761 1111  
Fax: 2559 4666

## **HKU SPACE, Kowloon West Campus**

G/F, 38-46, Nassau Street,  
Mei Foo Sun Chuen (Phase 6)  
Kowloon (Exit B, Mei Foo MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 4000  
Fax: 2302 1609

## **HKU SPACE, Kowloon East Campus**

1/F, 28, Wang Hoi Road, Kowloon Bay, Kowloon  
(Exit B, Kowloon Bay MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 2222  
Fax: 2305 5070

## **HKU SPACE, Fortress Tower Learning Centre**

14/F, Fortress Tower, 250 King's Road  
North Point, Hong Kong  
(Exit B, Fortress Hill MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : Closed  
Telephone: 3762 0888  
Fax: 2508 9349

## **HKU SPACE, Island East Campus**

2/F, 494 King's Road  
North Point, Hong Kong  
(Exit B3, North Point MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 0000  
Fax: 2214 9493

## **HKU SPACE Po Leung Kuk Community College (HPCC) Campus**

1/F, HPCC Campus,  
66 Leighton Road, Causeway Bay, H.K.

Weekdays: 9:00 am to 5:30 pm  
Saturdays : Closed  
Telephone: 3923 7171  
Fax: 3923 7188

## **Payment Method**

- By cheque payable to "HKU SPACE"
- By credit card (at enrolment counter)
- Cash or EPS (at enrolment counter)

## **For academic and enrolment enquiries, please contact:**

College of Humanities and Law, HKU SPACE  
Room 803B, 8th Floor, Tower One,  
Admiralty Centre, 18 Harcourt Road, Hong Kong  
Weekdays : 9:00 a.m. to 5:30 p.m.

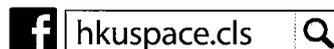
Saturdays : Closed

Telephone : 2520 4665

Facsimile : 2865 4507

E-mail : [helen.wu@hkuspace.hku.hk](mailto:helen.wu@hkuspace.hku.hk)

Website : <http://hkuspace.hku.hk/chl>



# Professional Stream: Certificate in Legal Studies and Diploma in Legal Studies

Course No. LW 56-103-01



## Introduction

The Professional Stream offers students the opportunity to study the same subjects in medium-sized class groups. These are usually smaller than class sizes on the General Stream, offering greater scope for interaction with teachers. Classes on the Professional Stream are normally held at in-town learning centres in Admiralty or Causeway Bay.

Students on the Professional Stream enjoy all the Progression Opportunities listed in the main brochure. In addition, they also have the opportunity to qualify as a Legal Executive (an opportunity not available to students on the General Stream).

Although mainly intended for those working in law firms, enrollment on the Professional Stream is open to all on a **first come first served basis**.

**Enrollment on the Professional Stream is limited to a maximum of about 50-60 students per intake and applications often close several months before the course starts. Since intakes are usually heavily oversubscribed, students are strongly recommended to apply as early as possible to avoid disappointment.**

## Become a Legal Executive

Legal Executive is the title recognised by the Law Society of Hong Kong for certain staff who assist solicitors in law firms in Hong Kong.

Legal Executives are not lawyers, but often carry out important legal work. These may include assisting solicitors with case work liaising with clients and drafting legal documents. In addition to solicitors' firms, many Legal Executives work in private companies, government departments and statutory organisations in Hong Kong.

While qualifying as a lawyer can be a long process, you can be recognised as a Legal Executive after less than 3 years study. For many students, this is a useful first step towards eventually qualifying as a lawyer.

Legal Executives are sometimes also called Paralegals, although this is not the title recognised by the Law Society of Hong Kong.

## Approved Legal Executive Course

In order to use the title of Legal Executive when working in a law firm in Hong Kong, students must complete a course recognised by the Law Society of Hong Kong as satisfying its Benchmarks for Legal Executive Courses.

The Professional Stream of the Advanced Diploma in Legal Studies was one of the first Legal Executive courses recognised by the Law Society for this purpose.

This means students who meet the eligibility requirements set by the Law Society may use the title of Legal Executive after they successfully complete the Professional Stream of the Diploma in Legal Studies, followed by three additional modules on the Advanced Diploma in Legal Studies (including modules on Legal Writing and Drafting, and Professional Responsibility and Advocacy).

The following eligibility requirements are currently set by the Law Society:

- (i) A pass in 5 subjects in HKCEE; or a combination of 5 HKDSE subjects of Level 2 in NSS subjects, "Attained" in ApL subjects (with maximum 2 ApL subjects) and Grade E in Other Language subjects; or 3 years in law-related employment in Hong Kong; and
- (ii) A minimum grade of D in English language (Syllabus B) (or equivalent) in pre-2007 HKCEE; or a minimum level 3 in English language from 2007 HKCEE onwards; or a minimum overall score of 6 in IELTS (International English Language Testing System); or a minimum Level 3 in English Language in HKDSE since 2012.

For further information on these requirements, please contact the Law Society or see [http://www.hklawsoc.org.hk/pub\\_e/circular/12-349a1.pdf](http://www.hklawsoc.org.hk/pub_e/circular/12-349a1.pdf).

These requirements only apply to students wishing to use the title of Legal Executive on completion of the course. They are not requirements for entry to the Professional Stream and **students can enroll on the Professional Stream without these qualifications.**

## Programme Structure

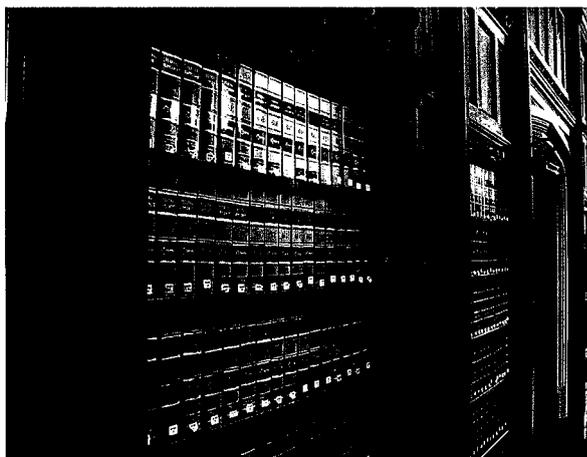
Teaching on the Professional Stream is mainly through interactive learning in medium-sized class groups based on pre-assigned and pre-read materials.

Students on the Professional Stream study the same subjects and sit the same exams as students on the General Stream. Apart from the interactive teaching method and usually smaller class sizes, most other aspects of the Professional Stream are the same as the General Stream. For further information, please see the relevant sections of the main brochure.

## Course Fees

For current course fees, please refer to the course timetable or visit the course Web site at <http://www.hkuspace.hku.hk/prog/cls>.

*\* Many students are eligible for reimbursement of up to \$10,000 from the Continuing Education Fund after successfully completing Year 1. For more information, please see the section on "Continuing Education Fund" in the main brochure.*





COMMON PROFESSIONAL EXAMINATION  
(C.P.E.) of England and Wales  
(Graduate Diploma in English  
and Hong Kong Law)



Manchester Metropolitan University  
Course No. LW56-806-01(51)

COMMON PROFESSIONAL EXAMINATION

**(C.P.E.) of England and Wales**

**(Graduate Diploma in English and Hong Kong Law)**

Manchester Metropolitan University

Course No. LW56-806-01(51)

## Introduction

### What is the C.P.E. (Graduate Diploma in English and Hong Kong Law)?

The C.P.E. is a set of examinations designed for graduates in non-law disciplines who wish to qualify as solicitors or barristers with a view to working in Hong Kong or England.

HKU SPACE offers a two-year part-time programme at the end of which the successful student will have partially completed the requirements for entry to the Hong Kong P.C.L.L. course, for those wishing to practise in Hong Kong. Completers are also eligible to apply for an LPC course in the UK (for intending UK solicitors) or a BPTC course (for intending UK barristers) provided that their non-law degree is of at least second class standard.

Only students who have taken an accredited course are eligible to take the C.P.E. examinations. It is a course requirement that students attend 70% of lectures and tutorials. Assessment is by examination and continuous assessment and students will sit the C.P.E. examinations of Manchester Metropolitan University, in Hong Kong.

## Programme Structure

Eight main subjects must be taken in the C.P.E. examination. Students will study four subjects in each year. Students in Year 1 will also attend an English Legal System Induction course.

### Year 1

Public Law, European Union Law,  
Contract Law and the Law of Tort.

### Year 2

Criminal Law, Equity & Trusts,  
Land Law and Additional Legal Subjects  
(Hong Kong Constitutional Law,  
Hong Kong Legal System, Hong Kong Land Law)

### Assessment

Assessment will be on the basis of a mix of assignments and examinations and may vary from subject to subject.

### Course Materials

Students will receive a reading list detailing essential and supplementary texts. Essential texts will be provided as part of the programme package. In addition students will be provided with a course manual for each English Law subject except English Legal System. Lecturers will provide their own notes to supplement these materials.

## Programme Structure

### Tuition

A full tuition package, provided jointly by HKU SPACE and Manchester Metropolitan University staff, is provided for all C.P.E. students. Classes will take place on weekday evenings and at weekends. Year 1 students will first attend a brief induction course on the nature of the English Legal System in early September 2015. **Only those who satisfactorily complete the English Legal System assessment will be permitted to continue with the programme.**

In the period October-November visiting lecturers from Manchester Metropolitan University will give a series of introductory lectures in one-week blocks outlining the courses and giving advice on methods of study, writing answers etc.

Thereafter a combined lecture and tutorial programme will operate until March 2016, requiring, generally, a maximum of three attendances per week. In addition to an assessed assignment in Tort, students will be expected to submit two pieces of written work in each subject which will be marked and returned by their tutors.

In the period March-April 2016 revision lectures, delivered in one-week blocks, will be given by staff from Manchester Metropolitan University.

### Examinations

The sessional examinations will take place in May/June 2016 with referral examinations in August/September 2016.

### Standards

The course is academically rigorous and examination standards are high. Nevertheless results have been excellent with over 70% passing Year 1 and over 85% passing Year 2.

## Progression

### Further Studies

For those students who wish to add to their C.P.E. qualification, HKU SPACE offers a one-year, part-time LL.B. course.

Although not a degree, the C.P.E. is also recognised as satisfying eligibility criteria for some Master's courses, notably the London University (External) part-time LL.M., provided that applicants have at least a second class degree in their non-law discipline.



## Progression

### Professional stage of training

Those students wishing to qualify as lawyers in Hong Kong must complete the P.C.LL. course. From 2008 additional admission requirements have been imposed for P.C.LL. For full details see <http://www.hku.hk/pcll/notice/notice.html>. Students who pass all CPE subjects plus the 4 subjects LL.B. year (see above) will be fully P.C.LL eligible. Those wishing to apply for P.C.LL. must also have completed an IELTS test within three years of application and should have at least an overall 7.

Alternatively students may choose to apply to one of the English institutions offering the Legal Practice Course, for which they are also eligible, or a Bar Practical Training Course (for intending English Barristers). CPE completers will be guaranteed a place on the MMU Legal Practice Course (in Manchester).

Students who are not permanent residents of Hong Kong but wish to practise as solicitors or barristers in Hong Kong should check with the Hong Kong Law Society and the Bar Association as to any residency requirements.

### Legal Practice

For those wishing to proceed to legal practice, HKU/SPACE will give some guidance in this area throughout your studies. However, you should note that a full careers service is not provided and students must take responsibility for their own career advancement. In particular, you should note that many large firms recruit early and you may wish to contact them direct soon after commencement of your CPE studies.



## Admission Requirements

### Eligibility

Applicants should normally hold, or expect to be awarded in the current academic year, a degree in a non-law discipline or an acceptable degree equivalent. Applicants may be called for interview.

### Application

Entry to the C.P.E. programme is competitive and places will be allocated on academic criteria. Applications should be made before **17 July, 2015** after which unconditional and conditional offers will be made.

### Visas

Please note that the programme is intended for those having the right to live and study in Hong Kong. It is very unlikely that an "overseas" applicant will be granted a visa to study this non-UGC funded programme and it is the responsibility of applicants to determine their eligibility to study.

### Course Fees

The tuition fee for year one is \$38,600 plus a non-refundable application fee of \$200.

A separate registration fee (approximately £525) is payable to Manchester Metropolitan University via SPACE in October 2015 for those wishing to sit the 2016 examinations. Those needing to re-sit examinations will be required to pay a re-examination fee (approximately £525 maximum).

There may be a fee increase in year 2 but we will generally restrict this to 5%.

**"This is an exempted course under the Non-Local Higher and Professional Education (Regulation) Ordinance. It is a matter of discretion for individual employers to recognise any qualification to which this course may lead."**

## Applications

Applicants should fill in the enclosed application form and send or take it together with the course fee to "HKU SPACE" at any of the following locations:

### **HKU SPACE, Headquarters**

3/F, T.T. Tsui Building  
The University of Hong Kong  
Pokfulam Road, Hong Kong

Weekdays: 8:30 am to 6:00 pm  
Saturdays : Closed  
Telephone: 2975 5680  
Fax: 2546 3538

### **HKU SPACE, Admiralty Learning Centre**

3/F, Admiralty Centre, 18 Harcourt Road  
Admiralty, Hong Kong  
(Exit A, Admiralty MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3761 1111  
Fax: 2559 4666

### **HKU SPACE, Kowloon West Campus**

G/F, 38-46, Nassau Street,  
Mei Foo Sun Chuen (Phase 6)  
Kowloon (Exit B, Mei Foo MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 4000  
Fax: 2302 1609

### **HKU SPACE, Kowloon East Campus**

1/F, 28, Wang Hoi Road, Kowloon Bay, Kowloon  
(Exit B, Kowloon Bay MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 2222  
Fax: 2305 5070

### **HKU SPACE, Fortress Tower Learning Centre**

14/F, Fortress Tower, 250 King's Road  
North Point, Hong Kong  
(Exit B, Fortress Hill MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : Closed  
Telephone: 3762 0888  
Fax: 2508 9349

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2/F, 494 King's Road  
North Point, Hong Kong  
(Exit B3, North Point MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 0000  
Fax: 2214 9493

### **HKU SPACE Po Leung Kuk Community College (HPCC) Campus**

1/F, HPCC Campus,  
66 Leighton Road, Causeway Bay, H.K.

Weekdays: 9:00 am to 5:30 pm  
Saturdays : Closed  
Telephone: 3923 7171  
Fax: 3923 7188

### **For academic and enrolment enquiries, please contact:**

College of Humanities and Law, HKU SPACE  
Room 803B, 8th Floor, Tower One,  
Admiralty Centre, 18 Harcourt Road, Hong Kong

Weekdays : 9:00 a.m. to 5:30 p.m.

Saturdays : Closed

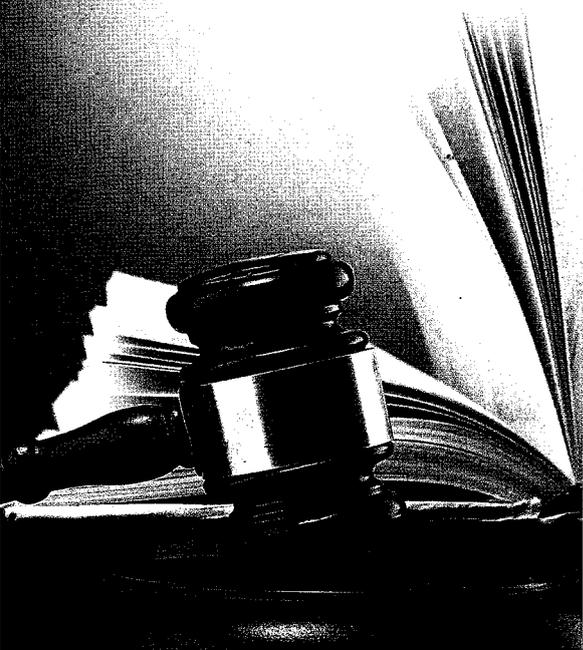
Telephone : 2520 4665

Facsimile : 2865 4507

E-mail : [sophia.man@hkuspace.hku.hk](mailto:sophia.man@hkuspace.hku.hk)

Website : <http://hkuspace.hku.hk/>





# Bachelor of Laws (LL.B.)

Manchester Metropolitan University

Course No. LW 56-803-00 (51)

# Bachelor of Laws (LL.B.)

Manchester Metropolitan University

Course No. LW 56-803-00 (51)

## Introduction

This course, leading to the award of LL.B. with Honours, is designed for students who have passed the C.P.E. examinations. The course will be of one year's duration commencing in September 2015.

## Programme Structure

Students are required to study four subjects. The subjects which will be offered in this programme are:

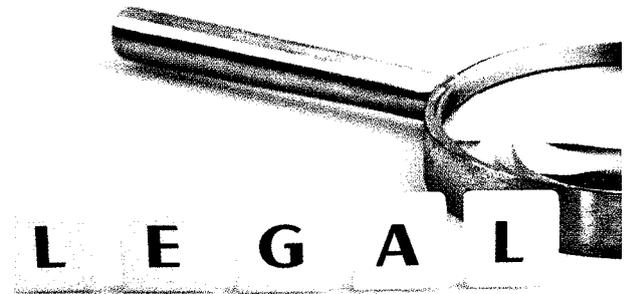
- Commercial Law
- Business Associations
- Law of Hong Kong Evidence
- Hong Kong Civil and Criminal Procedure

## Tuition

Introductory lectures for all four subjects will be delivered in one-week blocks primarily by Manchester Metropolitan University staff between September 2015 and January 2016. Manchester staff will also deliver revision lectures in March/April 2016. Tutorial sessions will be conducted by local teaching staff.

## Assessments

Students will sit the examinations of Manchester Metropolitan University in Hong Kong and assessment will be on the basis of examination performance in all subjects and a further assessment in three of the subjects. The sessional examinations will take place in May/June 2016.



## Admission

### Eligibility

All those who have successfully completed the Manchester Metropolitan University C.P.E./GDEHKL or other C.P.E./GDL programmes are eligible.

### Visas

Please note that the programme is intended for those having the right to live and study in Hong Kong. It is very unlikely that an "overseas" applicant will be granted a visa to study this non-UGC funded programme and it is the responsibility of applicants to determine their eligibility to study.

### Applications

Applications should be made before August 14, 2015.

### Course Fees

The course fee for the Manchester Metropolitan University LL.B. is \$38,600. Cheques should be made payable to "HKU SPACE" and submitted together with the application for enrolment.

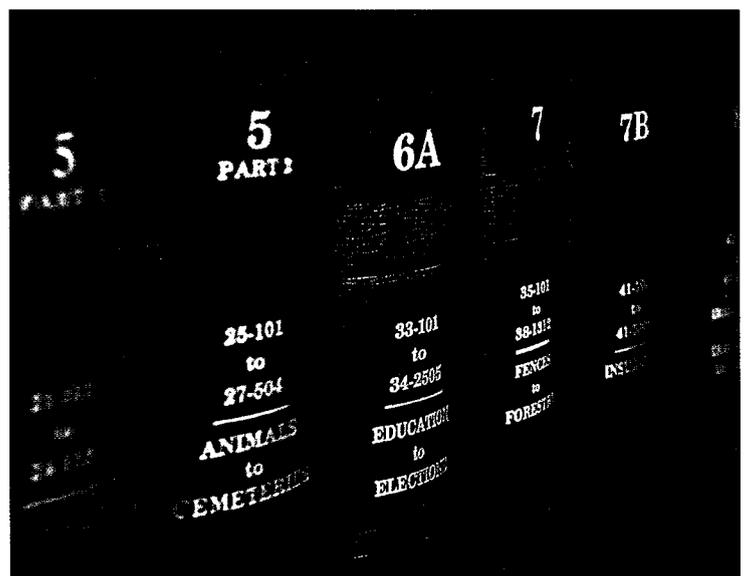
A separate registration fee of £525 is payable to Manchester Metropolitan University in October 2015. Those required to resit examinations must pay a re-examination fee (maximum £525).

## Career Progression

### Professional Stage of Training

Those students wishing to qualify as lawyers in Hong Kong must complete the P.C.LL. course. For details of the entry requirements please visit: <http://www.hku.hk/pcll/notice/notice.html> and <http://www.pcea.com.hk>. Those who have completed the C.P.E. and LL.B. will be exempt most of the new conversion requirements.

This is an exempted courses under the Non-Local Higher and Professional Education (Regulation) Ordinance. It is a matter of discretion for individual employers to recognise any qualification to which these courses may lead.



## Applications

Applicants should fill in the enclosed application form and send or take it together with the course fee to HKU SPACE at any of the following locations:

### **HKU SPACE, HKU Campus**

3/F, T.T. Tsui Building  
The University of Hong Kong  
Pokfulam Road, Hong Kong

Weekdays: 8:30 am to 6:00 pm  
Saturdays : Closed  
Telephone: 2975 5680  
Fax: 2546 3538

### **HKU SPACE, Fortress Tower Learning Centre**

14/F, Fortress Tower, 250 King's Road  
North Point, Hong Kong  
(Exit B, Fortress Hill MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : Closed  
Telephone: 3762 0888  
Fax: 2508 9349

### **HKU SPACE, Town Centre, Admiralty Learning Centre**

3/F, Admiralty Centre, 18 Harcourt Road  
Admiralty, Hong Kong  
(Exit A, Admiralty MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3761 1111  
Fax: 2559 4666

### **HKU SPACE, Island East Campus**

2/F, 494 King's Road  
North Point, Hong Kong  
(Exit B3, North Point MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 0000  
Fax: 2214 9493

### **HKU SPACE, Kowloon West Campus**

G/F, 38-46, Nassau Street,  
Mei Foo Sun Chuen (Phase 6)  
Kowloon (Exit B, Mei Foo MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 4000  
Fax: 2302 1609

### **HKU SPACE Po Leung Kuk Community College (HPCC) Campus**

1/F, HPCC Campus, 66 Leighton Road,  
Causeway Bay, Hong Kong

Weekdays : 9:00 am to 5:30 pm  
Saturdays : Closed  
Telephone: 3923 7171  
Fax: 3923 7188

### **HKU SPACE, Kowloon East Campus**

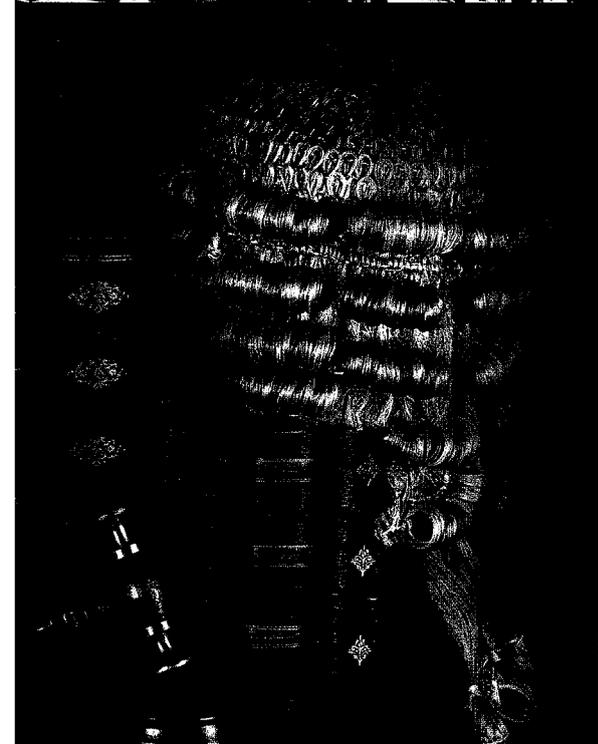
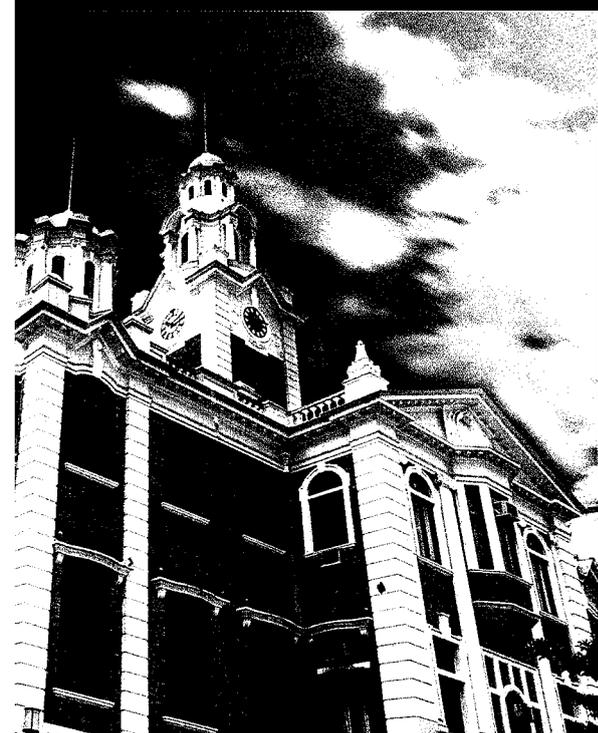
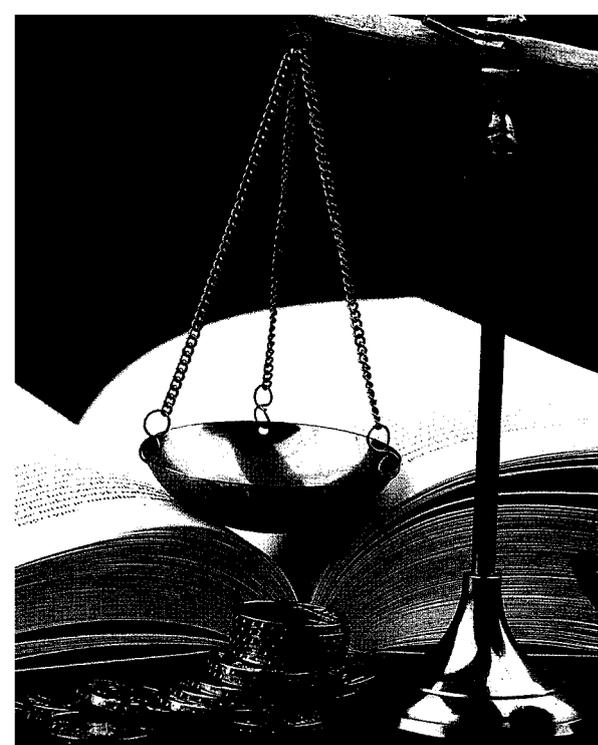
1/F, 28, Wang Hoi Road, Kowloon Bay, Kowloon  
(Exit B, Kowloon Bay MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 2222  
Fax: 2305 5070

### **For academic and enrolment enquiries, please contact:**

College of Humanities and Law, HKU SPACE  
Room 803B, 8th Floor, Tower One,  
Admiralty Centre, 18 Harcourt Road, Hong Kong  
Telephone : 2520 4665  
Facsimile : 2865 4507  
E-mail : [mary.chan@hkuspace.hku.hk](mailto:mary.chan@hkuspace.hku.hk)  
Website : <http://hkuspace.hku.hk/ch/>





# Bachelor of Laws (LL.B.) Preparation Courses University of London

# Bachelor of Laws (LL.B.) Preparation Courses

University of London

## Introduction

### What is an LL.B.?

The LL.B. is a degree which provides an academic foundation in Law and provides **partial exemption** from the academic stage of professional legal training. Intending lawyers will then need to complete the shorter vocational stage. A number of other professions, notably Accountancy, recognise the LL.B. as providing exemption from some part of their professional training. Law is an important academic study in its own right, and most of our students take the LL.B. programme without intending to practise Law.

### University of London International Programmes LL.B.

The University of London International Programmes is a world renowned provider of legal education. Its LLB has long been regarded as an 'international gold standard' in legal education and for over 150 years it has provided the first step on a career route for many thousands of practising lawyers within the Commonwealth and around the world. Academic direction for the Undergraduate Laws Programme is provided by six University of London Colleges with Law Schools or Departments, collectively known as the Laws Consortium. The six Colleges are: Birkbeck, King's College London, London School of Economics and Political Science (LSE), Queen Mary, School of Oriental and African Studies (SOAS), and UCL (University College London). For more information on the University of London International Programmes visit: <http://www.londoninternational.ac.uk/>

For information about the LL.B. see <http://www.londoninternational.ac.uk/llb>

Upon successful completion of their studies, students are awarded a University of London degree or diploma. Although the standards of these awards are maintained at the same level as the standards of awards made to students studying at one of the Colleges of the University of London, the awards are distinct from degrees or other qualifications awarded by these Colleges. The certificate that students receive following graduation will state that the student was registered with the University of London and awarded a University of London degree or diploma. It will also state that examinations were conducted by the University of London Law Schools.

### Why Study with HKU SPACE?

- HKU SPACE courses are tailored specifically for University of London International Programmes LL.B. and lecture courses are provided by leading academics from major English Universities, including London, as well as by local academics.
- The 2015/16 tuition package is made up of lectures, tutorials (for year 1&2 subjects) and revision lectures. Year 1 students will have the opportunity to sit mock examinations. Subject to demand we may offer mock examinations for other subjects for a separate fee.
- **Attendance on a specially designed course greatly improves the chances of success.**

## Programme Structure

### Standard Entry

For students who do not already hold a degree, the course is of a **minimum** 3 years duration and students completing the course within 3 years will study 4 subjects per year. On the first year of the course students will take: Public Law; Criminal Law; Elements of the Law of Contract and Common Law Reasoning & Institutions. Students will then take a further 8 subjects (4 each year) but will be expected to select Equity & Trusts; Property Law and Law of Tort, as well as Jurisprudence & Legal Theory as this is a compulsory subject for non-graduates. Subject to demand HKU SPACE will also offer tuition in Evidence; Company Law; Family Law; Commercial Law and Civil and Criminal Procedure, the more popular options. Students may spread their studies over a longer period, subject to the programme regulations.

### Graduate Entry

Those already holding a degree awarded by an institution acceptable to University of London International Programmes may be eligible for the LL.B. Graduate Entry. This involves 9 subjects instead of the usual 12. The minimum period of study is two years (4 + 5 subjects) but students may spread their studies over a longer period, subject to the programme regulations, and are strongly advised to do so.

Students who wish to obtain a U.K. qualifying Law degree for progressing to Legal Practice/Bar courses in England and Wales must pass European Union Law and complete a Dissertation/Research Project and Law Skills Portfolio. Students should refer to the LL.B. structure and outlines contained in the University of London International Programmes prospectus to ensure that they enrol for the correct subjects.

#### Compulsory Subjects

Public Law  
Criminal Law  
Elements of the Law of Contract  
Common Law Reasoning and Institutions #  
Property Law  
Law of Tort  
Equity and Trusts

#### Optional Subjects

Evidence  
Company Law  
Commercial Law  
Civil and Criminal Procedure  
Family Law  
Jurisprudence and Legal Theory \*

# Compulsory subject in 1<sup>st</sup> Year

\* Compulsory subject for Standard Entry



## Tuition

Lecture courses in Common Law Reasoning & Institutions, Public Law, Criminal Law, and the Elements of the Law of Contract will be delivered by visiting academics largely on a block basis from August 2015 to January/February 2016. From February to April there will be intensive revision lectures delivered by visiting academics from the U.K.. An important role is filled by the intensive seminars (tutorials) which will focus on written technique and examination preparation. Students will have an opportunity to submit written work in advance of these seminars. Mock Examinations will be held between January and March 2016.

## Course Materials

University of London International Programmes will provide some course materials for all subjects, on all years, of the LL.B. programme. HKU SPACE visiting lecturers will provide supplementary materials including lecture outlines and legal updates.

## Examinations

The examinations normally take place in early May/June each year. The current version of the examination syllabus is set out in the current *University of London International Programmes: Undergraduate programmes in Law Prospectus*. A full explanation of the conduct of examinations is available in the LL.B. Regulations which will be sent to you when you are given an offer of registration.

## Admission Requirements

### Eligibility

The University of London International Programmes LL.B. degree programme is open to all those who satisfy the University's minimum entrance requirements: 2 'A' levels and 3 'O' levels (not necessarily obtained in one sitting); or equivalent. A full explanation of entry requirements is provided in the current *University of London International Programmes: Undergraduate Study in Laws Prospectus*, which is available on request from University of London International Programmes (Affiliate Centre), Room 313, 3/F, Admiralty Centre, 18 Harcourt Road, Hong Kong.

(Enquiries: 3761 1122 e-mail address: londonu@hkuspace.hku.hk website: <http://hkuspace.hku.hk/londonu/>)

University of London International Programmes reserves the right to request applicants to provide evidence acceptable to it of oral and written competence in English before making an offer of registration.

Places on the courses are not limited to University of London International Programmes LL.B. students and they may well be attractive to those attempting comparable examinations or who are interested in studying specific subjects.

### Visas

Please note that the programme is intended for those having the right to live and study in Hong Kong and it is the responsibility of applicants to determine their eligibility to study.

### Enrolment

Although University of London International Programmes recommends not joining a course before registration, applicants should note that enrolment on the HKU SPACE courses is on a first-come, first-served basis.

# University of London International Programmes Registrations

## How to apply

Students who wish to take the LLB. examinations must also register as overseas students with University of London International Programmes. New registrations for all University of London International Programmes are processed by HKU SPACE. Application forms and prospectuses are available from Admiralty Learning Centre (see address above). All postal enquiries should be marked "University of London International Programmes Applications".

Registration can be made from January but students who wish to take their examinations in 2016 must submit their University of London International Programmes registration application forms by October 1, 2015 and complete their registrations by November 30, 2015.

First year students will receive study materials and Statute books as part of their package. These will be sent to students within 2 months after registration has been completed.

## Fees

### University of London International Programmes Fees

In addition to the application and registration fees students are required to pay separate examination fees on registering for the examinations. Please visit the University of London website for more details. <http://www.londoninternational.ac.uk/courses/undergraduate/intercollegiate/bachelor-laws-llb-diploma-law-0#fees>

### HKU SPACE Tuition Fees

Preparation course fees include the cost of main & revision lectures, tutorials (for Compulsory subjects only) and course materials prepared by visiting lecturers. Please see the enclosed leaflet and enrolment form for individual subject fees.

## Career Progression

Students who wish to qualify as lawyers in Hong Kong must complete the P.C.LL. course. From 2008 additional admission requirement have been imposed for the P.C.LL. For full details see <http://www.ple.hku.hk/pcll/> and [www.pcea.com.hk](http://www.pcea.com.hk). Those wishing to apply for P.C.LL must also have completed an IELTS test within three year of application and should have an overall 7.

Completion of the University of London LL.B. confers **partial exemption** from the P.C.LL. admission requirements.

## A final word

Those contemplating the programme should be aware that a considerable commitment is required in terms of time devoted to the course and hard work. Likewise the examination standards are high. Nevertheless students who enrol on these courses will find it a stimulating and rewarding experience.

Students who are not permanent residents of Hong Kong but who wish to practise as solicitors or barristers in Hong Kong should check with the Hong Kong Law Society and the Bar Association as to any residency requirements.

"This is an exempted course under the Non-Local Higher and Professional Education (Regulation) Ordinance. It is a matter of discretion for individual employers to recognise any qualification to which this course may lead."

## Applications

Applicants should fill in the enclosed application form and send or take it together with the course fee to "HKU SPACE" at any of the following locations:

### **HKU SPACE, HKU Campus**

3/F, T.T. Tsui Building  
The University of Hong Kong  
Pokfulam Road, Hong Kong  
(Exit A2, HKU MTR Station)

Weekdays: 8:30 am to 6:00 pm  
Saturdays : Closed  
Telephone: 2975 5680  
Fax: 2546 3538

### **HKU SPACE, Admiralty Learning Centre**

3/F, Admiralty Centre, 18 Harcourt Road  
Admiralty, Hong Kong  
(Exit A, Admiralty MTR Station)

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Saturdays : 8:30 am to 5:30 pm  
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Fax: 2305 5070

### **HKU SPACE, Fortress Tower Learning Centre**

14/F., Fortress Tower, 250 King's Road  
North Point, Hong Kong  
(Exit B, Fortress Hill MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : Closed  
Telephone: 3762 0888  
Fax: 2508 9349

### **HKU SPACE, Island East Campus**

2/F, 494 King's Road  
North Point, Hong Kong  
(Exit B3, North Point MTR Station)

Weekdays: 8:30 am to 7:30 pm  
Saturdays : 8:30 am to 5:30 pm  
Telephone: 3762 0000  
Fax: 2214 9493

### **HKU SPACE Po Leung Kuk Community College (HPCC) Campus**

1/F, HPCC Campus, 66 Leighton Road  
Causeway Bay, H.K.

Weekdays: 9:00 am to 5:30 pm  
Saturdays : Closed  
Telephone: 3923 7171  
Fax: 3923 7188

### **For academic and enrolment enquiries, please contact:**

College of Humanities and Law, HKU SPACE  
Room 803B, 8th Floor, Tower One,  
Admiralty Centre, 18 Harcourt Road, Hong Kong

Weekdays : 9:00 a.m. to 5:30 p.m.

Saturdays : Closed

Telephone : 2520 4665

Facsimile : 2865 4507

E-mail : [florence.fong@hkuspace.hku.hk](mailto:florence.fong@hkuspace.hku.hk)

Website : <http://hkuspace.hku.hk/program/preparation-courses>





**HKUSPACE**

香港大學專業進修學院  
HKU School of Professional and Continuing Education

# **Preparatory Courses for PCLL Admission Conversion Examination**

*Course No. LW 56-201-00 (52)*

## PCLL Admission Eligibility

To attain the entry eligibility of the Postgraduate Certificate in Laws (PCLL), candidates will have to demonstrate competence in 11 Core Subjects, namely:

- Contract
- Tort
- Constitutional Law
- Criminal Law
- Land Law
- Equity
- Civil Procedure
- Criminal Procedure
- Evidence
- Business Associations
- Commercial Law

Candidates who hold non-local law qualifications must also demonstrate competence in the following three Top-up Subjects:

- Hong Kong Constitutional Law
- Hong Kong Land Law
- Hong Kong Legal System

## Hong Kong Conversion Examination for PCLL Admission

If you hold or are completing a non-local Common Law qualification which is acceptable to the Hong Kong PCLL providers, and you intend to apply for a PCLL programme, but have not yet met the above eligibility requirements, you may attain such eligibility by taking the Hong Kong Conversion Examination for PCLL Admission supervised by the Conversion Examination Board under the Standing Committee on Legal Education and Training. Examinations in the following subjects will be offered twice a year:

### Core Subjects

Civil Procedure  
Criminal Procedure  
Commercial Law  
Evidence  
Business Associations

### Top-up Subjects

Hong Kong Constitutional Law  
Hong Kong Legal System  
Hong Kong Land Law

Exam Information Package and other relevant information are downloadable from the Conversion Examination website :  
<http://www.pcea.com.hk>.

All exam enquiries (evaluation of legal qualifications, exam registration, etc.) should be directed to:

PCLL Conversion Examination and Administration Limited

34/F, United Center, 95 Queensway, Hong Kong

Tel 3761 1123 Fax 2861 2404

Email [enquiry@pcea.com.hk](mailto:enquiry@pcea.com.hk)

# Preparatory Courses for PCLL Admission Conversion Examination

<http://www.hkuspace.hku.hk/prog/prep-courses-for-pcll-admission-conversion-exam>

## Preparatory Courses @HKU SPACE

HKU SPACE offers preparatory courses for candidates intending to take the Conversion Examination. Our preparatory courses are taught by some of the most senior and experienced academics and practitioners in Hong Kong. Students will benefit from the lectures, handouts and revision sessions.

## Follow us for updates!



@hkuspace\_pcllprep



www.twitter.com/  
HKPCLLConvPrep

## Course enrolment enquiries

### College of Humanities and Law, HKU SPACE

Room 803B, Tower I, Admiralty Centre, 18 Harcourt Road, Hong Kong  
Mondays to Fridays: 9:00 a.m. - 5:30 p.m. Saturdays, Sundays & Public Holiday closed

Tel: (852) 2520 4665 • Fax: (852) 2865 4507

E-mail: [dorothy.au@hkuspace.hku.hk](mailto:dorothy.au@hkuspace.hku.hk)

## Courses offered in November to December 2015:

<b><i>LW 56-201-01 (52)</i></b> <b>Civil Procedure</b>	<b>HK\$5,500</b> <b>(32 hours)</b>
<b><i>LW 56-201-02 (52)</i></b> <b>Criminal Procedure</b>	<b>HK\$4,400</b> <b>(24 hours)</b>

Please refer to the enclosed timetable.

## Notes to Non-local Applicants

To study in Hong Kong, all non-local applicants are required to obtain a student visa issued by the Immigration Department of the HKSAR Government, except for those admitted to Hong Kong as dependants, who do not need prior approval before taking up full-time and part-time studies. Non-local applicants issued with a valid employment visa also do not need prior approval to pursue part-time studies. It is the responsibility of individual applicants to make appropriate visa arrangements. Admission to a HKU SPACE academic programme/course does not guarantee the issue of a student visa. Applicants may wish to note that part-time courses are generally not considered by the Immigration Department for visa purposes except for self-financed, part-time locally accredited taught postgraduate programmes awarded within the HKU System through HKU SPACE.

## Remarks to ALL Applicants

1. Applicants may be required to pay the course fee **in CASH** or **by EPS/Visa or Master Card** if the course is due to start shortly after enrolment. Application for enrolment will **NOT** be accepted on the date of commencement of lecture.
2. Please note that unavoidable timetable changes, including changes of lecturer, may sometimes be made. **Course fees paid are not refundable or transferable.**
3. You will be required to bring your **original course fee receipt** to HKU SPACE staff outside the lecture rooms in order to gain entry to each lecture. Students leaving and re-entering the lecture theatre will be asked to show the **original receipt** on each re-entry.
4. Students who wish to drive to lectures (HKU Pokfulam Campus only) must apply for a parking permit. Guideline for Application for Evening "E" Parking Label (EF86) can be downloaded from (<http://www.estates.hku.hk/page/parking.html>). Any query should be addressed to the Estates Office, The University of Hong Kong (Telephone Enquiries: 3917-8280 or 2546-9984).

## Enrolment counters:

### **HKU SPACE Headquarters**

Room 304, 3/F, T.T. Tsui Building,  
The University of Hong Kong, Pokfulam Road, HK  
(Exit A2, HKU MTR Station)  
Weekdays: 8:30 a.m. to 6:00 p.m.  
Saturdays: Closed  
Tel: (852) 2975 5680 Fax: (852) 2546 3538

### **Island East Campus**

2/F, 494 King's Road, North Point, HK  
(Exit B3, North Point MTR Station)  
Weekdays : 8:30 a.m. to 7:30 p.m.  
Saturdays : 8:30 a.m. to 5:30 p.m.  
Tel: (852) 3762 0000 Fax: (852) 2214 9493

### **Admiralty Learning Centre**

3/F, Admiralty Centre, 18 Harcourt Road, HK  
(Exit 'A', Admiralty MTR Station)  
Weekdays: 8:30 a.m. to 7:30 p.m.  
Saturdays: 8:30 a.m. to 5:30 p.m.  
Tel: (852) 3761 1111 Fax: (852) 2559 4666

### **Kowloon East Campus**

1/F, 28 Wang Hoi Road, Kowloon Bay, Kowloon  
(Exit B, Kowloon Bay MTR Station)  
Weekdays : 8:30 a.m. to 7:30 p.m.  
Saturdays : 8:30 a.m. to 5:30 p.m.  
Tel: (852) 3762 2222 Fax: (852) 2305 5070

### **Fortress Tower Learning Centre**

14/F, Fortress Tower, 250 King's Road, North Point, HK  
(Exit B, Fortress Hill MTR Station)  
Weekdays: 8:30 a.m. to 7:30 p.m.  
Saturdays: Closed  
Tel: (852) 3762 0888 Fax: (852) 2508 9349

### **Kowloon West Campus**

G/F, 38-46 Nassau Street, Mei Foo Sun Chuen, Kowloon  
(Exit B, Mei Foo MTR Station)  
Weekdays : 8:30 a.m. to 7:30 p.m.  
Saturdays : 8:30 a.m. to 5:30 p.m.  
Tel: (852) 37624000 Fax: (852) 2302 1609

### **HKU SPACE Po Leung Kuk Stanley Ho Community College (HPSHCC) Campus**

66 Leighton Road, Causeway Bay, H.K.  
Weekdays: 9:00a.m. to 5:30p.m.  
Saturdays: Closed  
Tel: (852) 3923 7171 Fax: (852) 3923 7188

## Executive Diploma/ Certificate in Legal Risk for Enterprise Risk Management

行政人員文憑 / 證書 (企業風險管理的法律風險) 

CPD points accredited by The Law Society of Hong Kong

### Programme Objectives

This programme aims to:

- 1) help participants to identify major legal issues and the calculated litigation risks affecting commercial, banking and business practices.
- 2) implement the corporate governance standards in Hong Kong and Mainland China
- 3) critically analyze legal compliance issues in enterprise risk management locally and internationally
- 4) apply practical legal skills to real life business issues, making high-level decisions and strategic planning in the marketplace

This programme consists of a total **90 contact hours** with 2 modules.

Module (45 hours)	Module (45 hours)
Commercial Crimes and Money Laundering Law (清洗黑錢法律及商業罪案)	Legal Compliance and Liability Risks in Banking and Commercial Practice (銀行、商業實務中的法律監管及責任風險) 

### Entry Requirements – Open Entry for all degree holders in any discipline

- 1) Applicants shall hold:-
  - i. a Bachelor's Degree awarded by a recognized university or equivalent; or
  - ii. relevant professional qualifications.
- 2) Applicants with other qualifications or substantial senior level / managerial work experience in accounting, law, auditing, finance, banking, government, risk management, or other business, areas will be considered on individual merit.

### Course Exemption

Successful graduates of Executive Diploma in Asset Recovery Law, Receivable and Fraud Control Practice ( "RMS's Executive Diploma" ) are eligible to apply for exemption from the elective module of the Executive Diploma in Legal Risk for Enterprise Risk Management.

For enquiry, please contact Lydia Yung, HKU SPACE at 2520-4665, or e-mail at [lydia.yung@hkuspace.hku.hk](mailto:lydia.yung@hkuspace.hku.hk)

## Assessment and Awards

To obtain the **Executive Diploma award**, students must:-

1. Achieve at least 70% attendance of lectures for each module, AND
2. Pass the continuous assessment and the examination (*both contribute 50% of the final grade*) of each module.

To obtain the **Executive Certificate award / Statement of Attendance for a single module**:-

1. Students can enroll on any individual module of the programme. Students studying for the Executive Certificate award will need to pass the module assessment with a minimum 70% attendance requirement.
2. If students fail to pass the assessment but have over 70% attendance for a module, a *Statement of Attendance* will be issued for that module.

## Programme Schedule and Class Venue

	<b>Autumn Intake</b>
<b>Application Deadline</b>	4 October 2014
<b>Commencement Date</b>	30 October 2014
<b>Duration</b>	6 months to 8 months Intensive workshops will take place on weekday evenings at 7-10 pm and/or Weekend afternoons at 2:30-5:30 pm Classes will be scheduled one/two sessions per week.
<b>Venue</b>	HKU SPACE Learning Centre (Hong Kong Island) [To be advised]

**Fee** (All fees are subject to change with prior notice)

Whole Programme (Two modules)	HK\$12,950
Single Module Enrollment	HK\$ 6,600
Application Fee (non-refundable)	HK\$ 200

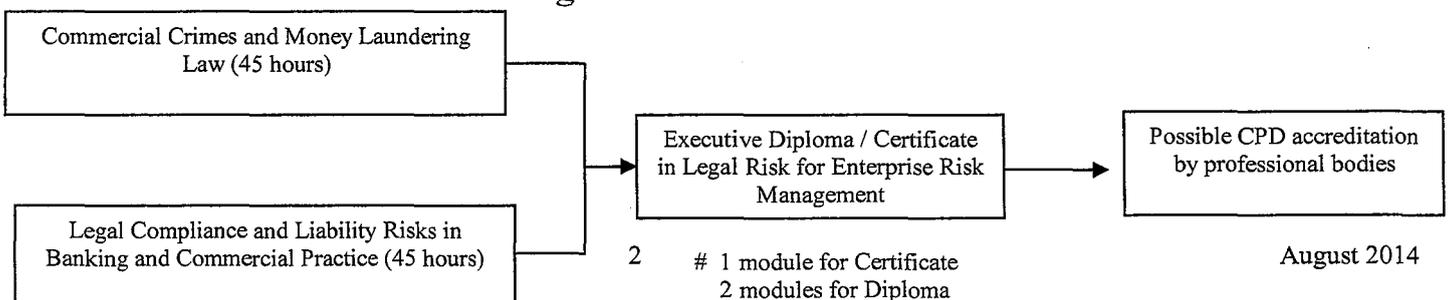
## Language

English supplemented with Chinese Language if necessary. Part of “Legal Compliance and Liability Risks in Banking and Commercial Practice” module is conducted in Putonghua.

## Application Procedure

- 1) Course fees paid are not refundable or transferable except in special circumstances.
- 2) All applications, either by post or in person must be accompanied by
  - i. Photo copies of full educational certificates and transcripts.
  - ii. Testimonials or other documentary proof of the applicant’s working experience.
  - iii. A separate non-refundable crossed cheque payable to “HKU SPACE” for HK\$200 application fee.
  - iv. A signed enrolment form (SF26) and a crossed cheque for the course fee payable to “HKU SPACE”.

## Your Advancement Path to Higher Education





## Modules' Highlights

### **Commercial Crimes and Money Laundering Law**

清洗黑錢法律及商業罪案

**(45 hours)**

**Course No. LW 17-102-11**

The objectives of the course are to critically analyze issues risk management arisen from commercial crimes and regulatory framework against money laundering activities and related business operation.

Upon completion of the module, students should be able to :-

1. critically assess and explore strategies to cope with the latest legal development in Enterprise Risk Management;
2. apply legal skills to sustain their business regulated under money laundering law and compliance policies;
3. critically assess and implement effective legal policies to reduce their operation costs and financial risks;
4. critically examines both the procedural and cross-broader challenges presented to law enforcement and business community locally and internationally

Topics will include:-

1. legal framework in Hong Kong and other jurisdictions for commercial crimes and money launderings activities
2. different categories and forms of commercial crimes and money laundering activities;
3. key elements of commercial crimes, statutory offences and practice directions by government and different governing authorities
4. varying policy issues underpinning the criminalization of certain business, banking and financial activities;
5. evidence gathering methods against commercial crimes
6. the challenges and problems when using the forensic procedures
7. translational implications of commercial crimes and money laundering law
8. practical strategies and risk management plans to combat commercial crimes and money laundering activities

**Legal Compliance and Liability Risks in Banking and Commercial Practice****(45 hours)**

銀行、商業實務中的法律監管及責任風險

Course No. LW 17-102-13

CEF Code : 23Z07047-4

This course examines the significant legal principles and statutory framework affecting business practice and commercial disputes in Hong Kong and Mainland China.

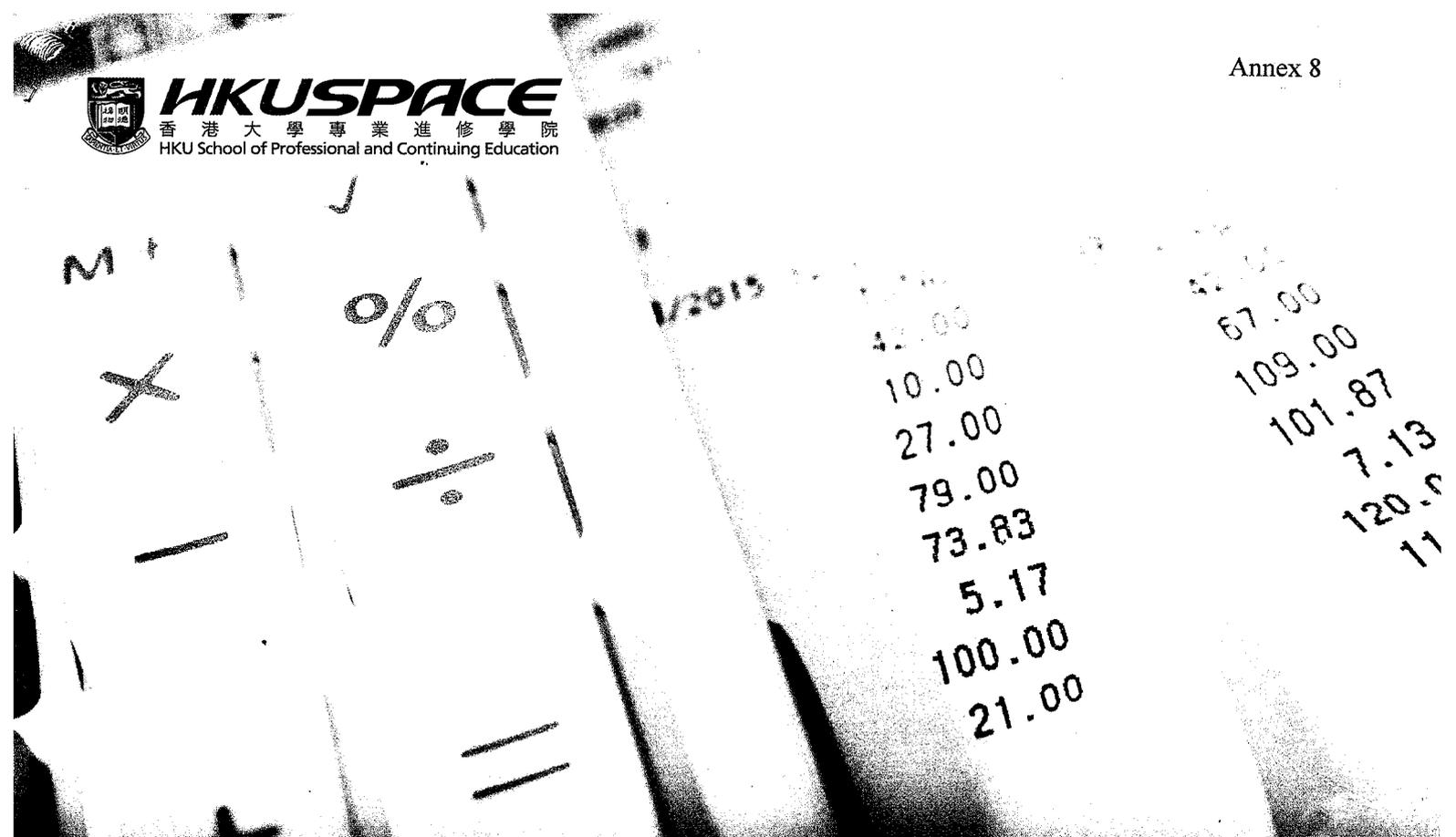
It will address specific legal issues affecting commercial transactions in both contentious and non-contentious practices;

Upon completion of the module, students should be able to:

1. critically analyze legal issues, business liability risk management and regulatory framework under PRC commercial law and business practice;
2. possess a broad intellectual outlook on the legal aspects of doing business in China.
3. critically study the legal infrastructure, process and institutions in PRC civil and commercial law in the context of an evolving political, economic and social environment.
4. critically examine the anti-fraud control and prepare business plans under PRC anti-corruption law

Topics will include:-

1. comparative legal approach in HK and PRC business framework;
2. various compliance rules and guideline issued by the governing bodies (e.g. SFC, HKMA) and Practice Directions of Law Society of HK
3. specific legal issues underlying commercial transaction in Hong Kong and Mainland China; common mistakes and legal pitfalls
4. key legal aspects of doing business in HK and PRC jurisdictions
5. legal infrastructure, process and institutions in civil and commercial law in HK and PRC
6. case studies and group discussion Legal Risks and Loss Prevention Techniques when granting Financial and Trade Credits
7. case studies and group discussion Legal Liability Risk in bank loan financing and property transactions: a comparative approach in Hong Kong and Mainland China



Postgraduate Diploma in  
**FINANCE AND LAW**

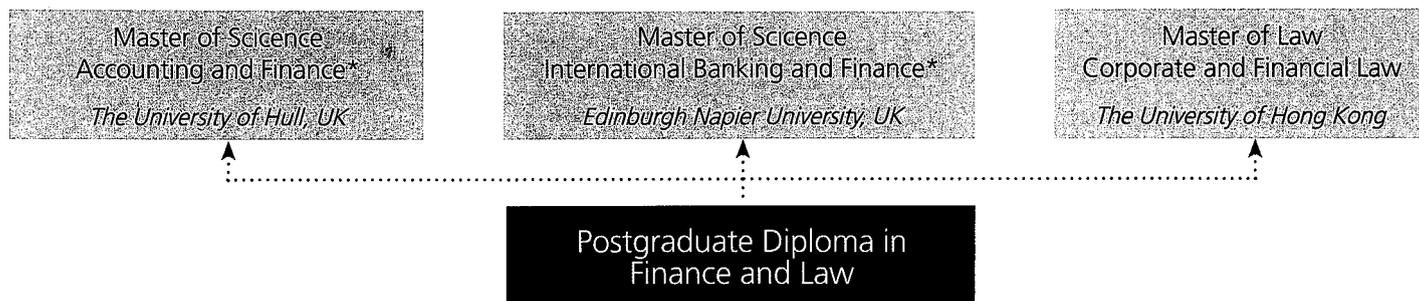


This programme has been included in the list of reimbursable courses for Continuing Education Fund (CEF) purposes.

The University of Hong Kong  
School of Professional and Continuing Education  
College of Business and Finance

<http://hkuspace.hku.hk/cbif/>

## PROGRESSION ROUTE



## PROGRAMME STRUCTURE

To complete this programme, students are required to study a total of 5 modules, with 2 modules from the law stream, plus 3 further modules chosen from the finance stream. Students can complete this part-time programme in one year.

Law Stream (choose 2 modules)	Finance Stream (choose 3 modules)
<ul style="list-style-type: none"> <li>• Legal Institutions and Business Law *</li> <li>• Corporate Governance</li> <li>• Current Issues in Finance Law</li> </ul>	<ul style="list-style-type: none"> <li>• Introduction to Finance *</li> <li>• Corporate Finance</li> <li>• Quantitative Methods for Finance</li> <li>• Financial Markets and Regulatory Framework</li> <li>• Investment and Venture Capital</li> </ul>

\* Compulsory for candidates without sufficient prior equivalent qualifications.

## ENTRY REQUIREMENTS

Applicants shall hold a bachelor's degree awarded by a recognized institution.

If the degree or equivalent qualification is from an institution where the language of teaching and assessment is not English, applicants shall provide evidence of English proficiency, such as:

- an overall band of 6.0 or above with no subtests lower than 5.5 in the IELTS; or
- a score of 550 or above in the paper-based TOEFL, or a score of 213 or above in the computer-based TOEFL, or a score of 80 or above in the internet-based TOEFL; or
- HKALE Use of English at Grade E or above; or
- HKDSE Examination English Language at Level 3 or above; or
- equivalent qualifications.

Applicants with other qualifications will be considered on individual merit.

## PROGRAMME SCHEDULE

	January Session	May Session	September Session
Application Closing Date :	Last week of November	Last week of March	Last Week of July
Start Date :	Mid-January	Mid-May	Mid-September

## COURSE FEES AND TIMETABLE

Please visit the programme website.

## ENQUIRIES

College of Business and Finance

Tel : 2867-8312

Email : [pgdf1@hkuspace.hku.hk](mailto:pgdf1@hkuspace.hku.hk)

Website: <http://hkuspace.hku.hk/prog/postgrad-dip-in-finance-law>

College of Humanities and Law

Tel : 2520-4617

Email : [lawenquiry@hkuspace.hku.hk](mailto:lawenquiry@hkuspace.hku.hk)



.....► Eligible to apply, subject to Admissions Board of respective universities, possible exemption will be granted from the institutions.

\* These are exempted courses under the Non-Local Higher and Professional Education (Regulation) Ordinance. It is a matter of discretion for individual employers to recognize any qualification to which these courses may lead.

# **POSTGRADUATE DIPLOMA IN FINANCE AND LAW**

## **INTRODUCTION**

The need to sustain Hong Kong as the leading financial centre in the Asian Pacific region requires nurturing expertise in international financial systems and practices. Such expertise commands knowledge in both finance and financial law. The globalization of financial services and the increasing need to embrace corporate governance to meet world-class commercial standards and challenges call for education programmes which adopt an integrated curriculum to provide specialist knowledge which are increasingly being required in international banks, investment firms, legal practices, regulatory bodies and even the academic world. Employers are increasingly demanding a broader range of skills from their employees – accountants and financial practitioners with knowledge of securities law and corporate governance, or lawyers who have a broad and in-depth understanding of corporate financing and capital issues. Specialist knowledge carries with it a premium in the workplace. The Postgraduate Diploma in Finance and Law aims to equip and hone these competitive edge and specialist knowledge for law, finance, accounting, business and other graduates and professionals, to enable them to meet the challenges in both the local and international financial markets.

## **PROGRAMME AIMS AND OBJECTIVES**

This dual-discipline programme is specially geared towards the study of corporate finance, practices and corporate law. The programme aims to emphasize the importance of the inter-relationship between law and financial services, and provides an assessment of their interplay in the structure and operations of financial markets. On completion of the programme, students should be able to critically assess the function of law and corporate financing in the protection and management of financial risks, apply essential quantitative techniques to analyse financial risks and gain wide insights in a globalised financial environment.

## **TARGET STUDENTS**

This programme would appeal to graduates and professionals aspiring to work / to enhance their existing career in financial services. Practitioners engaged in legal and/or compliance work are also welcomed to study this programme.

## **EXEMPTIONS**

Candidates will be granted exemption from only one module from the eight modules on offer. Exemptions may be granted for individual modules if the candidate has successfully completed a module of comparable content and standard. (To apply for exemptions, please write in and enclose supporting educational certificates and transcripts and a crossed cheque for the relevant amount payable to "HKU SPACE".)

## **AWARD**

This programme leads to a *Postgraduate Diploma in Finance and Law* award within the HKU

system through HKU SPACE.

## **QUALIFICATIONS FRAMEWORK**

QF Level: 6

QR Registration No.: 08/001818/6

QR Registration Validity Period: 05 May 2008 - on-going

## **MODE AND DURATION OF STUDY**

This is a taught part-time programme with extensive face-to-face teaching, delivered by experienced teaching staff and practitioners. The contact hours are:

	<b>3 Finance Modules</b>	<b>2 Law Modules</b>	<b>Programme (5 Modules)</b>
Lecture Hours	117	84	201
Examination Hours (normally held on week No.16 or 17 of each semester)	9	6	15
Class frequency	3 semesters per year	13 weeks per semester for Finance modules	14 weeks per semester for Law modules
			3 hours per week each module

\* Finance and Law modules offered in alternate semesters.

This programme can be completed in a minimum of 12-18 months and a maximum of 4 years.

## **ASSESSMENT**

Assessment for each of the eight modules will comprise 30% continuous assessment (2-3 module assignments/projects) and 70% examination. Examinations for all the three Law modules and one Finance module (Financial Markets and Regulatory Framework) will be held under open book environments; while the remaining Finance modules will be examined in closed book environments.

Students are required to meet a minimum of 70% class attendance before they can be allowed to write the examinations for some modules.

## **FEES**

Per Finance module HK\$6,450

Per Law module HK\$9,450

Application fee HK\$200 (non-refundable)

Exemption fee per module HK\$2,000

## **ACADEMIC RECOGNITION AND ARTICULATION**

The Law Faculty of The University of Hong Kong may grant some module exemptions from

their Master of Laws (Corporate and Financial Law) on a case by case basis to holders of this Postgraduate Diploma. The two module exemptions are "Corporate Governance and Shareholder Remedies" and "Regulation of Financial Markets". Please address your enquiries on this programme to the Law Faculty at website [http://www.hku.hk/law/programmes/pp\\_llm](http://www.hku.hk/law/programmes/pp_llm).

### **The University of Hull**

Graduates of the Postgraduate Diploma in Finance and Law may gain admission to its Master of Science in Accounting and Finance programme, subject to meeting the University's entry requirements. Exemptions from one module may be considered, subject to satisfying certain performance requirements and with a Grade C in Introduction to Finance and Corporate Finance.

Graduates of this programme are also eligible to apply to the following master programmes:

- **University of London, SOAS, MSc Finance and Financial Law**
- **Edinburgh Napier University, Master of Science in International Banking and Finance**  
Graduates of HKU SPACE Postgraduate Diploma in Finance and Law can articulate to Edinburgh Napier University Master of Science in Banking and Finance with one module of exemption.

## **PROFESSIONAL STANDING**

Holders of this Postgraduate Diploma graduating between 2008 to 2017 may be granted exemptions from Papers F1-F3, and possibly also Paper F4 and F9 of the ACCA professional examinations.

This programme is recognized by the Institute of Paralegals in the United Kingdom. The Institute is a UK professional body for paralegals which sets national competency standards for paralegals and other non-lawyers working in the legal profession. It is also Europe's leading paralegal professional body (see [www.InstituteofParalegals.org](http://www.InstituteofParalegals.org) and [www.LegalStandards.org](http://www.LegalStandards.org)). All students of this programme can join the Institute as Student Members, and can take Associate Membership after having successfully completed the Law modules; or can obtain the Institute Fellowship upon completion of this programme and a minimum of one year paralegal work.

## **MEDIUM OF INSTRUCTION**

English, supplemented with Cantonese. All assessments (coursework and examinations) will be in English.

**Publication date : 2 July 2015**

## **SYLLABUS**

### **Legal Institutions and Business Law**

- Legal System of Hong Kong/ sources of law
- Legal reasoning and precedent doctrine
- Setting up business entities, agency and partnership law
- Fundamentals of Contract Law
  - Elements of contracts, their essential features
  - Vitiating factors, breach of contract and remedies
- Tort of Negligence
  - Causation, duty of care; negligence and Statutory Torts, Breach of Duty
  - General principles of liability and vicarious liability
  - Defences and risk management
- Law in capitalization, financing, capital re-construction and liquidation

### **Corporate Governance**

- Installing corporate governance in Private and Listed Companies
- contexts of international corporate governance
- Membership, meetings, resolution and enforcement of duties, application of Corporate Governance and corporate social responsibility in Hong Kong
- Board Management & control: directors' duties, pay and disqualification
- Financial disclosures - statutory, accounting, compliance and other reporting requirements.
- Investor Protection & Group Action
- Shareholders - rights, remedies, and the role of institutional shareholders
- Ethics - The problem with a code of ethics
- Applying corporate governance standards and practice

### **Current Issues in Finance Law**

- Asian capital market problems and obstacles to regional integration.
- Basel capital accords and regulatory arbitrage.
- Change in terms in private financial contracts.
- Controversial activities in derivative, debt and equity markets.
- Covenants and contractual issues of control, governance.
- Derivatives, credit risk transfer and hedge fund regulation.
- Enron's use of structured finance.
- Gaps in Hong Kong financial regulation.
- Information: internal barriers, disclosure, and insider dealing.
- Investor protection and complex transactions.
- Market failure and manipulation.
- Securitization under different legal systems.
- Uses of security and collateral.

## **Introduction to Finance**

- Finance & The Finance Systems
- Concept of Time Value of Money, Annuity & Perpetuities
- Financial Analysis
- Cost of Capital
- Investment Appraisal – Capital Budgeting
- Risk and Portfolio Management
- Efficiency of Capital Market
- Interest Rates and Bond Valuation
- Equity Markets and Stock Valuation

## **Corporate Finance**

- Corporate Finance & Role of Financial Management
- Investment Principles and Capital Budgeting Decisions
- Choice of Capital Structure
- Information Asymmetries & Agency Cost
- Dividend Policy
- Mergers & Acquisitions
- Long-term Financing
- Options, Futures and Corporate Finance
- Case Studies

## **Quantitative Methods for Finance**

Applying Analytical techniques in:

- Portfolio Management
- Quantitative Performance Management
- Risk Management
- Financial Product and Financial Derivatives
- Financial Statement Analysis
- Initial Public Offering (“IPO”) Analysis
- Macroeconomic Forecasting

Remarks: MS Excel & SAS will be used for some topics.

## **Financial Markets and Regulatory Framework**

- Structure, Role & Mechanism of Financial markets (money market, capital market, equity market & Foreign Exchange market)
- Types & Role of Financial institutions/Participants in Hong Kong
- Types of Financial Instruments in Hong Kong financial markets – Securities, Options and Futures
- Regulatory Overview of Hong Kong Financial Industry - Role & functions of Securities and Futures Commission (“SFC”), Hong Kong Monetary Authority (“HKMA”), Hong Kong Securities

Institute (“HKSI”) and Hong Kong Exchanges (“HKEx”) as well as principles of relevant Hong Kong Law and the Companies Ordinance

- Scope of Securities and Futures Commission Ordinance (“SFO”) and Banking Ordinance
- Market Misconduct, Improper Trading Practices and Compliance
- Future Development of Hong Kong Financial markets

### **Investment and Venture Capital**

- Overview of Alternative Investments
- Private Equity and Venture Capital
- Role of Venture Capitalist and types of Venture Capital
- Business Planning
- Fund Raising: Venture Capital Fund Operations
- Deal structuring
- Investing: Valuation techniques
- Post Investment Management – oversee and manage the firm after fund injection
- Exiting: Potential Exit Strategies
- New Frontier: Recent Development in Private Equity and Venture Capital
- Other types of Alternative Investments (hedged funds, real estate, mortgage-backed securities)
- Case Studies

## **GENERAL INFORMATION**

- (1) Classes are normally held on weekdays evenings and Saturdays, and may also be held on Sundays and public holidays.

- (2) Typhoon and Black Rainstorm

For classes & examinations that have not yet started:

If Typhoon Signal No 8 or Black Rainstorm Warning is in force after the following times, classes will be cancelled as indicated:

6:00am Morning classes/examinations that start before 2:00pm

11:00am Afternoon classes/examinations that start between 2:00pm - 6:00pm

3:00pm Evening classes/examinations starting from 6:00pm

*For classes & examinations that have already started:*

When Typhoon Signal No 8 or above is hoisted, all classes should be immediately suspended but all examinations should continue until the end of that examination session unless the examination venue is found to be of potential risk to candidates. When the Black Rainstorm Signal is in force, all classes and examinations should continue but all outdoor activities should be suspended.

- (3) Fees paid for enrolled modules are not refundable, unless a module is over-subscribed or cancelled.
- (4) Fees and places allocated on modules enrolled are not transferable. Fees quoted in this brochure apply only to the sessions of studies specified within the brochure and may be subject to revisions without prior notice or even after admission onto the programme.
- (5) The School reserves the right to change the time and place of module meetings and to change the module Tutor / Lecturer / Teacher, without prior notice.
- (6) The School may exclude a student from class if his/her behaviour disturbs the class or if he/she does not follow instructions in class or as laid down by HKU SPACE. Eating, drinking and smoking are not allowed in class and within the School Centres.
- (7) Information contained in this booklet is accurate at the publication date. The modules content and programme structure are subject to continuing development and changed circumstances may necessitate alteration or cancellation of the modules or the programme. HKU SPACE reserves the right to make changes at anytime, before or after a student's admission. As much notice as possible will be given of such changes, but the School cannot accept any liability arising out of or in connection with them.
- (8) The School has discretion to refuse to admit an applicant, or to refuse entry into classrooms for students not able to produce original course fee receipts for inspection.
- (9) Applicants are normally required to have reached the age of 18, and to provide a HKID card for admission assessments and student records. Applicants for award-bearing programmes will also be asked to present HKID for verification if applying in person at enrolment counters.



THE  
**LAW SOCIETY**  
OF HONG KONG  
香港律師會

**Comprehensive Review on Legal Education and Training in Hong Kong –  
Consultation Paper issued by the Standing Committee  
on Legal Education and Training**

**Response of The Law Society of Hong Kong – Overview Statement**

1. On behalf of the solicitors' profession in Hong Kong, The Law Society of Hong Kong ("the Society") is grateful for the opportunity to be able to respond to the Consultation Paper. The Society's Response is attached. The Society, through its appointed representatives, welcomes the opportunity to explain and expand on its Response during a meeting between those representatives and the Consultants. Like the Society, its representatives bring unrivalled experience to the issues raised in the Consultation Paper.
2. The challenges facing the legal profession, legal education and training providers and all interested stakeholders in the 21<sup>st</sup> century are considerable and not to be underestimated. There are also significant local and international headwinds buffeting Hong Kong. Before anything else, the challenges need to be fully understood. With these challenges come opportunities for Hong Kong, should she decide to grasp them. The solicitors' profession is uniquely placed to understand the challenges, particularly given its unrivalled understanding of clients' demands and expectations across the myriad legal and practice services provided to clients in the local community and on the international arena. These challenges are dealt with in the Society's Response. Many similar challenges are faced in other jurisdictions. However, these challenges have certain local characteristics in Hong Kong.
3. As part of the drive to respond to the challenges of the 21<sup>st</sup> century, the Society and its profession fully intend to implement a Common Entrance Examination ("CEE"). This is the Society's and the profession's prerogative. Above all else, CEE is aimed at improving and harmonising qualitative education and training standards for entrants to the solicitors' profession. In so doing, CEE enhances the public interest. Indeed, it is difficult to understand how any impartial stakeholder could object to the Society's CEE initiative. Furthermore, enhancing professional and regulatory standards is an international trend. The Society (as the representative body and the professional regulator) is uniquely placed to comment on and measure the qualitative education and training standards required of aspiring entrants to the

profession and, later on, of its members through "life-long" learning. The Society takes its roles very seriously.

4. Besides improving qualitative standards and adapting to future demands, the Society's Response must be considered in the context of its desire to increase opportunities for all aspiring solicitors and in the context of their overall education and training. The Society and the profession consider the CEE initiative to be a necessary and evolving integral part of education and training for aspiring solicitors; including, their immersion in the ethics, business and practice of law and in becoming a professional. Again, the Society (as a membership body) is uniquely placed to comment on the developmental needs and expectations of aspiring members, trainee solicitors and solicitors of all levels of experience and for all areas of practice. It will not be lost on the Consultants and other stakeholders that the Society (including, through its educational body, the "Hong Kong Academy of Law") and its members are some of the best resourced and most experienced providers of legal services education and training in Hong Kong and the Asia-Pacific Region; for example, continuing professional development and risk management education and training. The Society also has extensive experience in administering its own entry and assessment standards for foreign lawyers seeking to qualify locally.
5. The Society looks forward to the outcome of the Consultants' review exercise and helping to shape the debate. In the meantime, the Society is proceeding with its own plans for a CEE initiative. That initiative and this Response seek to improve standards, embrace progress, increase opportunity and adapt to change, as opposed (for example) to stifling development or protecting self-interest.
6. Further to the Society's Response and formal Response Form, the Society agrees to its name being listed as part of the review exercise. Its representatives will be available to meet with the Consultants at a mutually agreed time and place, as confirmed with the Society's Secretariat. For contact purposes, please contact Ms. Vivien Lee, Director of Standards & Development at the Law Society of Hong Kong ([vivien@hklawsoc.org.hk](mailto:vivien@hklawsoc.org.hk)).

The Law Society of Hong Kong

11 December 2015

**NB** – The Society's Response and this Overview Statement represent the solicitors' profession's reply, including that of The Law Society of Hong Kong, its Council, all relevant committees of the Society and its membership as a whole. Individual members of the Society are entitled to make their own individual responses to the Consultation Paper.

# **Comprehensive Review on Legal Education and Training in Hong Kong**

## **Response of the Law Society of Hong Kong to the Consultation Paper issued by the Standing Committee on Legal Education and Training**

### **I. Introduction**

1. The Law Society of Hong Kong (“Society”) has been invited by the Consultants appointed by the Standing Committee on Legal Education and Training (“SCLET”) to provide input and opinion on the present system of legal education and training in Hong Kong, and in particular, on the questions raised in paragraph 2 of the Consultation Paper issued on 7 October 2015.
2. Paragraphs 2(4) to 2(7) of the Consultation Paper ask about the law programmes of City University (“CityU”), The Chinese University of Hong Kong (“CUHK”), and The University of Hong Kong (“HKU”). Section II of this Response sets out the different routes to admission as a solicitor in Hong Kong and how the different law programmes offered by the 3 Universities relate to these routes to admission.
3. Paragraphs 2(8), 2(10), 2(11) and 2(15) of the Consultation Paper seek the views of the Society on the law programmes, whether there are any concerns over the existing system of legal education and training, their strengths and weaknesses, their adequacy in assuring quality and standard, and any scope for improvement. The response of the Society to these issues is set out in Section III of this Response.
4. Paragraph 2(12) of the Consultation Paper asks about the common entrance examination (“CEE”) proposed by the Society. The Council of the Society is discussing the CEE and will make submissions on the proposal by 20 January 2016.
5. Paragraph 2(13) of the Consultation Paper asks about trainee solicitor training and the Overseas Lawyers Qualification Examination (“OLQE”). These are discussed in Section IV and Section V respectively of this Response.
6. Finally, paragraphs 2(1) to (4) of the Consultation Paper ask about the challenges of legal practice and the demands for legal services. These are discussed in Section VI and Section VII respectively of this Response.

### **II. System of Qualification as a Solicitor in Hong Kong**

1. There are two routes to admission as solicitors in Hong Kong, the Postgraduate Certificate in Laws (“PCLL”) and the Overseas Lawyers Qualification Examination (“OLQE”).

2. The OLQE is administered by the Society and is taken by legal practitioners who are already qualified to practise in overseas jurisdictions but who wish to practise Hong Kong law in Hong Kong.
3. The PCLL is provided by CityU, CUHK, HKU. These 3 Universities also provide the Bachelor of Laws (“LLB”) and the Juris Doctor (“JD”) Programmes.
4. There are in turn different routes to apply for admission to PCLL.
5. Graduates of the LLB degree of CityU, CUHK and HKU may apply for PCLL admission after completion of 4 years of study of the LLB Programme.
6. Graduates of double law degree of HKU may apply for PCLL admission after completion of 5 years of study of the double law degree programmes. The double law degrees currently offered by HKU include BBA (Law), BSocSc (Government & Laws) & LLB, BA (Literary Studies & LLB), and BEng (CivE-Law).
7. Graduates of the JD Programme of CityU, CUHK and HKU may apply for PCLL admission after completion of 2 years of full-time study or part-time study of a maximum of 5 years.
8. Graduates of law programmes through external study in Hong Kong, principally the External LLB degree from the University of London, and the LLB degree from Manchester Metropolitan University (of 3 to 4 years) and the Common Professional Examination (“CPE”) of HKU SPACE (2 years part-time) may apply for PCLL admission.
9. Graduates of a qualifying law degree from an overseas university (generally of 3 years’ study in UK or 5 years’ study of a double degree in an Australia University) may apply for PCLL admission after passing the Conversion Examination. Most of these graduates are Hong Kong students who have gone abroad to study law, having completed the secondary school education of 7 years prior to 2012 or 6 years since 2012 in Hong Kong.
10. After passing the PCLL examination, a PCLL graduate must enter into a trainee solicitor contract with a solicitor qualified to employ trainee solicitors under S20 of the Legal Practitioners Ordinance Cap 159 (“LPO”) for a duration of 2 years (or such shorter period as may be approved by the Society) and upon completion of training, they may apply for admission as a solicitor.

### **III. Concerns over the Present System of Qualification**

1. Under S4, S73(1)(d)(i), and S73(da) of the LPO, the Society is empowered to prescribe qualification requirements for admission of both domestic and foreign entrants, including the setting of examinations. S4 and S73 of the LPO are appended in **Appendix 1**. Pursuant to this power, the Society has prescribed the OLQE for the admission of foreign entrants, and the PCLL for the admission of local entrants.

2. The Universities themselves are regulated as higher educational institutions in Hong Kong under their individual ordinances and authorised by the Legislative Council (“Legco”) to run their self-accredited programmes, including the LLB, JD and PCLL Programmes.
3. The present structure has several consequences.
4. It is not possible to include other providers to provide the PCLL Programme without amending the LPO and related legislation and without the authorization of Legco.
5. Neither the Society nor SCLET has the power to withdraw authorization to provide the LLB, JD and PCLL Programmes from the incumbent providers. There is thus a legislative gap impeding the Society and SCLET to assert control over the PCLL providers, their PCLL admission of the entrants to the legal profession, and the delivery and assessments of the PCLL. Any interference may cause the Universities to raise concern over their academic autonomy.
6. As regulator of the solicitors’ profession, the Society therefore does not administer nor control the admission of most entrants to the profession. The solicitors’ profession takes the view that the profession, not the Universities, is best placed to know what qualities and attributes are required of those who wish to practise law as a solicitor in Hong Kong.
7. The 3 Universities run their self-accredited Programmes separately, subject to the PCLL Benchmarks prescribed by the Society. The PCLL Benchmarks set out in general terms requirements as to the scope and the aim of PCLL, and whether examinations should be open book or closed book. The PCLL Benchmarks are appended in **Appendix 2**.
8. The differences in the PCLL Programmes of the 3 Universities span from admission to delivery to assessments.
9. All 3 Universities state that admission is based on merits, the most obvious indicator of merits being past academic performance. Applicants for PCLL admission are assessed by reference to classification, grades, marks and standing of the law school and university issuing the degree. However, the scale to “merits” may vary amongst the Universities, especially when they consider the scores and grades of overseas Universities, given the trend for grades inflation in some of the overseas institutions. Put it another way, there may be differences in the criteria adopted by the 3 Universities in recognizing overseas universities. The perception of unfair competition may also be caused by the differences in calculating the GPA scores between the LLB, JD graduates, and graduates from overseas universities. There is in any event a lack of transparency in the admission system. There are also significant differences in the admission procedures of the 3 Universities.
10. Many practitioners have also argued that admission based on academic merits alone is not a fair system. It takes more than academic excellence to be a good

lawyer. For instance, commercial acumen, good ethics, active participation in law related associations, mooting, cognitive and interpersonal skills. On the other hand, if admission criteria are based on these other factors, it may be argued that these other factors are equally subjective and unreliable.

11. For graduates with overseas law degrees, they have to go through two hurdles before they can gain admission to PCLL, one of which is that their degrees must be recognized by the 3 Universities as a law qualification. This creates a conflict of interest on the part of the Universities as the overseas graduates compete with the LLB and JD graduates of the 3 Universities for PCLL places.
12. The lack of transparency and information about the admission process may drive employers to confine their recruitment to known “brands”, particularly if recruitment decisions are being made on (predicted) degree grades. This may put aspiring solicitors without prior connections in the legal sector and who lack informed support from parents and schools at a disadvantage.
13. The courses under the PCLL Programmes offered by the 3 Universities are structured very differently. For example, the number of core and elective subjects is different. The Society conducted a PCLL survey on a regular basis amongst the trainee solicitors after their graduation from PCLL. Responses from the trainee solicitors show that there is still duplication in the contents of the PCLL Programme and the LLB Programme, and many consultees feel that insufficient teaching has been devoted to the impartation of skills and an understanding of the practice of law.
14. For the assessments and examinations, different Universities have different attitudes towards open or closed book examinations for various core subjects and electives. The assessments and examinations differ in terms of assessment modes, difficulty, passing threshold, prior examination briefings, and policies on resits, which are reflected in the significant differences in pass rates amongst the 3 Universities. There appears to have been a 100% pass rate on some PCLL Programmes.
15. The Society has appointed representatives to sit on the Academic Boards of the Universities and External Examiners to monitor the PCLL classes and vet examination questions and scripts. However, different representatives serve in different capacities over a limited period of time. It may not be possible to appoint the same External Examiners to monitor the same subject in all 3 Universities and the turnover rate of External Examiners is high. In addition, External Examiners are restricted in their influence in the grades and marks in examinations, especially where borderline cases are concerned and when their opinions differ from those of the internal examiners.
16. Competition and diversity amongst the PCLL providers may be seen to have a positive influence on the present legal education system. But the existing PCLL system was designed some 40 years ago when there was a single PCLL provider. Monitoring three providers, on the basis of a comparatively general set of PCLL Benchmarks, places considerable strain on the Society to quality assure each of the providers effectively. This is in contrast to some smaller

jurisdictions and professions, where a regulator can work closely with a single educational provider, balancing control and assurance of standards.

17. Not only are the PCLL Programmes run by the 3 Universities very different, the applicants to the PCLL Programmes have gone through different length and depth of studies (4 years local LLB, 5 years local double law degree, 2 to 3 years JD, 2 years CPE, 3 to 4 years External LLB from University of London, and 3 years LLB from UK, 5 years double law degree from Australia).
18. Market and stakeholder confidence in the qualification and assessment framework requires all pathways to qualification to assure a rigorous standard and a demonstrable consistency between pathways. It would be difficult for the differences stated above to demonstrate such consistency. While inconsistency might not necessarily result in incompetence, as explained, it makes quality control difficult and admission and assessment standards variable.
19. The total number of applications for the PCLL Programmes of the 3 Universities for the 2014/15 academic year was 2,516. The total number of applicants admitted was 701, 27.9% of the total applications<sup>1</sup>. The scarcity of PCLL places had attracted criticisms from many law students and the legal profession. The cap in the number of PCLL places limits the number of local law graduates who can go on to practise, and hence the size of the legal profession. No such ceiling exists for overseas lawyers taking the OLQE. Law graduates are not given the opportunity to even try to qualify. Those who have completed any of the law courses mentioned in Section II of this Response but who are not admitted into the PCLL Programme in any one of the 3 Universities in the first round will for almost all practical purposes be unable to qualify as a lawyer in Hong Kong as the chances of admission in the following year are minimal. This may be considered unfair as the reason for failing to get a PCLL place may be due to keen competition and the limited number of PCLL places. Students (and their parents in supporting them) face the dilemma whether to do a law degree or a non-law degree followed by JD, whether to do their first degree overseas or in Hong Kong as these degrees take different periods and may affect their chances of getting into PCLL.
20. An increasing number of applicants are unable to get onto PCLL and are left with no alternative other than an overseas qualification programme e.g. completing an LLM, passing the New York Bar Examination, and returning to practise in Honk Kong.
21. The 3 Universities have cautioned against increasing the PCLL places (although, JD student numbers increase). They question whether there may be enough training contracts available to provide training opportunities to law graduates, and whether by creating more PCLL places, the legal profession might be moving the bottleneck to the training stage of the qualification process.

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<sup>1</sup> SCLET Annual Report 2014

22. The availability of training contracts is driven to a large extent by market conditions. Most if not all applicants for PCLL admission would prefer to wait for training contracts to be available when market conditions improve than not being able to qualify at all as result of the scarcity of PCLL places.
23. The JD Programme is a crammed course of 2 years of legal study for graduates of non-law disciplines. Given the nature of the JD Programme, the quality of certain core courses is called into question. In the final report entitled “Setting Standards, The Future of Legal Services Education and Training Regulation in England & Wales, June 2013”<sup>2</sup> issued by the research team on Legal Education and Training Review, the research team stated that the international trends to adopt US-style JD postgraduate law degrees in jurisdictions as diverse as Australia and Japan raised important issues about quality, and the status of undergraduate Anglo-Welsh legal education, but also concerns about cost barriers implicit in any move to make law wholly postgraduate.
24. In Hong Kong, there is no uniform Chinese translation of the JD degree and some Chinese translations give the connotation of a master degree or a doctor’s degree. The CPE, which is not a degree, is also of 2 years’ duration. It is unknown whether the curricula of CPE and the JD degree are the same and what the differences may be.
25. The number of JD graduates has exceeded the LLB graduates in recent years. The total number of applicants admitted to the JD Programmes of the 3 Universities for the 2014/15 academic year is 303. The total number for the LLB Programmes (excluding the double-degree Programmes) is 229<sup>3</sup>.
26. The JD is a postgraduate course and there is no Government funding. The fees for the JD Programmes of the 3 Universities range from HK\$318,000 to HK\$333,360 for the 2015/16 academic year.
27. For the PCLL, although it is a postgraduate course, the HKSAR Government has made an exception to provide funding through the University Grants Committee (“UGC”) as the Government would like to ensure there is an adequate supply of quality lawyers in the community. For the 2014/15 academic year, out of the 701 applicants admitted to PCLL, 570 applicants studied on a full-time basis. Out of the 570 full-time places, 210 were UGC-funded places<sup>4</sup>. The cost for self-funded places is 3 times or more of the UGC-funded places.
28. The Education Bureau made the following observations in paragraph 6 of its Report to SCLET in September 2013 entitled “Articulation and Training

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<sup>2</sup> “Setting Standards, The Future of Legal Services, Education and Training Regulation in England & Wales” June 2013, the final report of the Legal Education and Training Review Independent research team

<sup>3</sup> SCLET Annual Report 2014

<sup>4</sup> SCLET Annual Report 2014, Submission to the Panel on Administration of Justice and Legal Services (“AJLS Panel”) by CUHK, LC Paper No. CB(4)825/14-15(05)

Opportunities for Double Cohorts of Law Students Graduating in the 2016/17 and 2017/18 Academic Years”<sup>5</sup> (“Report”):

“Regarding the admission to PCLL places, the following points are noteworthy:

- (i) In addition to the 206 UGC-funded PCLL places, there has been a progressive increase in self-financed PCLL intake places by 39%, from 326 in the 2010/11 academic year to 452 in the 2012/13 academic year, which is more than double the provision of UGC-funded PCLL intake places. The combined total number of PCLL places in the 2012/13 academic year is 658.
  - (ii) Of the 360 graduates of local LLB/double law degree programmes in a typical year, only around 100 (28%) were admitted to UGC-funded PCLL places in the past three academic years. The past three years witnessed a significant increase in the ratio of publicly-funded PCLL places allocated to local graduates of JD Programmes. In the case of one institution, the percentage ranged from 44% to 56%, which is more than double the ratio for local LLB/double law degree graduates.”
29. Statistics on the allocation of PCLL places amongst the different types of graduates are not available from all 3 Universities. Where one University has provided the statistics, they show that the total number of PCLL intake was 150 for each of the 2012/13, 2013/14 and 2014/15 academic years. 76 out of the 150 PCLL intake were JD graduates in the 2012/13 academic year, 85 were JD graduates in the 2013/14 academic year, and 87 were JD graduates in the 2014/15 academic year<sup>6</sup>.
30. These phenomena raise several issues.
31. The JD Programme has no Government funding. Although a considerable number of JD graduates were admitted into PCLL in recent years, there remain a substantial number of self-funded JD graduates who were unable to get onto PCLL. The high cost of legal study combined with the limited PCLL places give rise to the perception that the JD Programme is operating as a commercial undertaking for the benefit of the course providers than trainees or the legal profession. Aspiring solicitors are spending considerable sums without any realistic hope of qualifying. The waste of human and economic resources has repercussions on the legal and wider community.
32. These phenomena raise several issues about Government funding. Firstly, according to the Report issued by the Education Bureau, there is a significant increase in the ratio of publicly-funded PCLL places allocated to local JD graduates in the PCLL. Secondly, if 2 years of legal education can produce

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<sup>5</sup> “Articulation and Training Opportunities for Double Cohorts of Law Students Graduating in the 2016/17 and 2017/18 Academic Years”, Education Bureau and Department of Justice, September 2013

<sup>6</sup> Submission to the AJLS Panel by CUHK, LC Paper No. CB(4)825/14-15(05)

quality lawyers, whether public funding should be utilized to support a 4 years' LLB or 5 years' double law degree programme.

33. The high cost of legal study creates a barrier to entry to the profession. If cost is a barrier, it raises the question whether the profession is admitting the best candidates, or only those who can afford to pay to qualify.
34. In the light of the concerns listed above, it appears the present system of qualification may not be in the best interest of consumers of legal services as there is limited guarantee of quality. Individual consumers may lose out to consumers in the corporate sector in the competition for legal resources. It does not appear to benefit the legal profession, given the lack of certainty that the best and most meritorious candidates are entering the profession. It may be unfair to aspiring solicitors, who are faced with barriers such as costs of study, scarcity of PCLL places, lack of transparency in the admission process, and differentiation in the calculations of GPA scores. Lastly, it does not benefit the community by limiting the opportunities of those with the right talents from accessing a legal career, or developing that career.

#### **IV. Trainee Solicitor Training**

1. The regulatory framework for trainee solicitors is set out in the LPO and the Rules.
2. S8AA to S13A of the LPO set out the regulatory power of the Council of the Society and the Solicitors Disciplinary Tribunal in relation to the conduct of trainee solicitors. S20 of the LPO sets out the restrictions on employing trainee solicitors. S21 empowers the Society to prohibit a solicitor from employing a trainee solicitor in certain circumstances. S22 empowers the Society to discharge articles. S23 enables the Court to terminate a training contract in the case of bankruptcy of the principal. S26A empowers the Council to intervene a law firm in the case of dishonesty of a trainee solicitor. S73(1)(a)(i) empowers the Council of the Society to make rules providing for the professional practice, conduct and discipline of trainee solicitors.
3. The Rules are appended in **Appendix 3**. The Rules govern the employment of trainee solicitors.
4. In addition to the LPO and the Rules, the Society has issued the following documents to facilitate principals and their trainees:
  - (i) An Information Package for Trainee Solicitors, appended in **Appendix 4**.
  - (ii) An Information Package on Admission as a Solicitor after completing the trainee solicitor training, appended in **Appendix 5**.
5. Included in the Information Package for Trainee Solicitors are the following documents:

- (i) The Code of Good Practice in the Recruitment of Trainee Solicitors which is intended to facilitate law firms and law students to have an open and fair recruitment process in the recruitment of trainee solicitors;
  - (ii) 3 standard forms of trainee solicitor contracts to govern the rights and obligations of the principals and trainees;
  - (iii) A Training Checklist which specifies the basic type of practical training that a trainee solicitor is expected to undergo prior to qualification.
6. Trainee solicitors are entitled to apply for admission to the Society as a student member free of charge. A student member enjoys many privileges including access to the Society's Circulars and website, facilities at the Secretariat, participation in the Society's events, seminars, and conferences. A Young Solicitors' Group ("YSG") has been established by the Society for many years to serve the needs of young solicitors (those with less than 5 years' post-qualification experience) and trainee solicitors. YSG offers diversified services and activities to its members to facilitate and assist their career and personal developments. In addition, it serves as an interactive platform for trainee solicitors, junior practitioners, and students of local law schools to network with senior practitioners of the legal and other professional bodies.
  7. Hong Kong Academy of Law Ltd. ("Academy"), the educational arm of the Society provides pathway guidance to law students, interns, and trainee solicitors by organizing seminars on topical legal issues and career development and inviting senior legal practitioners working in different fields, such as the Judiciary, the Government, NGOs and corporations to share their experience.
  8. As at 31 December 2014, there were 963 trainee solicitors working in Hong Kong law firms. 39% of these trainees were male and 61% were female. The distribution of these trainees amongst the 836 law firms of different sizes is appended in **Appendix 6**.
  9. The 3 Universities have questioned whether there may be more inconsistency in the training offered by the law firms than in the PCLL Programmes, given the number of law firms in Hong Kong.
  10. A table showing the number of law firms in Hong Kong and their sizes is appended in **Appendix 7**.
  11. About 90% of the firms are sole proprietorships and partnerships comprising 2 to 5 partners. These firms engage in different areas of practice and have different operation, ethos, and culture. It is therefore important to avoid adopting a "one size fits all" approach in training trainee solicitors. The Training Checklist is intended to ensure trainee solicitors receive training in several essential areas. The standard forms of trainee solicitor contract prescribed by the Society list the range of basic skills which a principal must train a trainee, and that a trainee must be provided with the opportunity to gain reasonable experience in at least three of the following basic legal topics:

- (i) Banking
  - (ii) Civil Litigation
  - (iii) Commercial
  - (iv) Company
  - (v) Criminal Litigation
  - (vi) Family
  - (vii) Insolvency
  - (viii) Intellectual Property
  - (ix) Property
  - (x) Trusts, Wills and Probate
12. The table appended in **Appendix 8** shows how the Society monitors the training process.
13. Whilst trainee solicitors are not required to take any examinations after completion of the training, it is mandatory for them to take continuing professional development and risk management courses. Completion of these courses is a condition precedent to admission as solicitors. Through the Academy, the Society's members have unrivalled access to vocational training.

## **V. OLQE**

1. The OLQE has been conducted by the Society since 1995.
2. A copy of the Information Package for the 2015 OLQE is appended in **Appendix 9**.
3. The Information Package sets out in detail the regulatory framework of the OLQE, the eligibility requirements for sitting the examination, the examination format and procedures, and past examination results.
4. The number of candidates taking the OLQE ranges from 69 to 256 per year. Over 1,800 overseas lawyers have been admitted as Hong Kong solicitors through the OLQE in the past 20 years. The home jurisdictions of these candidates span over 20 countries with the majority of candidates being qualified in U.S.A, U.K. or Australia. There is an increase in the number of PRC candidates having first qualified in U.S.A. before seeking admission to practise in Hong Kong. Most of the candidates have substantial experience in the practice of law of their home jurisdictions prior to their admission as Hong Kong solicitors.

5. The Society has established an elaborate structure to oversee the operation of the OLQE:
  - (i) The Foreign Lawyers Committee considers and approves applications for exemption and applications for sitting the OLQE;
  - (ii) The OLQE Committee oversees all logistics including the establishment of the standards, syllabi, format and procedures of the examination, appointment of Chief Examiner and the Examination Panels;
  - (iii) The Chief Examiner and Panels of Examiners are responsible for marking and reviewing the scripts;
  - (iv) The Standing Committee on Standards & Development and the Council have overall responsibility of the OLQE.
6. The Society conducts a survey with the candidates taking the OLQE after completion of the OLQE each year and the responses to the survey show that the candidates are generally satisfied with the operation of the OLQE.
7. Through the experience of the OLQE since 1995, the Society has gained unrivalled experience in assessing aspiring applicants to the profession.

## **VI. Challenges of Legal Practice**

1. Paragraph 2(1) of the Consultation Paper asks about the challenges of legal practice in Hong Kong. The profession of solicitors is uniquely placed to deal with and respond to these challenges.
2. The Society considers the following factors have affected and will continue to affect legal practice in Hong Kong in the near future:
  - (i) Globalization and Internationalization;
  - (ii) Closer Economic Partnership Arrangement (“CEPA”), other trade developments and liberalization measures;
  - (iii) Changes in the legal landscape and practice environment;
  - (iv) Economic, social and political factors;
  - (v) Information and communication technology.
3. Globalization has transformed the mode of operation of lawyers, the nature of legal work, and the types of legal services provided. The past decade has witnessed the development of “global law firms”, some of which are listed on stock exchanges, the formation of limited liability partnerships (“LLP”), multi-disciplinary practices, and alternative business structures. In Hong Kong, the Legal Practitioners (Amendment) Ordinance which enables law

firms to operate as LLPs was passed in 2012 and the Society aims for it and all related subsidiary legislation to come into operation in 2016. The Society will in due course complete the legislative amendment exercise to enable law firms to operate as solicitor corporations.

4. Globalization leads to internationalization of legal services and activities. Legal activities and services requiring law firms and practitioners to work in and across different jurisdictions to deal with matters with a greater international focus and dimension have grown. As different jurisdictions may have different legal systems, infrastructures, and regulatory standards, there are an increasing demand for convergence or harmonization of these laws and standards, and for lawyers with the relevant skills and knowledge to resolve the differences to deliver the legal services required in a transnational and multi-jurisdictional context. Employers consider that the system of legal education and training should move in the direction of emphasizing the global nature of legal practice.
5. There is increased specialization in the legal services market. Nowadays, services provided by larger or international law firms are segmented by industries e.g. mining, pharmaceuticals, and each practice group may specialize in one industry. This has impacted the training of trainee solicitors. About 43% of trainee solicitors are being trained in mid-to-large local or international firms (of 11 to 20, or over 20 partners) in Hong Kong<sup>7</sup>. These firms are perceived to be better able to allocate resources to ensure the quality and standards of training. Trainee solicitors in these firms may find themselves serving a few clients in one particular industry by conducting corporate finance work, conveyancing and litigation and arbitration throughout their term of traineeship. Specialized training finds support with trainees and employers who do not want to invest resources in areas that are not required for their business, and consumers who expect “specialists”, not “jacks of all trades”.
6. The following measures enable Hong Kong legal professionals to access the Mainland market<sup>8</sup>:
  - (i) CEPA and its Supplements, in particular, Supplement X;
  - (ii) Trial Measures for Implementation of Joint Ventures between law firms in the Guangdong Province;
  - (iii) Agreement between the Mainland and Hong Kong on Achieving Basic Liberalization of Trade in Services in Guangdong;
  - (iv) Notice of the Ministry of Justice of the PRC (No. 136).

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<sup>7</sup> The Law Society Annual Report 2014

<sup>8</sup> Opportunities Flowing from CEPA and other Trade Developments in the Guangdong Province for Hong Kong Legal Service Providers, May 2015 edition of The Hong Kong Lawyer

7. These measures reduce or waive the Mainland residence requirements and allow Hong Kong permanent residents to take the NJE. Hong Kong legal professionals who pass the NJE will be able to obtain a license to practice law and work in Mainland law firms. They can act as agents in civil litigation relating to Hong Kong residents, handle matrimonial and succession cases, as well as disputes on contract, intellectual property rights, companies, securities law, insurance law, and enforcement of civil judgements and arbitral awards.
8. These measures enable Hong Kong and Mainland law firms to form joint ventures in Qianhai, Nansha and Hengqin New Area. Mainland practising lawyers can be seconded to representative offices of Hong Kong law firms to act as consultants on Chinese law. In turn, Hong Kong lawyers can be seconded to Mainland law firms to act as consultants on Hong Kong law or cross-border laws. Mainland law firms and representative offices of Hong Kong law firms are allowed to commence business co-operations in Guangdong by dividing their work according to their respective scopes of practice and authority. As at February 2015, 22 applications submitted by the Hong Kong legal service providers were approved by the Chinese authorities with 14 Hong Kong law firms having association arrangements with their Mainland counterparts. These firms can now advise on both Mainland and international law.
9. The merger of Dentons and China's Dacheng Law Offices in early 2015, making it the largest law firm in the world (with more 6,500 lawyers in 50 countries) shows that not only is China opening up its market to attract overseas enterprises and service suppliers, it is seeking to expand its outbound legal work.
10. Access to the Chinese market and China expanding its presence and overseas law offices create business opportunities. But these developments also present many challenges.
11. It has been said that most lawyers in China work quite independently<sup>9</sup>. Even within a Mainland law firm, there is not much co-operation between teams. It will therefore take extra efforts for Hong Kong legal professionals and law firms to work in and with Mainland law firms, to overcome geographical, cultural, language and economic barriers to work as a team to deliver their cross-border services to their international clients.
12. These developments also heighten the necessity for Hong Kong legal professionals to enhance their knowledge and exposure to Chinese law and the Chinese legal system. Some acquaintance (at least) with Chinese law and the Chinese legal system will and should become a more significant part of the legal education of Hong Kong law students.
13. Changes in the political, social, economic and practice environment have shaped and will continue to shape the legal services market. The downturn in the property market in Hong Kong in recent years has driven law firms which used to specialize in conveyancing to venture into other areas of practice, such

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<sup>9</sup> "To merge, or not to merge", February 2015 edition of Asian Legal Business

as mediation and litigation. With China actively promoting its “One Belt, One Road” development strategy, business enterprises and service suppliers including solicitors are looking to capitalize on the opportunities presented. It is expected legal professionals with multi-jurisdictional experience in infrastructure, construction, financing, trade and investment laws and family and matrimonial laws and an international network will be in great demand. Proposals for constitutional reforms in recent years have also raised many legal issues relating to the interpretation of the Basic Law, the rule of law, social order, public security and human rights. There is also a heightened public awareness to environmental issues, data privacy, cyber risks and social injustice. The Law Reform Commission is proposing third party funding for arbitration taking place in Hong Kong and has recently issued a consultation paper on its proposal. If the proposal is adopted, there will be significant and far-reaching effects on the arbitration practice and the legal services market in Hong Kong (and, in respect of which, the Society and its members are uniquely placed to respond to.)

14. In summary, globalization and internalization of legal services and activities, and the opportunities flowing from the Mainland, changes in socio-economic and practice environment have transformed and will continue to transform the mode of operation of solicitors and the types and nature of legal work. The challenge to the legal community is how to cope with these changes, to ensure solicitors can deliver legal services at a high standard as the demands for legal services continue to evolve from these changes. For those involved in training and education, the challenge is how to devise a legal education and training system which is capable of responding flexibly and robustly to the rapidly changing practice environment. Given the concerns set out in Section III of this Response, it is uncertain/doubtful whether the present legal education system will rise up to the challenge. In short, legal education and training need to adapt to the 21<sup>st</sup> century.
15. The legal landscape in Hong Kong has experienced the following changes in the past decade:
  - (i) Establishment of a third law school;
  - (ii) Expansion of the double degree programme;
  - (iii) Introduction of the JD Programme;
  - (iv) Introduction of the Conversion Examination;
  - (v) Implementation of the New Academic Structure of 3 years’ junior, 3 years’ senior secondary education, followed by 4 years’ undergraduate education;
  - (vi) Increased number of overseas lawyers seeking admission as Hong Kong solicitors and the increased number of registered foreign lawyers and foreign law firms establishing their presence in Hong Kong,

16. The implementation of the New Academic Structure of 3 years' junior and 3 years' senior secondary education, followed by 4 years' undergraduate education in September 2009 reduced the secondary school curriculum from 7 to 6 years. Students entering universities have only finished Form 6 instead of Form 7 and have received 1 less year of education. They are generally younger. The implementation of the New Academic Structure also resulted in a double cohort of law students entering the LLB Programme of the 3 Universities in September 2012, and the PCLL Programme in September 2016, with repercussions on the competition for LLB and PCLL places, internships and trainee solicitor training contracts.
17. The number of candidates taking the OLQE continues to grow. The number of candidates taking the OLQE prior to 2009 was generally below 200. Between 2010 and 2014, the average number of candidates taking the OLQE was 237. Parallel with the increase in the number of candidates sitting the OLQE is the increase in the number of registered foreign lawyers and foreign law firms establishing their presence in Hong Kong. As of the end of October 2015, there were 79 foreign law firms and 1,274 registered foreign lawyers from 30 overseas jurisdictions.
18. Foreign law firms have different purposes for setting up their presence in Hong Kong; to serve their multinational corporate clients, and/or to access the Mainland market. Some of them also seek to enhance their local expertise by recruiting Hong Kong qualified lawyers, or courting local firms into associations and subsequently, conversion into local firms.
19. Out of the present 79 registered foreign firms, 34, representing 43%, have formed associations with local firms. Among the 1,274 registered foreign lawyers, 940 of them are employed in local solicitors' firms. Over the years, a total of 66 firms, which were formerly registered as foreign firms, have converted to Hong Kong firms. It is expected that there will be more foreign firms converting to Hong Kong firms once they are able to fulfil the requirements for the establishment of a local practice.
20. The increase of overseas lawyers and law firms, and those qualified through the OLQE may fill the gap in legal services for specialized areas in the practice of law in Hong Kong. They may bring with them clients, businesses, and experience which may be lacking in the local market, but they also intensify the competition for work, and for the smaller local practices whose businesses and income may be more volatile to socio-economic changes, they may be put at a particularly disadvantageous position as they will inevitably be measured against their international counterparts in terms of experience, talent, network of offices, skills, specialization. They lack the resources to acquire the know-how and skills to enable them to venture into different areas of practice. Local law graduates who lack exposure to the international arena may also be disadvantaged in the job market. CEE will help level the playing-field for all aspiring solicitors.
21. Information and communication technology has enabled legal services to be delivered in unconventional methods such as online dispute resolution, legal process outsourcing, contract consulting. It transforms practice and procedure

with digital signatures, e-filing and e-discovery. It enables dissemination of legal knowledge and skills and advertising through the websites. It even affects the operation in the courtrooms.

22. The trend in the United States and in Europe appears to be an increase in online legal services providers, and it is predicted that for the lower value consumer transactions, the interplay between costs, technology and accessibility may lead to the prevalence of online delivery of some legal services and a reduction in the number of traditional lawyers. Some of this number may be absorbed into new roles such as legal information technologists, knowledge managers and legal process analyst.
23. Changes in technology may provide conveniences to solicitors and clients, such as increasing efficiency, lowering costs, reducing risk and managing compliance. They may enable solicitors to focus their efforts and talents on more critical issues, but they also present many challenges. They require solicitors to adapt to new modes of operation and new practice procedures, raise legal issues relating to cyber security, confidentiality and authenticity, and in most if not all circumstances, entail amendments to or construction of new regulatory framework to ensure the interests of those involved, especially the consumers of legal services are protected.
24. As information technology continues to develop and re-develop, there is a need to train and ensure trainees or prospective trainees have the relevant knowledge on how these technologies facilitate work tasks, how they change the practice models and the ways clients may access and use legal information so that they may properly handle these technologies to avoid risks and negligence in legal practice.

## **VII. Demands for Legal Services**

1. Paragraphs 2(2), 2(3) and 2(4) of the Consultation Paper ask about the needs of the Hong Kong society and demands and new demands for legal services.
2. The Government of HKSAR published a “Report on Manpower Projection to 2018”<sup>10</sup>. Its predictions for legal services industry suggest an increase between 2010 and 2018 of the need for “legal, accounting, business and related professionals” of an additional 2,000, and over the same period, an increase of the need for “legal, accounting, business and related associate professionals” of 1,930. The Report was published in 2012, prior to the recent developments such as “One Belt, One Road” and the other developments listed in paragraphs 6, 7, 8 and 13 of Section VII of this Response.
3. Solicitors in Hong Kong generally practise in the following areas:
  - (i) Company/Commercial/Corporate Finance / Financial Services;

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<sup>10</sup> Report on Manpower Projection to 2018, Government of the Hong Kong Special Administrative Region, April 2012

- (ii) Conveyancing;
  - (iii) Landlord & Tenant;
  - (iv) Litigation and arbitration;
  - (v) Probate;
  - (vi) Intellectual Property / Patents and Trademarks;
  - (vii) Shipping;
  - (viii) Construction.
4. Demand for legal services will depend on the performance of the economy. The following factors have contributed to Hong Kong as a one-stop legal services hub and will continue to do so:
- (i) quality legal expertise;
  - (ii) internationally recognized regulatory standards;
  - (iii) independent Judiciary;
  - (iv) diverse, cost-effective, and sophisticated dispute resolution system including, a leading international arbitration centre;
  - (v) efficient infrastructure and network;
  - (vi) gateway to Mainland China.
5. In addition to the opportunities mentioned in paragraphs 6, 7, 8 and 13 under Section VII of this Response, the increase in the use of alternative dispute resolution, and the active promotion by the Government of the use of mediation and arbitration in resolving disputes, notably in building management and in the construction industry, in personal injury and family cases, have encouraged solicitors to practise as mediators.
6. With the implementation of the Higher Rights of Audience (“HRA”) Rules Cap. 159AK in June 2012, solicitors may apply to the Higher Rights Assessment Board to become solicitor-advocates either by way of exemption or by taking the HRA assessments. As at the date hereof, 38 solicitors have been granted HRA.
7. Compliance within the financial services sector remains a consistent and rapid growth area due to strict regulatory requirements, particularly in the area of corporate governance. There is a demand for lawyers with knowledge and skills in handling anti-money laundering, financial crime, trade surveillance,

conflicts issues, Securities and Futures Commission and Hong Kong Monetary Authority requirements<sup>11</sup>.

8. In addition to the demand for particular types of legal services, there is an increase in demand for lawyers with general skills such as language skills, in particular Mandarin and Chinese speaking and writing skills, commercial awareness and business acumen. “Commercial awareness” is regarded by some employers as important to legal work, as much as core legal knowledge<sup>12</sup>.
9. Commercial awareness may comprise a broad body of knowledge, as well as a number of associated skills and attributes:
  - (i) awareness of clients’ businesses;
  - (ii) appreciation of law as a business; that law firms are profit-making entities (together with corporate social responsibility); marketing and networking; how law firms are run;
  - (iii) an ability to recognise clients’ commercial objectives rather than proposing “pure law” solutions;
  - (iv) wider knowledge of commercial and financial subjects; understanding financial products; corporate structures; markets; knowledge of the wider economic environment and business issues in the news;
  - (v) general knowledge of current world and political affairs;
  - (vi) numeracy and ability to interpret financial data; office skills and use of specific tools such as Microsoft Excel;
  - (vii) personal attributes of common sense, independent thinking, analytical critical thinking.
10. There is also a renewed emphasis on soft skills and attributes such as interpersonal communication skills, negotiation skills, problem-solving skills, legal research, attentiveness to details, writing and drafting skills, client relationship management, resilience and ability to deal with difficult clients, stress and crisis management, effective teamwork, emphasis on professional ethics, even social awareness and willingness to take up pro bono legal services.
11. For more senior practitioners, there is an increased demand in a rapidly changing environment for them to develop a range of management competencies such as risk management, organizational management skills,

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<sup>11</sup> Current Trends and Key Factors Affecting the Hong Kong Legal Market, July 2015 edition of The Hong Kong Lawyer

<sup>12</sup> “Setting Standards, The Future of Legal Services, Education and Training Regulation in England & Wales” June 2013, the final report of the Legal Education and Training Review Independent research team

project management, mentoring, supervision and leadership skills. The Society and its senior members are uniquely placed to comment on these demands

12. The Society continues to explore business opportunities both locally and abroad for its members.
13. The Society has signed Memoranda of Understanding with various bar associations, including the Tokyo Bar Association, the Milano Bar Association, the Croatia Bar Association, the Czech Bar Association, the Law Institute of Victoria and the Korean Bar Association, to foster closer professional exchanges. In addition, the Society has organized and participated in practice promotion road shows such as “Think Asia, Think Hong Kong” and “Think Global, Think Hong Kong”, to promote Hong Kong legal services to overseas enterprises.
14. The Academy, the educational arm of the Society has since its incorporation in 2008 conducted over 2,791 seminars and conferences on a diverse range of legal topics to equip and update its members on legal knowledge and skills and to showcase the expertise of Hong Kong legal practitioners to both local and overseas practitioners and other professionals. These courses attracted about 99,921 participants, including law students, trainee solicitors, legal practitioners of all seniority, unqualified staff working in law firms, the international legal community, and members of the public. The Academy has provided and will continue to offer scholarships and other financial assistance to those with financial needs to pursue legal education and training.

## **VIII. Conclusion**

1. The legal services sector both domestically and internationally is facing manifold and diverse changes. These changes will transform the legal services market in the next decade.
2. The challenges to the legal community are:
  - (i) How legal services providers may have the knowledge, skills and professional attributes to meet the present and future needs of businesses and consumers, and the public interest;
  - (ii) How education and training providers may deliver legal education and training that ensures the initial and continuing competence of legal practitioners;
  - (iii) How employers may develop their workforce to deliver an effective and professional service to their clients.
3. As regulator of the solicitors’ profession, the Society believes that the implementation of CEE is critical in the light of the changes in the legal services sector in ensuring and maintaining competence and consistent standard of solicitors and entrants to the profession (in the 21<sup>st</sup> century).

4. As facilitator of legal education and training and the representative body of solicitors, the Society will continue to provide financial assistance and organize training to equip its members to face the challenges in the legal services sector, so that they may deliver services at a high standard to the Hong Kong and international community (in the 21<sup>st</sup> century).
5. The Society would be happy to expound on any of the issues discussed above in an interview with the Consultants.

The Law Society of Hong Kong  
11 December 2015



法律援助署  
Legal Aid Department

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本署檔號 Our Ref: LA GR/1-55/49  
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9 November 2015

Ms Vivien Lee  
Secretary of the Standing Committee  
on Legal Education and Training  
c/o The Law Society of Hong Kong  
3/F, Wing On House  
71 Des Voeux Road Central  
Hong Kong

Dear Ms Lee,

**Consultation Paper on a Comprehensive Review on  
the Legal Education and Training in Hong Kong**

We refer to the Consultation Paper canvassing views on the legal education and training in Hong Kong.

It is noted that in April 2014, the Law Society consulted the Department on similar matter. Our Deputy Director of Legal Aid in charge of Administration Division as Department's representative had participated in an interview whereby we advised that our Department has experienced no difficulty in engaging competent lawyers to represent our aided persons in their proceedings, both civil and criminal alike and our stance on your proposal of introducing a common entrance examination is neutral.

Please be informed that our stance on the proposed introduction of a common entrance examination remains the same.

Yours sincerely,

  
( Ms. Doris Lui )  
for Director of Legal Aid

Annexure to Reply Form

14 November, 2015

The Standing Committee on Legal Education and Training  
3/F, Wing On House  
71 Des Voeux Road  
Central, Hong Kong

Attention: Justice K H Woo, Professor Julian Webb, Professor AHT Smith

Dear Sirs,

I write regarding the current consultation and in this regard include my second submission. My first submission was made to Justice Woo before the appointments of Professors Webb and Smith. The first submission shortly made the case that the current RAE is destroying local legal scholarship. Prior to turning to the substance of this submission, and by way of background, let me state that I am currently a Professional Consultant at the Faculty of Law at the Chinese University of Hong Kong. In addition, I have been a Visiting Associate Professor and Senior Teaching Fellow at the School of Law at City University and a tenured Associate Professor at the Faculty of Law at the University of Hong Kong. I have also practised extensively in Hong Kong with Baker and McKenzie, Denton Wilde Sapte and Clifford Chance. I offer these comments in my personal capacity. The thrust of this submission is on a newly introduced appraisal system at the Faculty of Law at Chinese University. I would like to begin by specifically stating how this new system is relevant to your Review and to legal education. Firstly, the new system is driving morale down and thus adversely impacting the quality of teaching (see below). Secondly, the disproportionate importance of student teaching evaluations, on which appraisal of teaching is almost exclusively based, to career progression, is causing Faculty members to lower their expectations and standards as a means of improving their scores (or avoiding low scores) and thereby producing poorer outcomes, less well prepared students, and less fulfilling teaching. I provide some empirical evidence of this below as well as from my own long experience of teaching. I will address these fundamental issues by carefully examining the appraisal system at the Faculty under these headings:

- 1. Re Appraisal – *the system is broken***
- 2. The New Faculty Academic and Personnel Committee (FAPC) Appraisal Criteria – *a radical shakeup***
- 3. How We Got Here – *stop taking things for granted***
- 4. The \$64 Question – *really? The answer to only one question is all that matters!***
- 5. A Critique of the Bell Curve and ‘Normal’ Distribution – *it was just made up***
- 6. Course and Teaching Evaluations (CTEs) are Arbitrary – *delegatus non potest delegare***
- 7. The Real Negative Consequences of a Poor Appraisal Mechanism – *low morale***
- 8. Improving FAPC decision-making – *move away from consensus and elect the members***
- 9. Improving Appraisals – *adopt genuine performance management***
- 10. Appraisals writ large – *all of this applies mutatis mutandis to service and scholarship***
- 11. A Second Legal Education Review**
- 12. Suggested Actions**

### **1. Re Appraisal – the system is broken**

Last May 2015 we went through our annual appraisal exercise at the Faculty of Law. This time I was struck by how much the nature of appraisals had changed since I first joined the Faculty seven years ago. In those early formative stages I looked forward to my meetings with Dean Mike McConville and I appreciated his feedback. The appraisals also motivated me because I was doing well and it was reflected in the results themselves. Regrettably, this

changed under the new Dean, Professor Chris Gane, when it became something completely different and systemically unfair. These changes prompted me to look carefully at the Faculty's appraisal system and to learn more about the role of the Faculty Academic and Personnel Committee (FAPC) and the significant changes that have been very quietly introduced and which now govern all Faculty appraisals. It is not a happy tale and I would like to share with you what is transpiring at least with respect to teaching appraisals and to make a case for change: root and branch change upon your recommendations.

## **2. The New Faculty Academic and Personnel Committee (FAPC) Appraisal Criteria – a radical shakeup**

The University has lately introduced the new **University Guidelines on Annual Appraisal of Teaching Staff (Guidelines)**

The new guidelines are poorly worded with some odd syntax and 'management speak'. I believe simply referring to two paragraphs below will suffice to make this point:

### **Policy**

The University is committed to managing and mobilizing its human resources to enhance organizational effectiveness through optimizing professional abilities of its staff force towards achieving the University's goals and objectives, and maintaining academic excellence and professionalism.

Under the heading 'Purpose' the Guidelines continue:

### **Purpose**

It is believed that service quality, both in the teaching and support functions in the University context, depends very much on the quality of the service deliverer. At the same time, job satisfaction and the sense of achievement give reinforcement to the service deliverer in the continuous improvement of work in achieving the University's goals and that they feel satisfied through job enrichment...

Personally, it is hard for me to consider myself a 'service deliverer' or being part of a 'staff force.' After setting out the four-fold purposes of the appraisal: (provide a record of past activities; enhance staff performance and job satisfaction; identify training needs and development strategy; and facilitate successful staff management) this obfuscation appears:

Staff appraisal is conducted for continuous performance tracking, and not for the sole purpose of making personnel decisions. When personnel decisions are to be considered, separate review will be carried out. **Reference may however be drawn from the appraisal forms for the making of personnel decisions, and it is expected that the result of the personnel review will be in congruence with the process of appraisal.** (emphasis added)

In practice this means that personnel decisions will turn on your performance appraisals which we now know so far as teaching is concerned turns on a \$64 question (below). I would ask is this what staff should expect of their employer in an academic and professional environment? I would think not. The question it leaves of course is what your Committee (Woo, Webb and Smith) might be willing to do about it? We also need to appreciate that some of this ground has been gone over already. For instance, in research by Gina Anderson she lifts the lid on how Australian academics at 10 universities have resisted 'quality assurance' processes within the universities in a series of disputes surrounding issues of power, definition and efficacy. Anderson argues that until university management and staff agree on an understanding of the contested concept of quality, academics will continue to resist them being imposed: (2006) Assuming Quality/Resisting Quality Assurance: Academic responses to 'quality' in some Australian universities," *Quality in Higher Education* vol 12, no 2 pp 161-173. This is likely familiar ground for the Committee.

Turning to the research on the use that the personnel office should make of teaching appraisals in coming to their decisions it can be noted that there is real disagreement: Apodaca, P and Grad, H (2005). The dimensionality of student ratings of teaching: Integration of uni- and multidimensional models. *Studies in Higher Education*, 30, 723-748; Harrison, P D, Douglas, D K, and Burdsall, C A (2004). The relative merits of different types of overall evaluations of teaching effectiveness. *Research in Higher Education*, 45, 311-323; Hobson, S M, and Talbot, D M (2001). Understanding student evaluations: What all faculty should know. *College Teaching*, 49, 26-31; Renaud, R D, and Murray, H G (2005). Factorial validity of student ratings of instruction. *Research in Higher Education*, 46, 929-953. Notwithstanding these differences on appraisals the personnel office has just gone ahead with them presumably because it suited them and without regard to what are the genuine concerns of staff.

Offering one relevant view, McKeachie, W J (1997). Student ratings: The validity of use. *American Psychologist*, 52, 1218-1225 has set out that, when it comes to personnel decisions, that the student ratings of attainment of educational goals and objectives are preferable to multiple dimensions or a single measure of overall teaching effectiveness (as at Chinese University with its \$64 uni-dimensional question). The reason for this conclusion is simple and that is effective teaching can be demonstrated in many ways, and no teacher should be expected to demonstrate proficiency in all methods and styles or have them reduced to one. Moreover, teaching methods may vary, depending upon the course content, student characteristics, and size of class. How could this not be the case with LLB, JD, LLM and PCLL students in the Faculty? As such, and regardless of which measures are used, the FAPC and the personnel office should use a much wider range of categories (e.g. exceeds expectations, meets expectations, and fails to meet expectations) rather than try to interpret decimal point differences: 'd Apollonia, S, and Abrami, P C (1997). Navigating student ratings of instruction. *American Psychologist*, 52, 1198-1208; McKeachie, W. J. (1997). Student ratings: The validity of use. *American Psychologist*, 52, 1218-1225; Pallett, W. H. (2006). Uses and abuses of student ratings. In P. Seldin, *Evaluating faculty performance* (pp. 50-65). Bolton, MA: Anker Publishing Company, Inc.

**The Myth of Average.** The Faculty divides all staff on a continuum of Excellent, Above Average, Average, Below Average and Poor. In my submission these divisions are deeply disingenuous for one simple reason; that is, 49% of the Faculty will be below average or the mean at any point in time. Forty-nine per cent! Every one of my colleagues in this group is now at risk and will have to consider whether and if so to what extent they should allow for it in pedagogy and content. *This goes once again to the heart of the current consultation.* That is indeed a lot of colleagues who have unwittingly and mathematically put themselves in harms way. In my submission this simply provides far too much leverage to the FAPC in carrying out appraisals. It simply provides far too much leverage to the University itself. It also promotes all of the worst features of such appraisals and which I will return to below under the heading 'The Real Negative Consequences of a Poor Appraisal Mechanism – low morale'. Therefore, I ask, what can be done about it? Might the Faculty through the Committee be prompted to adopt an appraisal system designed for today and not a decade or two ago in corporate America? To best understand this it is suggested that the Committee call upon Dean Gane to release a full anonymous summary of all the mean scores for all the teaching appraisals in the Faculty and the characterizations that were given to them by the FAPC. This is a means of better understanding what is really taking place in the Faculty and thus what the true implications are for teaching.

### **3. How We Got Here – stop taking things for granted**

According to the Provost's office (*Review Arrangements in Respect of Teaching Staff*) in 2011 an ad hoc committee comprising all Faculty Deans was set up to consider:

1. review arrangements in respect of teaching staff;
2. assessment criteria for review of advancement and conversion to continuous appointment on the lecturer grade; and
3. procedures and criteria for appointment to principal lecturer rank.

In consultation with the Deans Committee and the Vice-Chancellor's Committee papers were confirmed and sent to teaching staff on 11 April 2012. Following this there were further meetings and supposedly changes by the Administrative and Planning Committee (AAPC). Ostensibly this was all with a view to not just streamlining the existing arrangements but also to increasing transparency. New guidelines were released in Personnel Circular No 2 (2012).

These new guidelines and the supporting new 'online tool' were named the Academic Staff Review Workflow System or ASRW for short. From the outset it addressed the Annual Pay Review Exercise and the Annual Appraisal Exercise referred to above. Approximately seven months later in June 2013 the Provost called for a systematic review of the annual-performance/pay-review/appraisal online system before the Information Technology Services Centre (ITSC) would begin automating the outstanding staff review procedures and which would extend to advancement and substantiation. This went ahead at the same time as some fine-tuning of the system.

The Faculty Deans met on 4 June 2013 to endorse the changes and approve moving forward.

Today in the Faculty, all reviews for advancement, crossing of the pay bands, extension of service of retirement and substantiation are all handled under this new system. It should be reiterated that the introduction of these new procedures were not disclosed to most Faculty members. It has been shown time and again how important it is to have Faculty involved in the design of appraisal tools: see e.g. John Simmons (2002) "An 'expert' perspective on performance appraisal in universities and colleges," *Employee Relations* vol 24, no 1 pp 86-100.

#### **4. The \$64 question - really? The answer to only one question is all that matters in evaluating teaching!**

The Course and Teaching Evaluations (CTEs) at the Faculty comprise 18 questions. Notwithstanding this though there is only one question that is relevant to the FAPC and that is question 18 which asks about "Satisfaction with teacher." As everyone in the Faculty knows it is the answer to this question *alone* that is material for judging teaching by the FAPC and which appears in summary form on the appraisal forms. There are no references to any other questions or replies (data) in the appraisal forms. Even though the body behind the CTE, the Centre for Learning Enhancement and Research (CLEAR) could take the answers to all of these questions and aggregate them for instance to arrive at a single number, and which would provide a more holistic appraisal, the University, Faculty and the FAPC are preoccupied with only *one* measure: here it is called "the \$64 question". In this submission, the importance of the answers to this question is grossly overstated. It is after all but one answer to one of 18 questions on the CTEs and yet that is what drives the formal teaching appraisal results.

The sole focus on a \$64 question undermines the reliability of the ratings. It has been shown that generalizability is especially relevant when making personnel decisions about an instructor's general teaching effectiveness. In this regard it has also been shown that personnel decisions should be based on additional information beyond student ratings: Cashin, W E (2003). *Evaluating college and university teaching: Reflections of a practitioner* in J C Smart (ed), *Higher education: Handbook of theory and research* (pp 531-593). Dordrecht, The Netherlands: Kluwer Academic Publishers.

The sole focus on a \$64 question is contradicted by the evidence. This is because there is broad agreement that student ratings are multidimensional (i.e. that they reflect several different aspects of teaching). The number of dimensions varies depending, in part, on the form studied and the number and kind of individual items it contains. Put simply, multidimensionality suggests *no single student ratings item or set of related items is useful for all purposes*. There have been a number of factor-analytic studies which have concluded as much: Abrami, P C, and d'Apollonia (1990). The dimensionality of ratings and their use in personnel decisions in M Theall and J Franklin (eds), *Student ratings of instruction: Issues for improving practice: New Directions for Teaching and Learning*, No 43 (pp 97-111). San

Francisco: Jossey-Bass; Hoyt, D P, and Lee, E. (2002a). *IDEA Technical Report No. 12: Basic data for the revised IDEA system*. Manhattan, KS: The IDEA Center; Kulik, J A, and McKeachie, W J (1975). The evaluation of teachers in higher education in F N Kerlinger (ed), *Review of research in education* (Vol 3, pp 210-240). Itasca, IL: F E Peacock; Marsh, H W, and Dunkin, M J (1992). Students' evaluations of university teaching: A multidimensional perspective. In J C Smart (ed), *Higher education: Handbook of theory and research*, Vol 8 New York: Agathon Press.

The Faculty holds out that it also considers "other teaching contributions" but in practice these appear to count for little other than further inconsistencies. If the Faculty were required to produce the teaching appraisals and the data on which they were based it is submitted this would be obvious. The Committee is invited to call for this disclosure by the Dean.

All of this is made worse by the fact that this measure is obtained on all but misleading pretenses. Each semester when the CTE reply period begins the students receive an email from the Faculty which states:

[t]eaching and learning are very important to The Chinese University of Hong Kong (CUHK). In an effort to enhance the quality of our courses and improve the teaching and learning environment, we would like to have your feedback on the education you are receiving in CUHK.

You will note what is absent from this request made of the students to complete their CTEs; that is, there is no mention of the importance of one question over all of the others or for that matter many of the other uses to which the data will be put. There is certainly no mention of the fact that that these CTEs are really intended to assist (if not in fact determine) important personnel decisions. While they may be used for the purpose noted that is certainly not their most important function. How can that be? Should the Faculty not tell the students what their replies to one question as it happens are really to be used for? As to the purpose of the ratings: Feldman, K A (1979). The significance of circumstances for college students' ratings of their teachers and courses. *Research in Higher Education*, 10, 149-172 has shown that the effect of instructions on ratings varied per the teacher. In some cases, notifying the students that the ratings would be used for tenure, salary, and promotion decisions resulted in the ratings being higher while in other cases it had no effect or was associated with lower ratings. Still it would seem the University should err on the side of transparency.

Quite apart from these criticisms there is a more fundamental objection to CTEs. It is simply that academics' careers should not depend upon whether they are making degree programs easy enough for students. There is an assumption here of course and that is equating higher teaching evaluations with lower faculty expectations of the students. While no data on this appears to be available in Hong Kong there is years of personal experience, some international data as well as anecdotal evidence which attests to it as a broader problem. For example, in the United States, William Deresiewicz's latest book *Excellent Sheep: The Miseducation of the American Elite and the Way to a Meaningful Life*, (New York: Simon & Schuster Inc, 2014) notes that even at some Ivy League Schools (Yale in particular where he taught and studied) the students and faculty have entered into non-aggression pacts whereby the students ask very little of their professors in return for the professors asking very little of the students. In this submission, without disputing whether it occurs or not, if it does surely it cannot be right.

Leaving the CTEs to one side for a moment it should be noted that the Faculty has belatedly introduced some peer review but only for the most junior members of staff. The concern with this is that the same mindset which governs the use of CTEs will simply be transferred to the peer evaluations. You see many of us are already peer reviewed by the Law Society; for example in the PCLL each year. The Committee is encouraged to seek out those reviews. These external reviews seem to play no role whatsoever in the appraisal of staff at present. Thus, the Committee needs to look seriously at what the Faculty is doing and what it is supporting then recommend how best to appraise staff. It is not as if there are no alternatives: see e.g. John Taylor, Claire Baines, (2012) "Performance Management in UK

Universities: Implementing the Balanced Scorecard,” *Journal of Higher Education Policy and Management* Vol 34, no 2 pp 111-124.

The research on faculty evaluations or appraisals is almost entirely in agreement in recommending that multiple sources of data be used. Thus much more than the \$64 question referred to above. It would almost certainly require the Faculty to honestly appraise other teaching contributions which does not appear to be the case at present. It is clear from the research that no single source of information, and including student ratings, provides sufficient information to make a valid judgment about a teacher's overall teaching effectiveness. Further, there are important aspects of teaching that students are not competent to rate. For elaborations on this issue, see Cashin, W E (1989). *Defining and evaluating college teaching*. IDEA Paper No. 21. Manhattan, KS: Kansas State University, Center for Faculty Evaluation and Development; see also Abrami, P C, d'Apollonia, S, and Rosenfeld, S (2007). The dimensionality of student ratings of instruction: An update on what we know, do not know, and need to do in R P Perry and J C Smart (eds), *The Scholarship of teaching and learning in higher education: An evidence-based perspective* (pp 385-445). Dordrecht, The Netherlands: Springer; Arreola, R A (2006). *Developing a comprehensive faculty evaluation system* (2nd edition). Bolton, MA: Anker Publishing; Braskamp, L A and Ory, J C (1994). *Assessing faculty work: Enhancing individual and institutional performance*. San Francisco: Jossey-Bass; Cashin, W. E. (2003). Evaluating college and university teaching: Reflections of a practitioner in J C Smart (ed), *Higher education: Handbook of theory and research* (pp 531-593). Dordrecht, The Netherlands: Kluwer Academic Publishers; Centra, J A (1993). *Reflective faculty evaluation: Enhancing teaching and determining faculty effectiveness*. San Francisco: Jossey-Bass; Davis, B G (2009). *Tools for teaching*, (2nd ed). San Francisco: Jossey-Bass; Forsyth, D R (2003). *Professor's guide to teaching: Psychological principles and practices*. Washington, DC: American Psychological Association; Marsh. H W (2007). Students' evaluations of university teaching: Dimensionality, reliability, validity, potential biases and usefulness in R P Perry and J C Smart (eds), *The Scholarship of teaching and learning in higher education: An evidence-based perspective* (pp 319-383). Dordrecht, The Netherlands: Springer.

##### **5. A Critique of the Bell Curve and 'Normal' Distribution – it was just made up**

The University and the FAPC has put every member of the Faculty on a Bell Curve, 'Normal' Distribution or Gaussian Function for annual appraisals. Now, as a matter of course, that curve calls for 25% of the staff to be graded as Category III, which is submitted equates to a C grade on a grade scale. Thus, for example, in the most recent teaching appraisal exercise 9 out of 36 staff were graded in Category III. In this submission this is a highly retrograde step and is damaging both the University and the Faculty, and further damage will arise as it becomes more generally known. Given the past inflexibility shown by the University in dealing with students on Bell Curves (the Faculty currently must place 10% of the students in a C grade category on student assessments) it is submitted that no divergence from this percentage will be allowed. Once in Category III it will become very difficult for any member of the Faculty applying for renewal, substantiation, promotion, crossing the bar etc to be successful. This may happen overtly or insidiously. It is submitted that even without so much as one dismissal or refusal to grant a pay increase or otherwise the prospect of it alone is having a chilling effect on staff morale and those with options are just leaving. This of course is impacting teaching and programs. Some of those who have left seem to be among the best teachers by any other measure than the deeply flawed CTEs. This will be returned to below under the heading 'The Real Negative Consequences of a Poor Appraisal Mechanism – low morale'.

##### ***The question one is driven to ask is whether this is any way to run a Law Faculty?***

The adoption of a Bell Curve for appraisals is particularly unflattering to staff when the Faculty itself only puts 10% of its students into the equivalent grade category in academic appraisals or marking. The remaining 90% of the students receive A and B grades. The subject of grade inflation is a topic which the Committee may itself wish to address in this regard but is outside the scope of this submission. This move by the University to what is also referred to

as adopting “stacked rankings” is also odd in its timing in that it is happening just as employers are moving away from annual appraisals in favour of performance management (see e.g. *Accenture: one of the world’s biggest companies to drop annual appraisals*, *The Independent*, 28 July 2015).

This move away from annual appraisals by Accenture is a bad omen for the University in itself but there is more. Lately, Elizabeth Knight, in the *Sydney Morning Herald*, (15 July 2015) under the headline: “[t]he death knell for performance (review) anxiety?” wrote:

Accenture is not the first to break ranks but its membership of the consulting fraternity, which has traditionally been a strong supporter of the use of human metrics, may lead to corporate clients taking a lead. Adobe, Microsoft, Motorola and Medivo are just a sample of big organisations that have abandoned the practice, citing the expense and the fact it’s excessively time consuming for management. Not to mention the level of post-assessment staff attrition. Even GE, one of the great promoters and early adopters of performance reviews, appears to be changing tack. Last year its Australia and New Zealand head of human resources, David Arkell, declared the performance review system dead and called for more regular staff/management engagement.

It is submitted that it is disappointing that the Faculty under orders from the central administration has just rolled this system out at a time when it has fallen into disfavor elsewhere. Is the Faculty so out of touch with the times? It prompts one to wonder whether it the Personnel Office (with its new tagline, *An Office of People and For People*) in the University is aware of evolving best practice in its field of expertise?

In summary, the new appraisal system is damaging morale and adversely impacting teaching. The damage was done the moment the new appraisal system was imposed on staff without consultation and is deeply regrettable in a collegial institution. The question this raises given the damage that this is and will continue to cause is why then would the Faculty and the University pursue this? There is no definitive answer but it is submitted that it is presumably being driven by an obsession with University rankings and a policy to obtain leverage over the staff as a means of driving higher and higher performance. If true, what this policy is missing, is the damaging impact on staff and teaching and once again as noted below under the heading ‘The Real Negative Consequences of a Poor Appraisal Mechanism – *low morale*’.

It is not only the perfunctory annual appraisal that has been called into serious question of late, and which gives one pause, but the doubts now being raised over the validity and the assumptions underlying Bell Curves themselves that is so troubling.

Recent research by Ernest O’Boyle Jr and Herman Aguinis, (2012). *The Best and the Rest: Revisiting the Norm of Normality of Individual Performance*. *Personnel Psychology* vol 65, no 1 pp 79-119 shatters the myths surrounding Bell Curves.

We [O’Boyle and Aguinis] revisit a long-held assumption in human resource management, organizational behavior, and industrial and organizational psychology that individual performance follows a Gaussian (normal) distribution. We conducted 5 studies involving 198 samples including 633,263 researchers, entertainers, politicians, and amateur and professional athletes. Results are remarkably consistent across industries, types of jobs, types of performance measures, and time frames and indicate that individual performance is not normally distributed—instead, it follows a Paretian (power law) distribution. Assuming normality of individual performance can lead to misspecified theories and misleading practices. Thus, our results have implications for all theories and applications that directly or indirectly address the performance of individual workers including performance measurement and management, utility analysis in preemployment testing and training and development, personnel selection, leadership, and the prediction of performance, among others.

**You might ask how is this possible?** The answer lies in untested assumptions and their subsequent adoption in various fields. O'Boyle Jr and Aguinis, once again, bring this point out:

The normal distribution has been used to model a variety of phenomena including human traits such as height (Yule, 1912) and intelligence (Galton, 1889), as well as probability distributions (Hull, 1928), economic trends such as stock pricing (Bronzin, 1908), and the laws of thermodynamics (Reif, 1965). Based on the normal distribution's prevalence across scientific disciplines and phenomena, it has seemed reasonable to assume that normality would also be the distribution of individual performance.

...the assumption of individual performance normality...seems to have originated in the performance appraisal literature. More than half a century ago, Ferguson (1947) noted that "ratings for a large and representative group of assistant managers should be distributed in accordance with the percentages predicted for a normal distribution" (p. 308). The normality assumption persisted through the years, and researchers began to not only assume job performance normality but forced it upon the observed distributions regardless of the actual observed distributional properties. For example, in developing a performance appraisal system, Canter (1953) used "a forced normal distribution of judgments" (p. 456) for evaluating open-ended responses. Likewise, Schultz and Siegel (1961) "forced the [performance] rater to respond on a seven-point scale and to normalize approximately the distribution of his responses" (p. 138). Thus, if a supervisor rated the performance of her subordinates and placed most of them into a single category while placing only a small minority in the top ranking, it was assumed that there was a severity bias in need of a correction to normality (Motowidlo & Borman, 1977; Schneier, 1977). Moreover, the advice is that if an employee contributes a disproportionate amount of sales in a firm, he should be dropped from the data set or have his sales statistically adjusted to a more "reasonable" value (e.g., three standard deviations within the mean) before moving forward with a traditional analysis that assumes an underlying normal distribution. Both design practices (i.e., forced-response formats) and statistical analyses (i.e., deletion or "correction" of outliers) in performance evaluation create a normal distribution in samples regardless of the shape of the underlying population distributions.

There is further support for this critique of the Bell Curve based on the historical research that Lynn Fendler and Irfan Muzaffar published in 2008 in "The History of the Bell Curve: Sorting and the Idea of Normal." *Education Theory*, vol 58, no 1 pp 65-82 which completely undermines the allegedly realist basis for sorting; namely, the assumption that a Bell Curve is *normal!*

As Fendler's and Muzaffar's research confirms you set up a percentage of students for failure with this model. It is exactly the same for the prescriptive requirement for failure on the part of up to 25% of Faculty members in teaching under the new performance appraisal system. In this submission, Faculty members do not need this and certainly do not deserve it. Faculty members do not need failure by assumption and definition. While the FAPC will undoubtedly reply that is not their intention nevertheless it can certainly be the result if they see fit. The inequality in this relationship and the now tenuous assumptions upon which it is based suggest that the practice should not be condoned and the Committee is called on expressly to address it. Please do not feel that this exceeds your mandate. On the contrary it strikes to the heart of everything that you are concerned with.

## **6. CTEs are Arbitrary – *delegatus non potest delegare***

Course and Teaching Evaluations (CTEs) are arbitrary. The arbitrariness comes from the fact that the University has effectively ceded or delegated personnel decisions to an anonymous, unaccountable and self-interested group. One might draw upon the maxim *delegatus non potest delegare* here to make the point. It is the FAPC that is supposed to make the informed holistic decisions that one would associate with fulfilling its function in a

coherent manner. Instead, what the FAPC does, when so inclined, is rubberstamp decisions taken by a minority of students in classrooms. To put it bluntly, CTEs are a very crude tool and may not even be representative of the students' views in a given class because the sample size is too small. As an example, in the IDEA system (Hoyt and Lee, 2002 *IDEA Technical Report No 12: Basic data for the revised IDEA system*. Manhattan, KS) the average split-half reliabilities and standard errors of measurement for student-ratings were broken down by class sizes and the results from the coefficients show that as class size increases, reliability (or consistency in the scores) increases, but the amount of error decreases. As such, error can be seen as the flipside of reliability. In a typical class size of 10-14, which is the size of a PCLL Small Group, reliability is .78 and the standard error of measurement is .27. As a general rule, multiple classes provide more reliable results than a single class as do larger classes. When ratings are based on just 10 students, multiple class ratings are especially important. Therefore, the point is that PCLL small group teaching should be averaged at a minimum. Indeed this should also be considered regarding tutorials in the LLB again based on their size. For most instructors, ratings from a variety of courses are necessary, preferably two or more courses from every term, for at least two years, totaling six to eight courses. Therefore, unless one had 8 courses in one year, ratings should be looked at and averaged over at least two years. This goes directly to reliability. In practice, the FAPC can focus on one class result (of even a very small size) if they wish and decide a teacher's fate. It stands in contrast to the best practice just referred to and which the FAPC has never even considered let alone likely understood.

The allowance across these CTEs even for essentially the same class taught in different programs is zero. Further, no allowance is made for some other very important variables besides class size such as:

- first year first term versus last year last term (e.g. post PCLL admission results)
- full-time versus part-time
- evening versus afternoon
- LLB, JD, LLM or PCLL results
- elective versus compulsory
- co-taught or not
- multiple modules
- common exams
- open book or closed book exams
- 100% final or not
- coursework
- the number of pages of readings and
- class participation marks

Feldman, K A (2007). Identifying exemplary teachers and teaching: Evidence from student ratings. In R P Perry and J C Smart (eds), *The Scholarship of teaching and learning in higher education: An evidence-based perspective* (pp 93-129). Dordrecht, The Netherlands: Springer; for example, listed five variables where *slightly* higher ratings were *sometimes* found. These included higher ratings for smaller versus larger classes, lower-versus upper-level courses, higher versus lower ranked faculty, students taking elective versus required courses, and students in major versus non-major courses. Aside from the research teachers themselves know these factors impact evaluations in ways which are neither understood nor consistently dealt with by the FAPC.

Returning to the point of student anonymity made above there is research which has addressed this point students tend to give higher course and instructor ratings when they surrender their anonymity by signing the ratings: Braskamp, L A, and Ory, J C (1994). *Assessing faculty work: Enhancing individual and institutional performance*. San Francisco: Jossey-Bass; Feldman, K. A. (1979). The significance of circumstances for college students' ratings of their teachers and courses. *Research in Higher Education*, 10, 149-172; Marsh, H W, and Dunkin, M J (1992). Students' evaluations of university teaching: A multidimensional perspective in J. C. Smart (Ed.), *Higher education: Handbook of theory and research*, Vol 8 New York: Agathon Press. However, rather than suggest therefore that anonymity is required it is postulated that the higher ratings are more reliable and that therefore all ratings should be

signed or at least all comments should be signed. It can be noted that comments generally correlate with numerical ratings in any case: Thus, Ory and others, Ory, J C, Braskamp, L A, and Pieper, D M (1980). Congruency of student evaluative information collected by three methods. *Journal of Educational Psychology*, 72, 181-185 found a correlation of .93 between a global instructor item and students' written comments. In a second study of 60 classes, the authors Braskamp, L A, Ory, J C, & Pieper, D M (1981). Student written comments: Dimensions of instructional quality. *Journal of Educational Psychology*, 73, 65-70 found a correlation of .75. More recently, Burdsal, C A, and Harrison, P D (2008). Further evidence supporting the validity of both a multidimensional profile and an overall evaluation of teaching effectiveness. *Assessment and Evaluation in Higher Education*, 33, 567-576, found a correlation of .79 in a sample of 208 classes.

**So what should prudent teachers be doing when confronted with the CTE?** The answer is simple and it goes straight to outcomes and standards. That is; water down teaching in the face of the slightest questioning by the students. In this submission, it has become very difficult to do one's job conscientiously; or what the writer refers to as 'fearless teaching' given the constraints imposed by CTEs. One example may be provided.

Last year, in one course, I decided to engage the students with a guest lecture by an eminent law professor based overseas and with an outstanding international reputation. This professor agreed to lecture to the students via Skype. The arrangements were made. In due course a set of slides were prepared for the occasion and readings were assigned to the students. All of this was given to the students in advance as was the date and time for the Skype lecture. The students were also informed in advance that the lecture and the readings would be examinable and a single question was indeed included among others on their final assessment. Notwithstanding that the topic was highly relevant to the students (it had to do with reform of the legal profession as a whole) the students were beside themselves in that this was done. The comments were scathing as one might suppose were some individual returns on that basis as well. This comment is typical:

[The professor] wasted a lot of time talking about irrelevant things. He even arranged a [foreign] professor to conduct a skype lecture (sic) and included it in the assessment which is totally irrelevant to Hong Kong. I think he should not be allowed to teach a professional course anymore.

The Faculty needs to appreciate that students should not be the final arbiters of the value of what Faculty members do nor should the FAPC assume the students' ultimate wisdom. Much of the data, which is increasingly being produced in other jurisdictions, is recognizing declining student abilities and grappling with how to address it. See *Improving Undergraduate Learning: Findings and Policy Recommendations from the SSRC – CLA Longitudinal Project*: Richard Arum, Josipa Roksa and Esther Cho, 2011; and the appendices in *Academically Adrift: Limited Learning on College Campuses*, University of Chicago Press, Chicago, 2011. Such declines themselves have already been shown to negatively impact both job satisfaction and job stress for academics: Aleksandra Pop-Vasileva, Kevin Baird, Bill Blair (2011). University corporatization: The effect on academic work-related attitudes. *Accounting, Auditing and Accountability Journal* vol 24, no 4 pp 408-439.

The answer once again to the question what should prudent teachers be doing when confronted with the CTE then and at the micro level is to not invite any overseas academics to address one's students. At the macro level the answer is to not challenge the curriculum status quo or students and their expectations at all. To excel one essentially needs to teach to the students' lowest common denominator. It is submitted that these lessons writ large have already been taken on board by many colleagues in the Faculty with the result that students are less well prepared than they might have been upon graduation and that our overall teaching is poorer as a result. Some may dispute this but my long experience in teaching at all three law schools strongly suggests otherwise.

Knowing this why would should I not simply set the lowest possible standard, teach to the bottom of the class and save myself the aggravation? The answer to that question is wrapped up in who I am and how I see myself. Put plainly that is not me. It is not who I have

been. It is not how I have done it and I do not want to change. I suppose these are also some of the reasons why I am leaving the Faculty at Chinese University in June 2016. Fed up in large part by the lack of support from the Dean and the FAPC in this vein I chose not to seek to renew my contract. You see in the end I pride myself on being well aware of the standards that firms expect of our students and thus implicitly the level my teaching should take and I simply refuse to compromise on that teaching. Some find that objectionable. However, inasmuch as I have raised this internally at the Faculty with the Dean without it being substantively addressed I now bring it to the attention of the Committee for their consideration.

There is some evidence as well that course workload and subject-matter difficulty are correlated with student ratings. Thus, Greenwald and Gillmore reported that courses with lighter workloads received *higher* student ratings: Greenwald, A G and Gillmore, G M (1997). No pain, no gain? The importance of measuring course workload in student ratings of instruction. *Journal of Educational Psychology*, 89, 743-751. Further, Hoyt, D P, and Lee, E (2002). *IDEA Technical Report No. 12: Basic data for the revised IDEA system*. Manhattan, KS: in research they carried out controlled for the instructor's influence as to the amount of reading, the amount of other work, and stimulating students' intellectual effort had on student perceptions of the difficulty of the subject matter. Hoyt and Lee then computed a residual score that represented the students' *perception of difficulty* once the instructor's influence had been removed and concluded that if the students' perceived the discipline as difficult, the ratings were usually somewhat lower. Even without this research it is hard for many experienced teachers to not draw similar conclusions based on their time in the classroom.

Turning to some of the other research on this topic Centra, J A (2003). Will teachers receive higher student evaluations by giving higher grades and less course work? *Research in Higher Education*, 44, 495-518; Marsh, H W, and Roche, L A (2000). Effects of grading leniency and low workload on students' evaluations of teaching: Popular myth, bias, validity, and innocent bystanders. *Journal of Educational Psychology*, 92, 202-22; Marsh, H W (2001). Distinguishing between good (useful) and bad workloads on student evaluations of teaching. *American Educational Research Journal*, 38, 183-212; have reported a non-linear relationship between workload/difficulty and student ratings. As a result in Centra's research, using a large database of class results, found that courses were in fact rated lower when they were perceived as (either) too difficult (or were too elementary). Thus, in my submission, and as a result, workload and difficulty should be controlled for in the CTEs. As they are not the validity of the results may be called into question drawing upon this research. This could be done by adjusting ratings based upon student views of difficulty or how much work they believed the course required. In the absence of such adjustments once again the results are unreliable and they should not be used as they are at present.

***It is submitted that we are on the cusp of a major shift.*** It is submitted that Faculties and universities that pander to the students will lose the confidence of employers and perhaps find themselves desperately trying to remain relevant. For instance, EY recently decided to do away with degree classification as a criterion for hiring (see *Times Higher Education* 3 August 2015). The reason that was given by EY is that they have found that the class of degree does not make any difference anymore in their hiring. One can certainly understand this when there is grade inflation and when universities are handing out more and more As and Bs to their students irrespective of merit and simply as a matter of course or 'Normal' distributions. That said then why would employers in these cases rely upon the universities to 'sort' the students for them? For EY, at least, it would appear that they no longer trust the universities to do this job. This is unfortunate and does not bode well for universities. It would seem that EY and perhaps other employers in the future will be thrown back on their own devices to best identify the talent that their organizations need.

Ultimately, these issues are bigger than local legal education alone, and all universities, not just those in Hong Kong, will have to address them sooner or later or face irrelevance. It is hoped that the Committee is willing to consider them. In my submission, the Faculty too needs to address them sooner rather than later and before it is too late. The take away from this is that we need to be more serious about what we do, the standards we set, and the expectations we have for the students because in the future it will not be enough to simply go

through the motions any longer. The Faculty needs to decide what it really wants to stand for and the sooner the better.

## **7. The Real Negative Consequences of a Poor Appraisal Mechanism – *low morale***

There are very real negative consequences of a poorly designed appraisal mechanism according to Dr Herman Aguinis, *Performance Management*, Edinburgh Business School, Heriot-Watt University, January 2011, 1/6. In reviewing his list of consequences the Committee is invited to consider just how these consequences would impact teaching.

- 1. Employees may quit due to results.** If the process is not seen as fair, employees may become upset and leave the organization. They can leave physically (i.e. quit) or withdraw psychologically (i.e. minimize their effort until they are able to find a job elsewhere).
- 2. False or misleading information may be used.** If a standardized system is not in place, there are multiple opportunities for fabricating information about an employee's performance.
- 3. Self-esteem may be lowered.** Self-esteem may be lowered if feedback is provided in an inappropriate and inaccurate way. This, in turn, can create employee resentment.
- 4. Time and money are wasted.** Performance management systems cost money and quite a bit of time. These resources are wasted when systems are poorly designed and implemented.
- 5. Relationships are damaged.** As a consequence of a deficient system, the relationships among the individuals involved may be damaged, often permanently.
- 6. Motivation to perform is decreased.** Motivation may be lowered for many reasons, including the feeling that superior performance is not translated into meaningful tangible rewards (e.g. pay increase) or intangible rewards (e.g. personal recognition).
- 7. Employees suffer from job burnout and job dissatisfaction.** When the performance assessment instrument is not seen as valid, and the system is not perceived as fair, employees are likely to feel increased levels of job burnout and job dissatisfaction. As a consequence, employees are likely to become increasingly irritated.
- 8. There is increased risk of litigation.** Expensive lawsuits may be filed by individuals who feel they have been appraised unfairly.
- 9. Omitted**
- 10. Standards and ratings vary and are unfair.** Both standards and individual ratings may vary across and within units, and may also be unfair.
- 11. Biases can replace standards.** Personal values, biases and relationships are likely to replace organizational standards.
- 12. Mystery surrounds how ratings were derived.** Because of poor communication, employees may not even know how their ratings are generated or how the ratings are translated into rewards."

***Others are embracing this understanding.*** Elizabeth G Olsen, in *Fortune* magazine on 18 November 2013, wrote:

The 'rank and yank' system that Jack Welch popularized results in workers being pitted against their peers to avoid being labeled as losers. That's not the kind of approach that encourages teamwork.

In the same article Elizabeth quotes Bob Rogers, president of Development Dimensions International, a management development firm, who called out the practice in his book, *Realizing the Promise of Performance Management*: "[i]t causes damage by filtering employees from the bottom, and causes changes in people's behavior, and not to the good." We have had this approach epitomized recently with a damning article on the rank and yank culture at Amazon: Jodi Kantor, David Streitfeld, "Inside Amazon: Wrestling Big Ideas in a

Bruising Workplace,” 15 August 2015, *New York Times*. It has to be asked whether the Faculty is the next Amazon?

Returning to these real negative consequences it is submitted the experts' views are correct. These are eleven important consequences, which the Faculty should have weighed before imposing a new appraisal system on Faculty members. Whatever the interests in efficiency are in moving to this new mechanism it is submitted that they will always be outweighed by these negative consequences. I am not alone in thinking this. There are others in the Faculty who have expressed the same concerns to me about their own appraisals. In my view, this is untenable and the Committee should intervene.

### **8. Improving FAPC decision-making – move away from consensus and elect the members**

The FAPC operates by way of consensus. This means that all members of the Committee have to agree on their decisions.

The problem with any consensus decision-making though is that one stubborn person standing pat in his or her view can preclude an outcome that was supported by *all* of the others. This may be happening although without minutes one cannot be sure. If this is occurring then the result is an FAPC with one person making the decisions not a committee and it has become rather a FAPP (short for Faculty Academic and Personnel 'Person') because it can be seen that all it takes is just one person to decide the outcome of any matter before it.

This is a point of grave concern and thus I believe that the FAPC needs some procedures to address it. It could be done simply upon the Committee's recommendation; in fact, the Committee needs look no further than *Wikipedia* for an answer.

Proper guidelines for the use of this option, however, are important. The ethics of consensus decision-making encourage participants to place the good of the whole group above their own individual preferences. When there is potential for a block to a group decision, both the group and dissenters in the group are encouraged to collaborate until agreement can be reached. Simply vetoing a decision is not considered a responsible use of consensus blocking. Some common guidelines for the use of consensus blocking include:

- limiting the allowable rationale for blocking to issues that are fundamental to the group's mission or potentially disastrous to the group
- limiting the option of blocking to decisions that are substantial to the mission or operation of the group and not allowing blocking on routine decisions
- providing an option for those who do not support a proposal to “stand aside” rather than block
- requiring a block from two or more people to put a proposal aside
- requiring the blocking party to supply an alternative proposal or a process for generating one and
- limiting each person's option to block consensus to a handful of times in one's life.

I think this demonstrates that consensus decision-making, like that practiced by the FAPC, would usefully benefit from some controls being introduced. These controls are exceedingly important given the effect of FAPC decisions upon individuals' careers. In my view, each and every Faculty member is entitled to expect nothing less than the most objective, fair and principled decision-making by *all* members of the FAPC. There is no room for anything else. I do not believe that consensus decision-making is working in the FAPC. Thus, I would call upon the Committee to intervene to recommend the suggestions above. There are other confidence building steps that the FAPC could take alternatively, and upon the Committee's recommendation, such as moving simply to majority decision-making (e.g. as in place under Roberts Rules of Order) if preferred. After all, if majority decisions are good enough to send someone to jail (it is used in serious criminal jury trials) there is nothing to preclude it in the

FAPC. We need to see the wisdom of crowds in the FAPC once again and the Committee would appear to be our only hope of provoking this change within the Faculty.

***To whom does the FAPC owe its allegiance?*** This may appear to be an odd question; especially to anyone who is unfamiliar with the past practice of elected Deans in Hong Kong. I do remember them. In fact, I remember when Deans stood for election and they were directly answerable to the Faculty. Thus, such Deans had to balance their fealty to the senior administration in the University with the need to keep Faculty members on board; at least if they wished to have a chance at being returned as Dean.

This practice changed when, in 2002, the *Sutherland Report* recommended appointed Deans. This recommendation was quickly embraced by the University Grants Committee and it is now the rule in post-handover Hong Kong, and the rule at Chinese University. At the time Chinese University moved to appointed Deans from a prior system of concurrent Deanships by election. It is submitted that the status quo is not the preferred mode of selecting Deans because I would rather any Dean is answerable directly at least in part to me as someone in his or her electoral constituency. Similarly, and by extension, I would prefer to have *all* the other members of the FAPC directly elected as well and thus again to have them answerable to me in the same way. At the moment, the FAPC owes Faculty members very little and we have no formal power to influence its composition. Thus, if an FAPC member were interested in an appointment as Dean that person would have to impress the central administration – *not* me. This creates a potential conflict of interest when my interests are seen as in opposition to those of the University; for instance over the method of appraisals. As Faculty members we need to know that our interests are being represented notwithstanding how individual members of the FAPC may believe that impacts their relationship with the central administration. The Committee should consider recommending a move away from consensus decision-making in the FAPC and electing its members.

#### **9. Improving Appraisals – adopt genuine performance management**

This submission has been highly critical of the annual appraisal system at the Faculty. It is submitted that it is deeply flawed and proceeds on several false assumptions. That said it can be appreciated that any employer must have some form of staff appraisal in place and there is no objection to that. However, it should be best practice today not a decade or two ago. Further, it should not be premised upon outdated assumptions or enable other agendas to be pursued.

***What should an appraisal system for today look like?*** It should embrace genuine performance management. Thus it is about setting standards, helping Faculty members meet those standards, and appraising against them. This is not how we appraise in the Faculty at present which appears rather to be peremptory and adhesive. Implementing a genuine system of performance management is beyond the scope of this submission but some of the benefits and where the Committee might start in making recommendations can be found in John R Schultz (2015). To Improve Performance, Replace Annual Assessment with Ongoing Feedback. *Global Business and Organizational Excellence* vol 34, no 5 pp 13-20. See also Richard M Felder, Rebecca Brent (2004) Random Thoughts...How to Evaluate Teaching. *Chemical Engineering Education* vol 38, no 3 pp 200-202.

#### **10. Appraisals writ large – all of this applies mutatis mutandis to service and scholarship**

The appraisal system insofar as it has concerned teaching has been seriously questioned in this submission but it has not specifically addressed the scholarship or service categories on the annual appraisals. However, the same approach is also being applied with respect to these categories as noted above and thus this critique and the inherent weaknesses of the appraisal system apply *mutatis mutandis* to these categories and that the FAPC should be prepared to justify them before the Committee as well. The effect of this in the last appraisal exercise is believed to have resulted in 75% of the Faculty members being given at least one C grade (Cat III) across the three categories of teaching, service and scholarship. For some this has been devastating and cannot help but to impact teaching and life at the Faculty.

## 11. The Committee and the Legal Education Review

In closing, it is submitted that there are justifiable concerns with how the FAPC operates. I have brought these matters to the fore in part because morale is suffering in the Faculty and that it will only worsen as these practices become more entrenched. I believe that addressing each and every one of them is in the best long-term interests of the Faculty and in the best long-term interests of each and every one of our students. My timing is fortuitous. *The Roper Redmond Report*, 2001 which preceded the setting up of the Standing Committee on Legal Education and Training and preceded the setting up of the Law Faculty at Chinese University shows that the results of these reviews are exceedingly important and can have wide-ranging implications. Thus I would urge the Committee to look carefully at these related issues and to make recommendations which address them accordingly.

## 12. Suggested Actions

There are a series of suggested actions that I would like to see taken by the Committee and which follow from the points made above:

1. Revisit the entire appraisal process at the Faculty.
2. Revisit the criteria, methodology and results of the most recent teaching, research and service appraisals.
3. Consider recommending a return to elected Deans and/or the initiation of elections for the other members on the FAPC or personnel committee.
4. Consider recommending a move away from consensus decision-making in the FAPC or personnel committee.
5. Recommend adopting true performance management in place of annual appraisals and base it on a truly multidimensional model.
6. Recommend the abolition of CTEs in the PCLL given the current system of external examiners and peer assessment.
7. Recommend the wholesale revision of CTEs in their entirety in the other programs in the Faculty and revisit the legitimacy of Bell Curve distributions.
8. Recommend the Faculty make available to the Committee the immediate past results of all CTEs.
9. Recommend the Faculty make available to the Committee the immediate past results of all scholarship appraisals.
10. Recommend the Faculty make available to the Committee the immediate past results of all service appraisals.

In so acting the Committee will be better placed to respond to the terms of reference set out for it by the Standing Committee on Legal Education and Training.

Yours sincerely,

“Arthur McInnis”

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## Warwick Law School

### Comprehensive Review of Legal Education in Hong Kong

#### Response to Consultation

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#### Warwick Law School

Warwick Law School offers the LLB, which may be taken in three or four years. Four year variants include LLB (European Law) which includes a year of study of law in another European country and LLB (With a year abroad) which includes a year spent studying law in English in one of a range of universities abroad, including the University of Hong Kong. The School also offers BA degrees in Law and Sociology, Law and Business Studies, Law with Social Sciences and Law with Humanities. Warwick has a long history of recruiting students from Hong Kong with NNN Hong Kong students currently enrolled .....

#### The Consultation

We do not have direct experience of professional training within Hong Kong or of the curricula of the qualifying law programmes offered by the three Hong Kong universities. Accordingly, we do not offer opinions on consultation questions relating specifically to these matters.

Questions 1 and 2. *Challenges facing legal practice and the needs of Hong Kong society for legal services.*

The needs of Hong Kong are similar to those of other advanced countries involved in extensive commerce and which seek to play a leading role in international affairs. The scope of legal practice expands and will continue to do so, perhaps in ways which cannot currently be imagined. If Hong Kong is to remain a hub for the provision of legal services and dispute resolution in the Asia Pacific it will be important to retain sufficient flexibility in legal training requirements to enable students from a diversity of educational backgrounds to enter the profession. In particular it is important that the Hong Kong profession is able to draw upon students from a wide range of high performing Universities abroad. It is also important that the requirements for a qualifying degree leave some scope for student choice to enable students to study in new and developing areas of law and to take advantage of opportunities for specialisation available only in particular universities.

Question 12. *The proposed common entrance exam.*

We recognise that a common entrance exam would provide a mechanism for ensuring consistency and fairness in assessment for candidates entering the profession from different educational backgrounds. We note that under the HK Law Society proposals of 2013, it would be likely that the CEE would focus on core knowledge, rather than on broader intellectual skills. In determining the content and timing of the CEE it would be important to consider and avoid possible adverse impacts on the academic/university stage of training. If the CEE were to have an extensive curriculum, this might place pressure on students to restrict their options at university to those subjects which best match the CEE curriculum.

Universities might also feel under pressure to tailor their syllabi to the CEE and to focus on the acquisition of knowledge rather than the development of skills. These effects would be amplified if the CEE were to be taken immediately after the law degree. To put this point another way, whereas the CEE may be important in guaranteeing baseline competence, it would be unfortunate if its effect were to homogenise preparation for legal practice in Hong Kong, and thereby undermine the interest in retaining diversity of legal background within the profession.

Warwick Law School  
October 2015



**2. SUPPLEMENTARY WRITTEN  
RESPONSES (JANUARY-FEBRUARY  
2016)**



## Further Submissions to the Study Group

by Mr Justice Patrick Chan

1. This Further Submissions is made at the request of the Study Group in response to the Law Society's Decision to hold a common entrance examination for all PCLL graduates starting from 2021 ("the Decision").
2. I note that in my previous Written Submissions, I referred to the possibility of a common "exit" examination *after completion of the PCLL course* whereas the Law Society's proposed common "entrance" examination is an examination *before entering a training contract*. They refer to the same thing which is just differently described.
3. The Decision was subject to criticisms by several stakeholders. I would like to discuss the matter as follows.

### ***Pre-empting the Study Group's deliberation?***

4. The Decision has been criticized by some stakeholders as having the effect of pre-empting the Study Group's deliberation. I think this is a valid criticism. Although the Law Society's proposal has been made known for some time, it was then an option open for consideration by the Study Group. Now the Decision has become a matter of fact to be taken into account in its deliberation. Clearly, the Decision has the effect of disrupting or influencing the deliberation of the Study Group. I would personally have preferred that the Law Society would wait until after the deliberation of the Study Group and after more discussions among stakeholders.

5. However, in relation to the Decision, the following points can be made:

- (1) I think that one should fairly and objectively consider the merits and demerits of the Decision in relation to the whole system and should not be affected by one's feeling of the inappropriate timing of the Decision and any imputed but unsubstantiated motivation behind the Decision.

- (2) As a matter of fact, this is not the first time the idea of a common examination for PCLL students is brought up. In 1994/95, a similar suggestion was floated by the predecessor of the Standing Committee. A sub-committee (the Joint Examination Board of which I was the chairman) was appointed to explore the feasibility of having a joint examination for the 2 law schools at the time with a view to ensuring a common standard in the students. Nothing came out of it as there was no consensus. (I shall elaborate on this later.) In 1997/98, the Law Society commissioned the Redmond/Roper report which focused on the structure of the LLB and PCLL courses. In 2011, the Law Society was concerned with the difference in standard among PCLL graduates and commissioned a special group to look into the matter, although that special group was apparently tasked to consider a narrower aspect and might not have given consideration to the full picture. The interim report of that group, recommending among other things a common examination (which has led to the Decision), was issued for consultation for a couple of years. It was the subject of public discussion before the Legislative Council Panel of Legal Affairs in which all stakeholders participated.
- (3) Some time in 2012, some members of the Standing Committee were similarly concerned with the problems and difficulties in the present system. The suggestion was raised as to conducting a more comprehensive review or study into the whole system in the light of the changes in circumstances since the last review by Redmond/Roper and the different concerns expressed by various sectors. However, this proposal had met with initial objections and reservations from several stakeholders which expressed the view that they saw no problem in the present system which they considered as running smoothly. After a long deliberation, it was only last year (2015) that the Standing Committee was able to embark on the present study. The Legislative Council Panel was made aware of this comprehensive study during its discussion of the Law Society's proposal. In my view, while the Law Society has inappropriately jumped the gun, it cannot be said that it

has moved too quickly; rather it is the Standing Committee which has stalled its own feet and moved too slowly.

- (4) The Decision has proposed that the common examination would not be introduced before 2021 so as not to affect current students. Although there are no details of such examination and how it is to be administered, I have been assured by the President of the Law Society when he informed me of its Decision that the Law Society would negotiate with the 3 law schools with a view to working out a scheme in which all of them will participate in such examination. I believe that an examination board similar to the Conversion Examination Board for overseas law students is likely to be set up for such purpose.

6. For the reasons which I have given in my previous Written Submissions, I believe that the introduction of a common examination is a positive step forward. However, I do not believe that such an examination alone can solve all of the problems and difficulties which I have identified. It may even give rise to the accusation that the Law Society is doing this to serve its own self interest (as some stakeholders seem to have suggested).

***Control over entry into the legal profession?***

7. One of the allegations against the Decision is that the Law Society has a private agenda behind such decision, that is, it wishes to control the number of people joining the solicitors' branch of the profession. I would like to make the following points.

- (1) I think it is counter-productive and indeed quite unfair to impute any private agenda or improper motivation on the part of the Law Society to introduce such a common examination. No one has ever come up with any evidence in support of such an allegation. As mentioned above, a similar idea was first initiated by the predecessor of the Standing Committee many years ago and there was no question of any private agenda.
- (2) It is the primary responsibility of a professional body to ensure that members of its profession will provide good quality service to the

public and that they maintain a high professional standard. It has an obligation owed to the community to promote and pass on the good traditions of that profession to future generations. It is thus legitimate for a professional body to be concerned over the education and training of its members. After all, it is the professional body, not any other body or institution, which is ultimately answerable to the community for the quality of its service. This is true for any profession and discipline.

- (3) The Government has no human resources planning for lawyers for the reason that most lawyers enter private practice after qualification. There is no restriction over the number of lawyers since the demand for legal service depends very much on market forces. It would be unfair to make a general allegation that there is a conflict of interest between practising lawyers and persons intending to join the legal profession and that the Law Society has a self interest to serve in controlling the number of entrants to the solicitors' profession by introducing an examination. The same accusation can also be made for any profession and discipline. At the moment, the ratio of lawyers per capita in Hong Kong is not among the highest or the lowest in the world. If the Law Society were to be seen to allow too many people to get qualified or to unduly restrict the number of persons entering the solicitors' profession through such an examination, it would be subject to public scrutiny and criticism.
- (4) The PCLL is the only door to acquiring a legal qualification. It is the 3 law schools which now control entry to the legal profession since they control admission, teaching and assessment for such a course. However, each law school has its own different system of admission, teaching and assessment. In other words, there are 3 different keys to that door, allowing people who may have different standards to go through. The professional bodies have no direct or effective control over these matters and it is impracticable for the professional bodies to have regular and constant supervision or monitor on the courses provided by the 3 law schools. They have no effective means of

ensuring a uniform or similar standard among the PCLL graduates. On the contrary, there are clearly noticeable differences in their standard.

***Can a common entrance examination help to resolve any problem?***

8. In my view, the Decision to introduce a common examination before entering into training contracts can help in resolving some but not all the problems and difficulties in the present system. To understand why this is the case, it is necessary to appreciate these problems and difficulties. As I have tried to identify in my previous Written Submissions, there are problems and difficulties in a number of areas which require changes and improvement and if I may briefly summarize them below. The Law Society's proposed examination only addresses the area at the tail end.

- (1) The 3 law schools are the only local institutions which provide law degrees (LLB, JD and double degrees) which are required for admission to the PCLL courses provided by the 3 law schools and yet they are also the institutions which have the power to recognize other local or overseas law degrees for that purpose and they are free to give whatever weighting they like to these other degrees. The criteria for recognition and the weighting given to individual universities are not uniform or transparent. This has created a conflict of interest and the 3 law schools are seen as practising a monopoly.
- (2) There are problems or difficulties to say the least in the admission exercise for the PCLL courses since the 3 law schools rely on GPAs and degree honours which are given or granted by different universities and in different courses. There is simply no reasonably reliable, objectively fair and transparent assessment criterion for admission which can convince students, parents and the public that all applications for admission have been fairly and equally considered.
- (3) There is a shortage of PCLL places as there is a greater demand for such places over supply of available places which are being offered by the 3 law schools although there is no restriction on the number of

places which can be provided by the 3 law schools. The only limitation is the availability of resources and facilities which they can provide and which are acceptable by the Government and the professional bodies. This shortage is one of the causes for the problems and difficulties in (1) and (2).

(4) The 3 law schools provide different teaching and assessment for their own students. As it is impracticable to have regular and constant supervision and monitor by the professional bodies, there is no effective means to ensure that all PCLL graduates when they complete the course have attained a similar standard which meets the expectations of the legal profession and the community.

9. The cumulative effect of these problems and difficulties is not only serious but also disproportionate: many students will have no second chance and will be shut out from pursuing a legal career once they have been rejected admission by the 3 law schools for the first time.

10. It is unrealistic to turn a blind eye to these problems and difficulties and to feel complacent in thinking that nothing need be done. In my previous Written Submissions, I have ventured to make some suggestions to tackle these problem areas. I do not propose to repeat them here.

11. It can be seen that the Decision to introduce an examination after completion of the PCLL can help solve the problem in paragraph 8(4) above by trying to ensure all PCLL graduates meet the standard expected of them and to maintain a fairly similar standard among those who pass such examination. However, it does not address the problems and difficulties in paragraph 8(1) to (3). The legal profession should also have play a role in solving the problems and difficulties in these areas.

12. For example, as to 8(1), the professional bodies can in consultation with the 3 law schools decide on a list of recognized law degrees provided by local and overseas universities and the weightings to be given to them for the purpose of applying for admission to the PCLL course. This list should be under review from time to time. As to (2), the admission exercise for the

3 law schools should be made more transparent and that if reliance has to be placed on GPAs and degree honours, there should be a means to enable a more reliable comparison to be made. Alternatively the professional bodies may be involved in the admission process to make it more transparent. As to (3), although the professional bodies have no direct say on the number of PCLL places, they can ensure that there are sufficient resources and facilities for any expansion. They can also encourage other qualified tertiary institutions to consider providing additional PCLL places. However, it must be noted that with the increase in the number of PCLL places, the problem in (4) is likely to be aggravated. This makes a common examination after completion of the course more important.

***How to administer the common examination?***

13. The Law Society has been criticized for giving no details for the common examination introduced by the Decision. This is of course correct. But I would like to make the following points.

(1) While the lack of details of such an important change may fuel speculations and render the proposal less attractive and its purpose less convincing, I think that there is a positive side to this. There is now time (5 years) for the Law Society to make plans for such an examination and more importantly for the Law Society and the 3 law schools to negotiate for a workable scheme which are agreeable to all. As I mentioned above, the President has assured that this would be conducted. The Conversion Examination Board which runs examinations for local students who go overseas to pursue their legal studies is a successful example. Further, I do not believe that the Law Society would or even could run an examination scheme on its own without the co-operation of other stakeholders.

(2) It is worthwhile mentioning a previous experience encountered by the Joint Examination Board some 20 years ago. There were then only 2 law schools and the number of students was much smaller then. However, there was already a concern that the standards of their graduates are quite different. A subcommittee was formed to study

whether there could be a joint examination for all PCLL graduates. Various suggestions were made including having the same examination paper for the same subject, a joint special committee to select questions proposed by teachers of the law schools, and holding an examination on the same subject on the same day. These suggestions had the support of the Law Society and the Bar. One of the law schools was willing to participate but the other raised objections and reservations on the logistics. No consensus could thus be reached. The two professional bodies did not persist or take the matter any further since the Bar did not have a power similar to that for the Law Society under statute to introduce an examination on its own. As the number of students then was not too great, the stakeholders were content with appointing common external examiners (who are either practitioners or judges) for the 2 law schools. But, the experience in the past years shows that these examiners cannot do very much to ensure similar standards among PCLL graduates since they are mainly concerned with students with marginal scores or cases in which the 2 or 3 markers disagree. It is impracticable for these examiners (with the shortage of time before the results have to be published) to mark all papers in view of the large number of students. However, I see no reason why differences among stakeholders cannot be resolved and a practical and workable scheme can be put in place. As mentioned above, I think that the setting up of an examination board similar to the Conversion Examination Board for overseas law students should be considered.

### ***Position of the Bar***

14. The position of the Bar is that it opposes the Decision for reasons which I believe have been indirectly dealt with above in this submission. Apart from saying that the Bar lacks resources to run a similar examination for students who would like to join the Bar (on which I do not wish to comment), I understand that the Bar is not as concerned as the Law Society. First, it says that the number of graduates joining the Bar each year is relatively much smaller and it is considered

not worth the expenses and trouble to do the same. Secondly, it is predicted that those who do not meet the expected standard would likely to drop out after a few years of practice. With respect, that is not a very responsible attitude to take: many litigants and defendants might have suffered prejudice as a result of the incompetence of their counsel who are not really up to standard. After all, the Bar has an obligation to nurture and support its members and pass on the traditions of the Bar to future generations. I think the more positive and constructive step to take is for the Bar to consider offering counsel related courses for those graduates who want to join the Bar with a view to improve their skills.

Patrick Chan

7 February 2016

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5 February 2016

Ms Vivien Lee  
Secretary  
The Standing Committee on Legal Education and Training  
c/o 3/F, Wing On House  
71, Des Voeux Road Central  
Hong Kong

HKLS 12 FEB '16 @10:36

Dear *Ms Lee,*

### Comprehensive Review on Legal Education and Training

The Department of Justice is grateful that the Consultants are giving us, as well as all other stakeholders, an opportunity to make such submissions as we may wish in order to address the Law Society's proposal to implement a common entrance examination ("CEE").

Attached herewith please find our submissions on the CEE for your attention and onward transmission to the Consultants.

Yours sincerely,

  
(Wesley W.C. WONG, SC)  
Solicitor General

Encl.

#442632 v2a

# **Comprehensive Review on Legal Education and Training in Hong Kong**

## **Submissions from the Department of Justice (DoJ) on the Common Entrance Examination (CEE)**

The following supplemental submissions on CEE are made in response to the Consultants' resolution of 20 January 2016 inviting stakeholders to make further representation as a result of the recent announcement by the Law Society of Hong Kong ("LS") to implement CEE.<sup>1</sup>

### **DoJ's submissions on CEE**

2. Thus far, the information released by LS in respect of the proposed CEE remains limited. According to the two press statements released by LS respectively on 6 and 11 January 2016,<sup>2</sup> the key features of the proposed CEE appear to be as follows:

- (i) By 2021, CEE (which is to be set and marked by LS) will be the only examination that a person is required by LS to pass in order to enter into a trainee solicitor contract;
- (ii) CEE applies only to those wishing to become solicitors and does not affect the barrister's branch of profession;
- (iii) To be eligible to sit for CEE, certified completion of the PCLL course is required. LS will leave it to the judgment of the PCLL providers on how best to satisfy this completion requirement and whether or not any individual institution is able or unable to provide such certification;
- (iv) To avoid burdening students unnecessarily by having to take two sets of examinations, LS does not require students to pass any examination set by the PCLL providers before they

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<sup>1</sup> Ms Vivien Lee (Secretary of the SCLET)'s email of 20 January 2016 @19:46 to the SCLET Members. Submissions should be received by the Consultants preferably by 31 January 2016, and no later than the Chinese New Year's Eve on 7 February 2016.

<sup>2</sup> The Press Release dated 6 January 2016 is available:  
[http://www.hklawsoc.org.hk/pub\\_e/news/press/20160106.asp](http://www.hklawsoc.org.hk/pub_e/news/press/20160106.asp)  
The Press Release dated 11 January 2016 is available:  
[http://www.hklawsoc.org.hk/pub\\_e/news/press/20160111.asp](http://www.hklawsoc.org.hk/pub_e/news/press/20160111.asp)

can sit for CEE; and

- (v) LS will review the prerequisites for taking CEE periodically.

3. DoJ has noted that LS' decision to impose the CEE requirement has attracted rather divergent views. Besides, since the information released by LS remains limited, queries have been raised by different stakeholders concerning the actual implementation of CEE and some of the queries remain unanswered. Given the importance of legal education, DoJ will be monitoring the development closely.<sup>3</sup> At the moment, DoJ is not in a position to make a mature assessment of the proposed CEE since the information available is, as noted above, limited. For instance, it remains unclear how CEE will be organised. More importantly and fundamentally, it remains unclear as to why LS sees fit to implement CEE instead of reforming PCLL. Further, whilst LS apparently does not want to require candidates to sit for both CEE and PCLL, whether it would be the outcome at the end of the day remains to be seen. In short, DoJ takes the view that LS has not sufficiently addressed important issues relating to the rationale for implementing CEE as well as the future operation of it.

4. Pending official clarification and confirmation by LS, DoJ wishes to stress that the ultimate yardstick for considering any changes to legal education and training is public interest, as opposed to the interests of the universities or those of the legal profession. As the Secretary for Justice emphasised at the Opening of the Legal Year, the legal profession is not a business but a vocation, and it exists to serve the community and to be a gatekeeper of the rule of law.<sup>4</sup>

5. Any vocational examination concerning the legal profession should be designed with at least three objectives:

- (i) to ensure fairness to all those who aspire to join the legal profession;
- (ii) to ensure the legal profession would remain pluralistic (in other words, candidates from different sectors of the community should be able to join the legal profession); and

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<sup>3</sup> The Secretary for Justice's speech at Ceremonial Opening of the Legal Year 2016, available at: <http://www.doj.gov.hk/eng/public/pdf/2016/sj20160111e.pdf>

<sup>4</sup> Ibid

(iii) to ensure good quality and integrity which are the keys to maintaining public confidence in, and the competitiveness, of the future legal profession.<sup>5</sup>

6. Given the importance of this matter, DoJ takes the view that LS should: (a) explain in further details the complete plan for CEE; (b) properly engage and work closely with all the relevant stakeholders (including the Bar Association and the universities) so that an outcome satisfactory to all can be achieved.<sup>6</sup>

**Department of Justice**

**February 2016**

#442446 v3

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<sup>5</sup> Ibid

<sup>6</sup> Ibid

## **Hong Kong Bar Association**

### **Further Submission to the SCLE on the decision of the Law Society to hold the CEE**

1. The HKBA considers that the decision of the Law Society to require all students to pass a Common Entrance Examination (“CEE”) on 2021 before their trainee contracts as an ill thought through decision. Thus far, apart from the public announcement on 6<sup>th</sup> and 11 January 2016, the Law Society has not revealed any details of their proposed examination.
2. First, the requirement that the students must have completed their PCLL course before attempting the CEE does not alleviate the complaint on the difficulties in getting into the PCLL.
3. Secondly, it would be very surprising that the universities would be prepared to certify someone as having completed the PCLL course without requiring the students to pass the necessary assessment or examination. Until this is resolved, the suggestion of the Law Society is simply not workable.
4. There was the open statement by the President of the Law Society on the Commercial Radio on 15 January 2016 that the bottom line was that Law Society did not want the students to take another examination on top of their PLL examination and that CEE may take the form of the Law Society setting a few questions in some specified examination papers of the PCLL and those students intending to embark on their trainee contracts must answer and pass those questions. Whether this is the corporate decision of the Law Society has not been confirmed.
5. In any case, the idea of setting particular compulsory questions in the PCLL papers would require the agreement and co-operation of the providers of the PCLL course. At the moment, it is uncertain if such co-operation is forthcoming. The principle of academic autonomy of the universities may post some difficulties to this idea.

6. Unless there is evidence of any real short comings in the papers set by the current PCLL providers, it is difficult to see what is to be achieved by the Law Society insisting on setting a few questions in some PCLL papers. Plainly the questions set could not go outside the syllabus of the particular PCLL subject of the provider.

7. If on the other hand the Law Society is to set its own syllabus and its own paper, there is the question of the provision of courses for the preparation of the CEE. Again unless the syllabus of the Law Society's CEE would go much further than the PCLL syllabi of the current PCLL providers, what is to be achieved by requiring the students to answer the questions set by the Law Society?

8. The HKBA keeps an open mind on whether there should be a common entrance examination for solicitors and/or barristers. It is not universally accepted that there must be a common examination for admission into any profession. For instance, one could join the medical profession in Hong Kong by virtue of their degree in medicine awarded by HKU or CUHK without any need for a further CEE examination.

9. While it is essential that new entrants to the professions should have achieved a minimum standard of proficiency, the common examination is not the only solution. In any case, even with a common examination, it does not mean that all students passing the common examination would be of the same standard as some may pass with distinction and others may just have a bare pass. At the moment, while the PCLL examination is not a common examination, there is no suggestion and no evidence to show that the PCLL course of any of the 3 providers is of such low standard that someone who has taken the course and passed the assessment does not meet the minimum standard requirement of the legal profession whether it be barrister or solicitors.

10. The HKBA believes that in relation to the criteria for joining a profession, the views of those within the profession must be given due weight. However there is a clear conflict of interest between those within the profession and those who want to join the profession if the decision to enter into that professional is to be

determined solely by the existing members of that profession. For this reason, if the Law Society should insist that the students must pass a CEE set and marked solely by the Law Society it may be viewed as a means of controlling number and eliminating competition and is against public interest.

11. The fact that the current system works well does not mean that there should not be any improvement. What is important is that we should not have changes simply for the sake of changing.

12 February 2016.

# Hong Kong Shue Yan University

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1<sup>st</sup> February 2016

The Secretary,  
Standing Committee on Legal Education and Training  
c/o 3/F, Wing On House  
71, Des Voeux Road  
Central, Hong Kong

The Department of Law and Business supports fully the legal education reform proposal tabled recently by Hong Kong Law Society, by which the Common Entrance Examination (CEE) will be introduced in / after 5 years.

From a pedagogical perspective, the proposal allows for the construction of a unified standard for new entrants to the profession; it can hence effectively eliminate the existing (possible) inconsistencies of professional examination standard, as in the meantime, PCLL are run by three different Law Schools and assessed by three different sets of lecturers. Although Hong Kong Law Society does send external examiners to the Law Schools, it seems that the lecturers would not be obligated to accept the comments and suggestions made by the external examiners. The professional body, via this proposed reform, can uphold and safeguard the highest possible standard of professional service, which in turn, helps to construct a strong foundation of rule of law.

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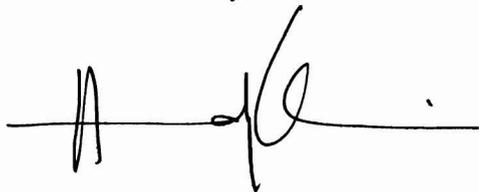
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The Department also notes that some academics did suggest that a common entry mechanism for all three law schools would be desirable. After further careful consideration, we do not think it is possible (although we did initially say that the idea was worthy of further contemplation), the reason is: it is not possible to construct an impartial comparison of GPA, as the possible applicants can come from multiple different programmes (including local / overseas LLB, JD, overseas MA / LLM (qualifying degrees), double major programmes with law components).

The brief comments above set out our main views. However, we would be happy to discuss the matter further, should the committee think it is necessary or desirable.

Yours sincerely,

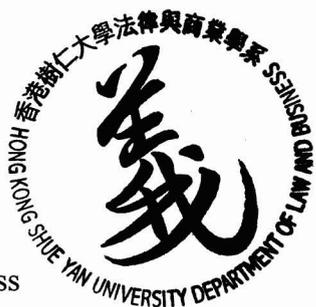


Dr CHIU Man-chung, Andy

Head

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Supplemental Submissions  
of the  
Faculty of Law, The University of Hong Kong  
on the  
Consultation Paper of the Comprehensive Review of Legal Education and Training in  
Hong Kong,  
Standing Committee on Legal Education and Training

## 1. Introduction

- 1.1 The meeting between the representatives of the Faculty and the Consultants took place at 10am on 16 December 2015. The discussion covered a number of issues, one of which related to the transparency of the criteria for PCLL admissions. Subsequently, on 18 December 2015, a note was sent by email to the Consultants; a slightly revised version of this note can be found in Appendix A of the present submissions.
- 1.2 Notwithstanding the fact that the SCLET review is still on-going, the Law Society of Hong Kong announced on 6 January 2016 its Council's resolution to implement its own Common Entrance Examination (CEE), in addition to requiring the completion of the PCLL, for the purpose of entrance to the solicitors' profession (as trainee solicitors) no earlier than 2021. Appendix B contains our response to the announcement. The President of the Law Society clarified the statement with members on 11 January 2016, followed by another formal response from the Law Society on the same day. During the course of these events and after, the President shared his ideas on the CEE via the media. These supplemental submissions include, inter alia, our further thoughts on the CEE.

## 2. CEE

- 2.1 We note the Law Society's power under rule 7 of the Trainee Solicitors Rules (Cap 159J) to set their own examination either in addition to or in lieu of the PCLL<sup>1</sup>. Historically, this took

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<sup>1</sup> Rule 7 of the Trainee Solicitors Rules (Cap. 159J) provides:

'A person may only enter into a trainee solicitor contract if he –

- (a) has passed or received a certificate of completion or certificate of satisfactory completion as the case may be in –
  - (i) the Postgraduate Certificate in Laws and such other examination or course as the Society may require and set or approve; or
  - (ii) such other examination or course as the Society may require and set or approve; or
- (b) has been granted total exemption by the Society from the requirements in paragraph (a).'

the form of an additional examination on solicitors' accounting because this was not included in the PCLL training. But it has been decades since this Law Society examination ended because it became part of PCLL assessments. Thus far, the PCLL providers have extensively engaged both branches of the profession in the design, teaching and assessment of all courses in the programme.<sup>2</sup> There has not been any evidence of pedagogical concerns or gaps that call for the Law Society to exercise its power to set its own examination; nor does its announcement provide any justification for such a departure from existing practice.

- 2.2 If there is to be any major change to the training pre-requisites to entry to the solicitor branch of the profession, we believe the Standing Committee as the statutory body empowered to oversee legal education and training in Hong Kong is the best forum to consider all available options, which include but are not limited to the CEE. This is particularly so when expert Consultants have been commissioned by the Standing Committee to conduct such an exercise, which is still ongoing.
- 2.3 If the CEE is introduced to replace PCLL examinations, such that students will attend classes in PCLL but take the CEE in lieu of PCLL examinations,<sup>3</sup> we strongly believe it will be a retrograde step from the reforms made in connection with the Roper-Redmond report 15 years ago. An assessment that is administered without the context of a teaching programme that sets learning outcomes, matching learning activities and assessment methods can only serve screening but not educational purposes. It will create a serious disconnect between the study of the PCLL and the qualifying test for entry into the legal profession, if not hamper student commitment in the study of the PCLL and in effect render it redundant. As the Bar's Statement notes, there would be "legitimate concerns of its impact on the morale and standard of the PCLL courses". This will be a waste of valuable public funding currently available (within the PCLL framework) for the professional training of future lawyers, and is a counterproductive measure in improving the quality of the legal profession. Should the PCLL ultimately become redundant, whether in effect or in name, public funding may also shrink dramatically, as it will only be necessary for a much smaller number of students intending to join the Bar. This would represent a major shift from public to private funding of legal training, resulting in greater costs to be borne by students and the profession. Increased costs will unfairly disadvantage low-income students and introduce new barriers to entering the legal profession which are ultimately contrary to the public interest. In light of these compelling reasons, we strongly believe that the continuing existence of the PCLL provides better and more effective professional legal education and training to future lawyers in Hong Kong.

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<sup>2</sup> Sections 6(c) and 7(b) of the Faculty's Initial Submissions refer.

<sup>3</sup> This seems to be suggested in the penultimate sentence in paragraph 3 of the Law Society's announcement. In any event, the Law Society indicated, in the last sentence of the same paragraph, its intention to review the pre-requisites for the PCLL.

- 2.4 As a matter of fact, the PCLL regulations of the 3 providers stipulate that in order to complete the PCLL, a candidate is required, inter alia, to pass the exams set by the provider. We do not certify a student's completion of our PCLL without him or her passing all the PCLL exams. We hope that the Law Society would acknowledge and respect this requirement which currently exists in law. Section 2 of the Legal Practitioners Ordinance (Cap. 159) defines "Postgraduate Certificate in Laws" as a Postgraduate Certificate in Laws awarded by the three universities. It does not say awarded by the universities with the approval of the self-regulating professional bodies. Thus it is for universities alone to decide when a PCLL will be awarded.
- 2.5 Indeed, it is pedagogically unsound to have a course (such as the PCLL) without any form of assessment of its own, just as it is unsound to have an assessment without a proper course for it (as explained above). Furthermore, as the Hong Kong Bar Association has repeatedly indicated, most recently in its 8 January 2016 Statement, it will not administer its own examinations for admission to the Bar and will continue to rely on the PCLL for basic and general training and assessments for intending pupils.
- 2.6 If the scope of the CEE is substantially the same as that of the PCLL, there will be two sets of exams that may duplicate each other significantly, and lead to unnecessary burden, pressure and cost on the candidates. A clear and appropriate division of labour between the CEE and the PCLL might alleviate some of these problems.
- 2.7 A wide range of other options which may serve 'in substance' as a CEE exists. These include common exam question(s), common exam paper(s) and common exam subject(s) ('common' means common to all three existing PCLL programmes), to name but a few. To enable the Law Society to ensure that a common standard is required and achieved, the common question(s), the common paper(s) or all the assessments in the common subject(s), as the case may be, can be set and marked with greater (i.e. greater than the existing level of involvement) if not leading involvement of the representatives from the Law Society (and, where relevant, also the Bar) in the assessment process. The process can be further refined to ensure confidentiality (vis-a-vis not only students but also teachers in relevant courses) of the question(s), paper(s) or the assessments in the subject(s).
- 2.8 In the event of the Law Society insisting on the establishment of the CEE, we believe that much work can and should be done in working out the relationship between the CEE and the assessments which (as pointed out above) are required for the satisfactory completion of the PCLL as certified by the three existing law schools. In this regard, we have, in consultation with the law schools of the Chinese University of Hong Kong and the City University of Hong Kong, worked out a tentative model jointly proposed by the three law schools for consideration by the Consultants and the Law Society. The model, which may be referred to as 'Commonly Recognised Assessments', is set out in Appendix C. This model, and any variation of it, will

have to be subject to the approval of the three Universities. The whole matter is preferably to be resolved in conjunction with the Standing Committee.

- 2.9 The model proposed in Appendix C represents one of many possible alternative ideas for further consideration and may be modified and adapted for intending barristers on the basis of consultation with the Bar.
- 2.10 We shared our experience with the Bar at our meeting with the Consultants. Currently students are required to take 3 electives at the HKU PCLL, and the Bar prescribes Trial Advocacy plus at least one more litigation elective for intending pupils. The Law Society may consider doing something similar with existing courses or even a newly designed course, without the need to introduce a full scale CEE.
- 2.11 While we await to learn more about the details of the Law Society's proposal, we hope to discuss and work with all stakeholders. We hope the Law Society would reconsider its CEE proposal and refine or modify it so as to meet its intended purposes and help improve legal education and training in Hong Kong in the overall public interest.

### **3. 'China' element**

- 3.1 Apart from reiterating section 5.7 a) to d) of our initial submissions, we would like to supplement on the pilot intensive course on Introduction to Chinese Law taught in Fudan University, Shanghai, in December 2015. In this course, students attended a few introductory sessions about Chinese Law offered by teachers at HKU before travelling to Shanghai to participate in seminars taught by mainland professors. During their time in Shanghai, students also conducted visits to courts and government departments to obtain on-the-ground experiential exposure and knowledge about China. The course is concluded by a critical review session with HKU teachers back in Hong Kong, and assessed by our own Faculty.

### **4. Use of Chinese**

- 4.1 Apart from reiterating section 5.7 e) of our initial submissions, we would like to supplement on the recently introduced PCLL elective on Use of Chinese in Legal Practice the teaching of which is now being led by Mr. Edmund Cham. Mr. Cham studied law at this University, practised as a solicitor until 1996 and has worked in legal publishing and legal translation of judgments of the courts since then. His extensive network with the Judiciary, the Department of Justice and the legal profession helps to bring to the teaching of the course practitioners with actual experience in using Cantonese in Court or in the drafting of legal documents. Meanwhile, we have been developing our teaching of the use of Cantonese in our advocacy training, with the advice and assistance of Mr. David Leung, SC from the Department of Justice.

- 4.2 Foundation for these skill-based modules is built at the undergraduate level by two elective courses on Use of Chinese in Law. They are coordinated by Mr. Edmund Cham and Dr. SIN King Kui, former Chairman of the Bilingual Laws Advisory Committee, respectively, with guest lectures by retired Chinese professors such as Prof. Lee Kar Shue and Dr. Chan Man Sing, as well as former senior law draftsman Mr. Suen Wai Chung. These courses are taught in a small-group format (with tutorials of not more than 3 students in each group) to enable extensive feedback on student work and the honing of language skills.

## **5. Quality legal training for JD students**

- 5.1 Since its establishment in 2009, the JD programme at HKU has quickly established itself as the most selective JD programme in Hong Kong. It attracts around 400 applications every year competing for slightly fewer than 40 places. Although it is an intensive, two-year, programme, all the core professional subjects such as Contracts, Torts, Land, Equity, Crimes are taught in full-year courses to ensure deep learning. The bulk of the programme consists of compulsory courses to ensure a solid legal training comparable to the four-year undergraduate degrees.

## **6. LLM and CPD**

- 6.1 The Consultants asked if our LLM courses might carry any CPD points. We would clarify and supplement our oral response at the meeting.
- 6.2 A solicitor receiving the award of an LLM which require satisfactory completion (including attendance and passing the assessments) of 8 one-semester courses or equivalent in total will earn 12 CPD points.
- 6.3 A solicitor may register as an occasional student and enroll to read any LLM course, satisfactory completion of which will earn him or her 1.5 CPD points.

## Appendix A

### HKU PCLL – Admissions Criteria

1. I supplement paragraph 6.2 of our Faculty's initial submissions with reference to the specific request from the panel of Consultants. Our PCLL admissions criteria have been communicated to prospective applicants both orally and in writing, as indicated in paragraphs 2 and 3 below.
2. Attached is a copy of PowerPoint slides we used in our public information session held in January 2014. Slide number 21 makes specific reference to 'all LAW subjects' average'. We have been using the same version with necessary modifications since then. Before that, we used 'primarily on academic results of law degree or equivalent' but forewarned potential applicants that 'standard needed to be achieved varies from year to year' and we did not take a 2:1 degree on its face value. This change was brought about when (i) the local classification of honours for LLB and JD links with a student's cumulative grade point average of ALL subjects taken; and (ii) the number of 2:1 (and above) law graduates in and outside Hong Kong in aggregate exceeds the number of PCLL government-funded places.
3. The reference to 'all LAW subjects' average' also appears on our external website ([www.pcll.hk](http://www.pcll.hk) OR [www.ple.hku.hk/pcll](http://www.ple.hku.hk/pcll)), a link of which is also provided on our Faculty site ([www.law.hku.hk/postgrad](http://www.law.hku.hk/postgrad) OR [www.law.hku.hk/programmes/overview.php](http://www.law.hku.hk/programmes/overview.php)). Specifically, it can be seen in paragraph 14 of the Notes to Applicants ([www.ple.hku.hk/pcll/application/2015-16%20Notes%20to%20Applicants.pdf](http://www.ple.hku.hk/pcll/application/2015-16%20Notes%20to%20Applicants.pdf)) and the Question 'How do you make admissions decisions and how do you allocate the full time government-funded places, the full-time self-funded places and the part-time self-funded places?' on the FAQ page ([www.ple.hku.hk/pcll/faq.php](http://www.ple.hku.hk/pcll/faq.php)), links to which are on the Application page ([www.ple.hku.hk/pcll/application.php](http://www.ple.hku.hk/pcll/application.php)).

Submitted by

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The University of Hong Kong  
Revised 4 January 2016

# THE UNIVERSITY OF HONG KONG

## FACULTY OF LAW

香 港



大 學

法 律 學 院

### Appendix B

HKU Law responds to the Law Society of Hong Kong's proposed Common Entrance Examination

6 January 2016

We note the statement by the Law Society of Hong Kong on the Common Entrance Examination (CEE) issued on 6 January 2016. While the Law Society's proposal of a CEE has been debated in the community, no consensus has yet been reached amongst the stakeholders. In April 2015, the Standing Committee on Legal Education and Training, a statutory body chaired by Justice Patrick Chan, commissioned a panel of international consultants, headed by Justice K.H. Woo, to conduct a comprehensive review of legal education in Hong Kong, including the introduction of a CEE. This review began in October 2015 and remains ongoing.

Thus we are surprised that the Law Society has decided to proceed with the CEE while the comprehensive review is still ongoing. We believe the Standing Committee, in which all stakeholders are represented, is the best forum in which to discuss the topic of the CEE after the consultants have reported on their review.

The Postgraduate Certificate in Laws (PCLL) has been a responsibility of universities since 1972, and thousands of solicitors and barristers have been trained by the PCLL programmes. The PCLL was reviewed and enhanced after the last comprehensive review of legal education in 2000/2001. Thus we are pleased to see that the Law Society recognizes the importance of the PCLL and believes that it should remain a requirement to entering the legal profession. It is also well noted that the Law Society will not be setting any particular form of exam for the PCLL. While we note that the Law Society may periodically review the prerequisites for taking the CEE, we believe any relaxation that allows taking the CEE without the PCLL will have serious implications for the system of legal education and entry into the legal profession.

While the Law Society's statement states the purposes of the CEE, it does not provide justification for why the CEE is needed. We await to learn more about the reasons justifying the need for the CEE and the details of the proposal.

As always, we hope to discuss and work with all stakeholders, including the two professional bodies, in order to improve legal education and training in Hong Kong.

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## **Appendix C: A Possible Model of “Commonly Recognised Assessments”**

This proposed model is designed to enable the Law Society to require PCLL students to pass its Common Entrance Examination (CEE) before they can become trainee solicitors, while at the same time enabling each of the three law schools to administer its PCLL assessments and examinations under relevant university regulations for the purpose of certifying students’ completion of the PCLL, without however requiring students to sit for two separate sets of examinations on the same subject.

According to this proposed model, the Law Society will enter into an agreement (the “Agreement” defined below) with the three law schools under which a number of core PCLL subjects common to the PCLL programmes of the three law schools (hereinafter called “Designated PCLL Subjects”) will be designated as subjects to be examined by “Commonly Recognised Assessments” (as defined below).

“Commonly Recognised Assessments” (CRA) are assessments that are both (a) recognised by the Law Society as constituting its CEE; and (b) recognised by each of the three law schools as its own assessments in the Designated PCLL Subjects in its PCLL programme.

The three law schools and the Law Society will enter into an Agreement on the Administration of Commonly Recognised Assessments in Designated PCLL Subjects (hereafter called the “Agreement”). The Agreement will provide, inter alia, for the establishment of a “joint examination committee” (JEC), consisting of representatives of the Law Society and the three law schools.<sup>1</sup> The JEC will be responsible for the coordination among the Law Society and the three law schools in the joint setting of CRA examination question papers and their marking by internal and external examiners from the law schools and the Law Society. It will also ensure that each of the Designated PCLL Subjects in the three law schools has the same syllabus.

In order to complete the PCLL (and to be awarded the “certificate of completion or certificate of satisfactory completion” under rule 7(a)(i) of the Trainee Solicitors Rules (Cap. 159J)), the three law schools may prescribe their own additional requirements (i.e. additional to the CRA), including, for instance, the requirement that a PCLL student in any of the three law schools must satisfy the examiners in all internal PCLL assessments (i.e. those examinations, assessments and coursework administered by the relevant law school in a manner similar to the existing system (with the participation of external examiners from the professions but not as CRA) in subjects other than the Designated PCLL Subjects, including all elective subjects and subjects in which skills are assessed by continuous assessment).

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<sup>1</sup> The existing system of the Conversion Examination Board may be used as reference in this regard. Whether the Bar would participate in the JEC will be decided in consultation with the Bar.

**Response of**  
**the School of Law of City University of Hong Kong**  
**to**  
**the Law Society of Hong Kong**  
**on**  
**the Consultation on the Feasibility of Implementing a**  
**Common Entrance Examination in Hong Kong**

## Introduction

1. A strong and efficient legal system lays the foundation of a fair, just and developed nation/jurisdiction. The legal profession is the core of that system. Any change in that system affects multiple strata of the society and should be done carefully and after evaluating multiple options. The changes recommended in the Consultation paper presented by the Law Society of Hong Kong (HKLS) would have far reaching consequences and will directly impact our society as it will bring a fundamental change to the present system on who can become a solicitor in Hong Kong. It is in the interest of every stakeholder and also in public interest to make any change only after due deliberations and not in a rush.
2. As we pointed out in the Legislative Council (LegCo) meeting, the justifications provided to us by the HKLS for the introduction of the Common Entrance Examination (CEE) have not been clearly set out. Without knowing clearly the justifications, it is difficult to assess whether the proposed CEE will be the proper solution. Against that background, this paper will respond directly to the questions raised in the Consultation Paper and will also state our position on various issues that were not directly addressed in these questions but were mentioned in the Consultation Paper.

### **Q1- What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?**

3. Under the current statutory framework, the HKLS has been given the authority as the regulator to determine who can enter the solicitors' branch of the legal profession. We recognize the position of the HKLS as being the main stakeholder in the matter of solicitors' qualification, maintenance of standards, overseeing the conduct of lawyers, etc. Under the current structure of vocational training for solicitors, the HKLS already has a large say in the matter of educational structure, standard-setting, as well as monitoring/quality assurance.
4. It is our view that the HKLS should exercise its authority primarily, if not solely, for ensuring the quality of the solicitors.
5. It should also be noted that in exercising its authority as a regulator the HKLS should take into account the public interest, and also the interests of other stakeholders involved or affected.

6. We acknowledge that the HKLS has the authority to introduce or approve new examination/courses such as a CEE in addition to the existing PCLL. However, the exercise of such power should be subject to the conditions noted in paras. 4 and 5 above.
7. Certainly, it is not in the public interest to have people admitted as solicitors who do not meet the necessary standards. Nor is it in the public interest to have too few or too many people admitted as solicitors.

**Q 2-What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practicing in Hong Kong?**

8. Hong Kong is in a unique position of being an international commercial hub. The entry of foreign lawyers and the foreign law firms emphasize the ever growing importance of Hong Kong. It would be naïve to say that just because the number of foreign lawyers is increasing they are taking work away from the local lawyers. On the contrary, there are now more opportunities for our young lawyers to work in international firms that did not exist earlier. Cutting the entry of foreign lawyers would not reduce the work for local lawyers but might lead to international firms growing their Shanghai/Singapore offices or recruiting more foreign lawyers.
9. There are two kinds of foreign lawyers in Hong Kong: (i) those who practice foreign law only; and (ii) those who are qualified to practice Hong Kong law through the Overseas Lawyers Qualification Examination (OLQE). The first category is not a concern as they practice only foreign law. The second category of foreign lawyers does compete with local qualified lawyers. But that is not an issue the introduction of the CEE can resolve.
10. The key concept is “quality”. If the quality of our trained lawyers is good and competitive then they will get more opportunities. After all, the law firms are business organizations and they will not import foreign lawyers if they can have good lawyers locally grown and trained. If we further reduce the quality of lawyers by removing or diluting the PCLL programme, this could backfire. We should adopt a competitive approach rather than a protectionist attitude which fuels underperformance.
11. As far as the qualification system for Hong Kong solicitors is concerned, the PCLL and the OLQE are designed for two completely different purposes. The former is to provide skills training whereas the latter is to test the understanding of local law of foreign qualified lawyers, i.e. it is knowledge-based. The two mechanisms do not compete directly with each other.

12. But if the CEE were to be introduced, it might constitute direct competition with the PCLL. While acknowledging competition might bring positive results, we must be cautious and ensure that various foreseeable negative impacts be properly addressed before the introduction of the CEE. Currently, the system in Hong Kong promotes meritocracy and only allows students who have consistently performed well over the years to become lawyers but the CEE disregards all their previous work and focuses solely on one exam which presumably could be taken multiple times. Further, those who have passed the CEE might not have received proper skills training.

**Q 3- Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?**

13. The answer to this question will depend on the economy of Hong Kong as well as of mainland China. On the one hand, we have heard concerns that there are too many PCLL graduates produced in Hong Kong. On the other, we have also heard comments that there are not enough high-street lawyers.

14. A detailed independent market survey should be conducted in order to provide a more accurate answer to part one of the above question. CityU's statistics shows that the employment rate for our PCLL graduates for 2010 to 2012 is above 90%.

15. As to the prediction of demand for the next five years, it is anyone's guess. If the prediction that China's economy will continue to grow at the rate of 7 to 8 percent each year in the next five years is correct, our judgment is that demand for solicitors will continue to grow.

**Q4 – If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?**

16. The answer to this question depends, among others, on market and economy at a particular time. For the time-being, our perception is that the current number of places is acceptable to the market. Our statistics mentioned in para. 14 supports this.

17. But if the HKLS is of the view that there are insufficient PCLL places, we are ready to provide more places. We are certain the other two Law Schools will take the same position.

18. On the other hand, it has been seen in the USA and the UK, having too many qualified lawyers can have a grave impact on HK society and cause significant unrest amongst the qualified yet unemployed lawyers. The relevant question here is whether we should have a large number of PCLL graduates who cannot obtain training contracts or whether we should have LLB/JD graduates who cannot enter the PCLL programme and are thus forced to look in other areas. The cost for doing self-financed PCLL programme is well over HK\$100,000. If we can influence students who are not fully committed towards another more realistic field we are helping them in the long run and they could choose a profession in which they might excel.
19. If the current number of PCLL places is already the maximum the market can absorb, then increasing the number of PCLL places only postpones the problem for a year as the training contracts are still governed by market demand and this will most probably not change, even if there are changes to the HKLS regulations. It is difficult to predict market demand beyond a 1-2 year time-frame for the legal industry. Currently, a good balance is maintained between the demand for and supply of lawyers.

**Q5- To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?**

20. There are two kinds of inconsistencies as far as we can see. One is the inconsistency raised by the HKLS among the PCLL programmes provided by the three Law Schools. The other is the consistency between the PCLL and OLQE.
21. We have addressed this inconsistency in the joint submission of the three Law Schools to the LegCo. Nevertheless, for the sake of convenience, we repeat and/or stress the following.
22. The purpose of a Law School in Hong Kong is essentially to provide the necessary training in order to equip graduates with the necessary skills and knowledge to successfully meet the demands of practice as a trainee solicitor. It is the Law School's responsibility to encourage creative and analytical thinking in its students. It has been generally accepted in a number of recent overseas reports on skills based training for law students that there is no one absolute approach which should be utilized in teaching and learning in the discipline of law. Therefore, while a degree of consistency is important in teaching law students, there should be scope for utilizing different teaching and learning approaches.

23. The three Law Schools have been provided with benchmarks from the two professional bodies and are monitored extensively by the two professions. Apart from following these benchmarks the Law Schools have structured the programmes as they see best. If the two professional bodies feel that it is time to revisit the benchmarks then that is something that we would certainly welcome, consider and we would work with them to make any reasonable changes. Nevertheless, we have not been made aware of any perceived inconsistencies among the PCLL providers.

24. As far as maintaining a certain standard is concerned there is already in place a system devised by the two branches of the profession:

- The two professional bodies vet, through their external academic advisers (“EAA’s”) to the PCLL, all assessment scripts prior to them being undertaken and subsequently checks and reports on the marking of a sample of these completed assessments. These EAA’s also attend Assessment Panel Meetings which formally sign off on all results.
- The two professional bodies are sent all course materials used in PCLL Programs to review.
- The HKLS sends external academic advisers to sit in on certain small group and large group classes and then reports on the quality of teaching in those classes.
- The HKLS distributes wide ranging surveys to its trainee solicitors to evaluate the quality and effectiveness of the PCLL Programs.

25. The Bar Association and the HKLS as well as interested groups such as the Department of Justice and the Judiciary have their representatives on the Academic Boards of all the three PCLL Programmes. These PCLL Academic Boards were set up to review matters such as assessment and course design and curriculum.

26. If the problem of inconsistency among three PCLL providers is really a concern, one easy solution is to have common examination for several core courses which can be assessed through written examination during the PCLL, rather than thereafter. But it should be noted that some skills training courses are not suitable for such an examination.

27. In regard to the second problem of inconsistency, it is not a problem at all. This is because the PCLL and OLQE are designed for different purposes; one is for skills training, the other is for testing local legal knowledge. Therefore, this amounts to a rational difference rather than an inconsistency.

28. If we use the CEE to replace both the PCLL and the OLQE or to use the OLQE as the CEE, the objective of providing skills training through the PCLL will be defeated.

**Q6- What, if any issues make the legal services/legal education context of Hong Kong distinctive?**

29. We would like to add and/or emphasize the following points in addition to the ones mentioned in the Consultation Paper. Hong Kong has a very special geographical position. The one country two systems which enables it to maintain a direct connection with Mainland China and the rule of law gives Hong Kong footing in both the common law and the civil law world. What further distinguishes Hong Kong from other jurisdictions is that China's civil law system has unique features which may be very different from the civil law system practiced in the European continent.
30. Unlike other jurisdictions, where legal practice deals more with local/internal matters, in Hong Kong most of the transactional work (which is a large percentage of the legal practice) is of international/cross-border in nature. This opens the doors for international practitioners to practice here. Apart from practice, students from other common law jurisdictions can also apply for entry into the PCLL programmes and can qualify to practice law in Hong Kong. This is distinct and unique in itself and provides an edge to these students and helps them fit into the diversified nature of legal practice here.
31. A one year practical training in the form of the PCLL programme is both a valuable asset and a valuable training ground that students can benefit from as it prepares them for the complex nature of practice in this jurisdiction.

**Q7- Are you in favor, in principle, of the adoption of CEE? If so, why? If not, why?**

32. This answer is provided based on the submissions given by the main representative of the HKLS at the LegCo Panel Meeting on 16 December 2013 categorically stated that it was not the intention of the HKLS to abolish the PCLL. See <http://www.legco.gov.hk/yr13-14/english/panels/ajls/general/ajls1314.htm>. It is difficult to be in favor or against CEE without knowing the details of how it would be conducted; what it is trying to assess, at what stage it will take place (post-PCLL or post-training) and what issues we are trying to address by introducing it. The details on these issues will determine the response.
33. If the purpose is to lower the standards of trainee lawyers then the answer will certainly be in the negative. If the purpose is to resolve a legitimate problem then of course all stakeholders would support such a move and would work on a mutually agreed reform. A well-thought out change is always welcome. As we have the time and resources to

learn from other jurisdictions' experiences, we should make sure that we do not make the mistakes that they have made. Otherwise, we will be spending a decade resolving problems like an abundance of qualified lawyers with no jobs.

34. For the time being, since we have not been provided with convincing justifications for the introduction of the CEE, we are not in favor of its introduction.

**Q8 If a CEE is adopted, what should its primary purpose be?**

35. From the justifications put forward so far by the HKLS, the real concern is a perceived inconsistency between the three PCLL providers. If that is the case, we are not convinced yet for the need to achieve any further consistency among the three PCLL providers.

**Q9 If a CEE is adopted, when should it be taken, and at what level?**

36. Since graduates from the PCLL enter at the trainee level, they still need to do two more years of training in law firms before being admitted. The quality of admitted lawyers is therefore a more critical issue here. It is more logical then to design the CEE to test the quality after the two years of traineeship.

37. It is, however, well known that there is a great variance in training that the trainees get from various law firms and it would certainly be extremely difficult for the HKLS to maintain any form of "consistency" at that point.

**Q10 If a CEE is adopted, what should it assess? How should those things be assessed?**

38. It is relatively easier to assess theoretical legal issues but it is extremely difficult to assess skills without a good structure and qualified assessors. Purely based on logistical and costs concerns (see paragraph 41 below) a CEE, post-PCLL, could not effectively assess oral skills such as those in advocacy, negotiation and mediation, interviewing and advising for thousands of candidates. While theoretically possible, concerns also exist on whether assessment of knowledge based courses such as Professional Conduct and Practice or those relating to written skills, such as Legal Writing and Drafting might lead to an overly reductionist approach to the alignment between teaching and assessment. The CityU PCLL has a strict attendance requirement to make sure that the students acquire sufficient training in all skills based areas. This requirement, combined with the comprehensive training that a one year course can offer provides a guarantee that any

student who graduates from the programme has the basic knowledge, skills and values required to begin training. These concerns about a CEE detracting from, rather than adding to, the skill set in PCLL graduates will be expanded upon in paragraph 40 below.

39. In the absence of any detail about the structure and content of the proposed CEE, it remains skeptical whether skills can be properly assessed by a CEE.

**Q11 If a CEE is adopted, what resource, monitoring and quality assurance issues arise?**

40. If a CEE is adopted, it is foreseeable from foreign experiences that private providers will crop up to provide training to pass the exam. So the issue of monitoring and quality assurance will arise. Quality is easily compromised if the final goal is purely economic.

41. Since the CEE will be new, enormous resources need to be invested in setting examination papers, and marking the answer scripts. According to the current applications received by the three Law Schools, the number of scripts will be more than 1,500 for each course. If the HKLS is already saying that it is short of human resources at the moment, once the CEE is introduced, we are uncertain how the HKLS can cope with that. If the HKLS gets different people to mark those thousands of answer scripts, how the standards and consistency can be achieved better than the current system remains to be seen.

42. The HKLS has suggested on various occasions that it is already difficult for it to monitor and provide quality assurance over the three existing PCLL providers. After the introduction of the CEE, monitoring and quality assurance will be an enormous expense as a different monitoring and/or quality assurance mechanism may be needed. Foreign experiences need to be studied in this aspect. Existing monitoring and/or quality assurance mechanisms within the three PCLL providers may be used as the starting point.

**Q12- Do you have any other suggestions or comments that should be taken into account?**

43. It seems that there are no pressing issues regarding the PCLL programme that have been brought to light other than the fact that many applicants are not getting places. This issue can certainly be resolved if the involved stakeholders enter into a dialogue together. No sound reason has been given to change the current system that will not have the effect of diminishing the quality of trainees and thus significantly impacting the quality of lawyers that Hong Kong is producing. We would like to make the following suggestions.

44. Firstly, unless distinct problems can be identified which cannot be resolved within the current system there seems to be no need for any fundamental change.
45. Secondly, the Standing Committee on Legal Education plans to do a comprehensive review and is in a position to (with input for the HKLS) to identify any perceived problems and establish viable options. They in particular, the Standing Committee on Legal Education will be able to consider the issues relating to legal education in Hong Kong from the perspective of all stakeholders, including, the HKLS, the Bar, the DOJ and the Judiciary.
46. Thirdly, the three universities have agreed that they are able to increase the number of places if that would resolve the problem. We would still not support the lowering of standards for admission though. It is written in the Consultation Paper that *“If additional students pass the PCLL and go on to qualify, it could increase the number of Hong Kong lawyers in a position to compete with foreign practitioners”*. This assumption in itself is flawed as we already have more graduates than training contracts in Hong Kong. The current standards of PCLL graduates at CityU are very high. We already have many graduates going to international law firms and doing well. Increasing the number of graduates (supply) is not going to increase the market demand.
47. Fourthly, as far as the issue of centralizing the assessment is concerned there is a detailed involvement of the HKLS in the running of the PCLL programmes (course development, exam setting, marking, etc.). Centralizing the assessment is not going to resolve any issues but will diminish the autonomy and freedom currently enjoyed by the providers to offer to their students the best teaching and learning models that they can. Any kind of centralizing may lower the standard and diversity of the PCLL.
48. Fifthly, the three universities and the two professional bodies have to work together to ensure that the standard of the legal profession is preserved. The impact of these changes is so radical that the proposal should not be limited to just the working group within the HKLS. It is understandable that it is not possible to get each HKLS member to respond to the consultation but there should be a written response from each law firm to ensure that majority’s view is properly presented. Considering the importance of the consultation, the time period provided for the consultation was extremely short and late submissions, if any, should be entertained.
49. Finally, to underscore a notable trend in legal education all around the world, it is moving towards a post-graduate practical legal training model including the places which had a CEE or equivalent. It would be a retrograde step for Hong Kong to move away from a

programme which is already at the cutting edge of satisfying the evolving needs of the legal industry.

28<sup>th</sup> February 2014

School of Law

City University of Hong Kong

**THE CHINESE UNIVERSITY OF HONG KONG**

**FACULTY OF LAW**

**Supplementary Information Presented to the  
SCLET Review of Legal Education and Training in Hong Kong**

Representatives of the Faculty of Law met with the Review Panel on 16 December 2015, having previously provided the Panel with written submissions, including the Faculty's Submission to the Law Society's Consultation on the possible introduction of the Common Entrance Examination for admission to practice as a solicitor.

The Faculty's representatives found that to be a useful meeting, and will follow up on a number of the suggestions that were made to them during the meeting. In the light of the discussions at that meeting, and the exchange of information that took place, the Faculty of Law does not feel it necessary to provide an extensive additional submission to the Panel.

However, the Faculty takes this opportunity to provide additional information on career destinations of its LLB and JD graduates, as requested by the Review Panel, as well as information on applications and admissions to our PCLL. These are contained in Appendix 1 and Appendix 2 respectively.

The law schools have been asked for their response to the Law Society's announcement on the introduction of a Common Entrance Examination. The law schools have met to discuss a possible way forward, which is set out in the supplementary submission provided by the Faculty of Law at Hong Kong University. The Faculty of Law at the Chinese University is in full agreement with that proposal, and at this stage does not think that there is anything that can usefully be added to that statement.

The Faculty would like to thank the members of the Review Panel for their engagement with these important issues, and for their courtesy in meeting the Faculty representatives. Should the Panel feel that they need any additional information from the Faculty we would be very happy to provide this.

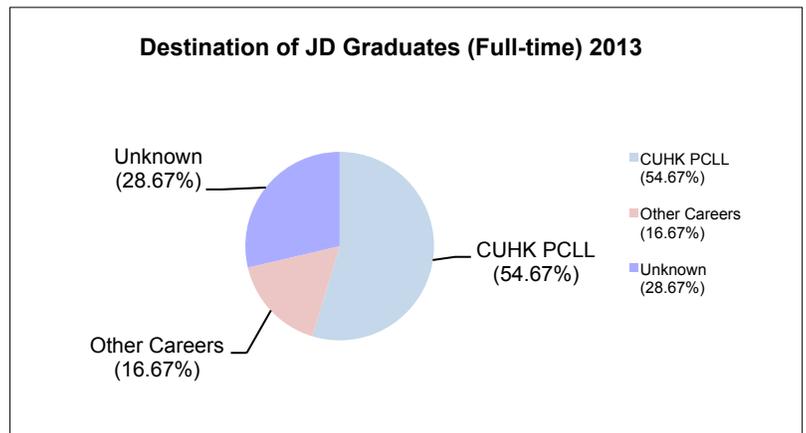
Christopher Gane  
Simon F S Li Professor of Law  
Dean of the Faculty of Law  
The Chinese University of Hong Kong

## Appendix 1

### Destination of JD (2013-2015) and LLB Graduates (2010-2014)

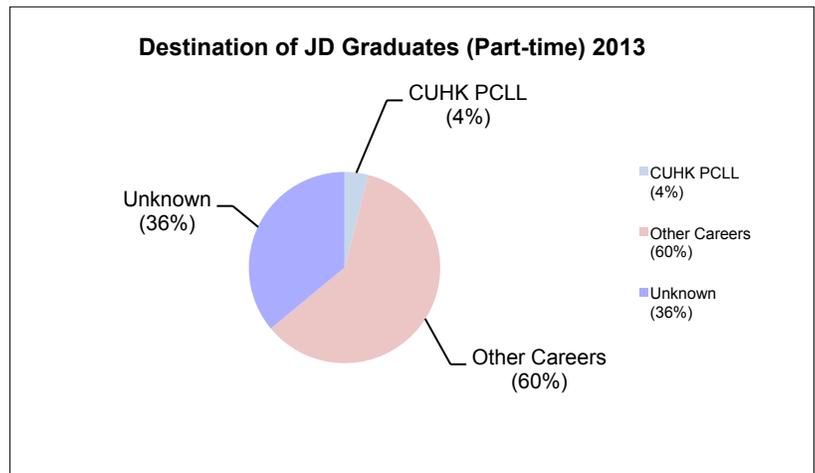
#### Destination of JD Graduates (Full-time) 2013

	Status	No. of students
On PCLL	CUHK PCLL (54.67%)	82
Not on PCLL	Other Careers (16.67%)	25
	Unknown (28.67%)	43
	<b>Total:</b>	<b>150</b>



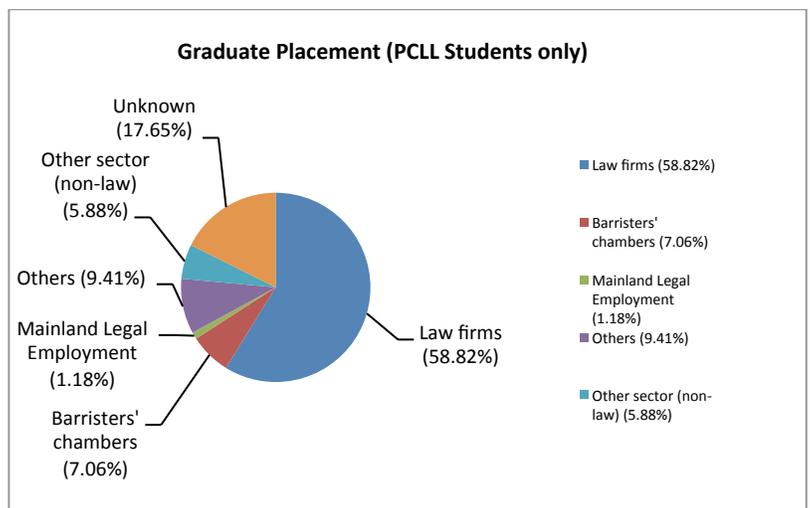
#### Destination of JD Graduates (Part-time) 2013

	Status	No. of students
On PCLL	CUHK PCLL (4%)	1
Not on PCLL	Other Careers (60%)	15
	Unknown (36%)	9
	<b>Total:</b>	<b>25</b>



#### Graduate Placement (PCLL Students only)

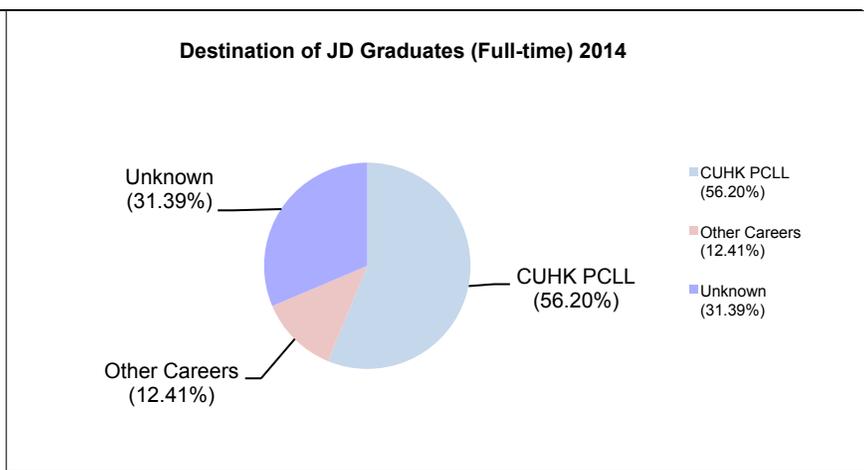
Status	No. of Students
Law firms (58.82%)	50
Barristers' chambers (7.06%)	6
Mainland Legal Employment (1.18%)	1
Others (9.41%)	8
Other sector (non-law) (5.88%)	5
Unknown (17.65%)	15
<b>Total</b>	<b>85*</b>



\* including 83 JD Graduates in 2013 and 2 JD Graduates from other graduation year

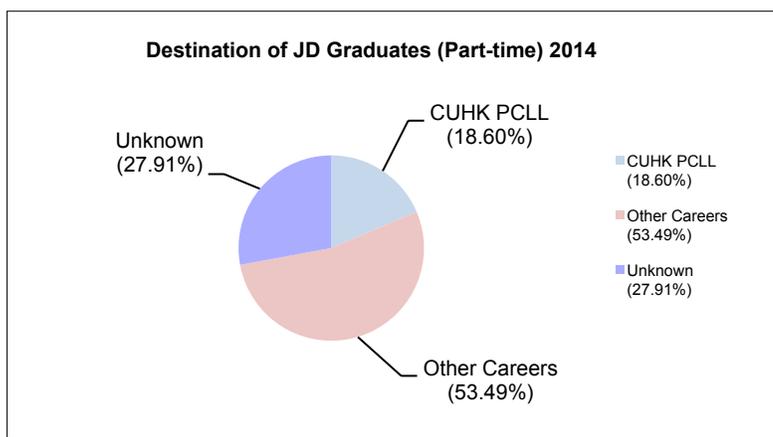
### Destination of JD Graduates (Full-time) 2014

	Status	No. of students
On PCLL	CUHK PCLL (56.20%)	77
Not on PCLL	Other Careers (12.41%)	17
	Unknown (31.39%)	43
	Total:	137



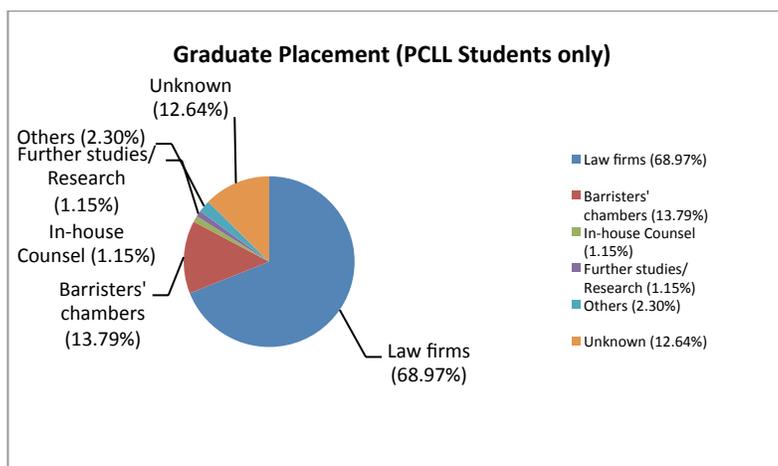
### Destination of JD Graduates (Part-time) 2014

	Status	No. of students
On PCLL	CUHK PCLL (18.60%)	8
Not on PCLL	Other Careers (53.49%)	23
	Unknown (27.91%)	12
	Total:	43



### Graduate Placement (PCLL Students only)

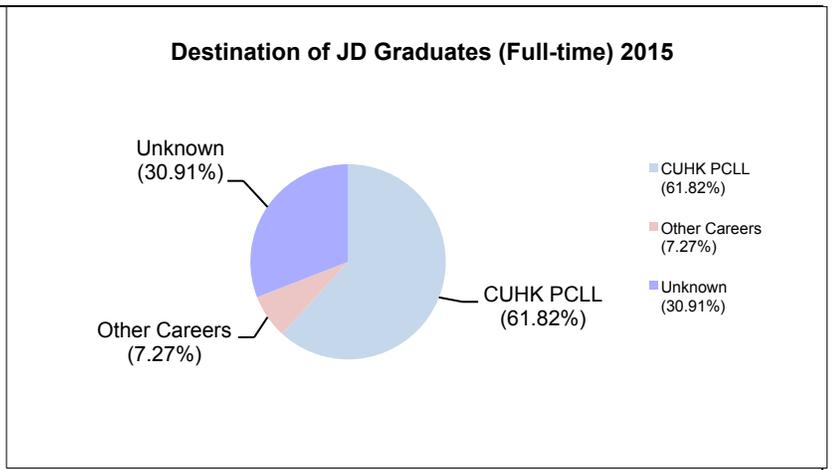
Status	No. of Students
Law firms (68.97%)	60
Barristers' chambers (13.79%)	12
In-house Counsel (1.15%)	1
Further studies/ Research (1.15%)	1
Others (2.30%)	2
Unknown (12.64%)	11
Total	87*



\* including 85 JD Graduates in 2014 and 2 JD Graduates from other graduation year

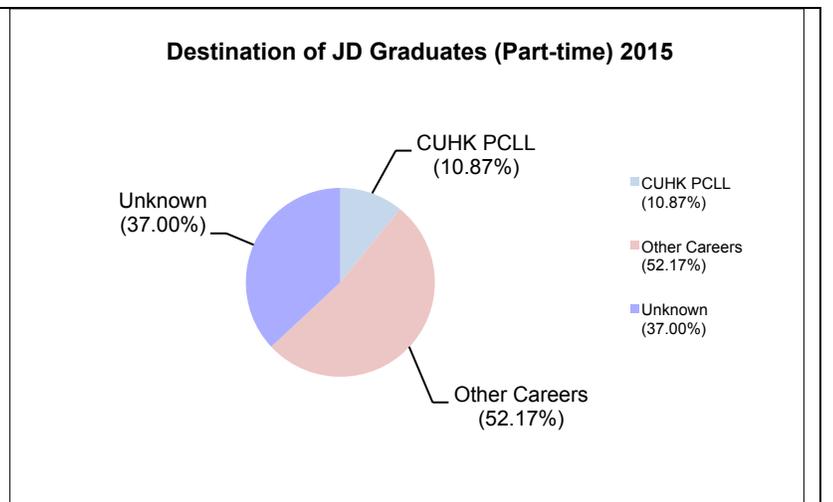
**Destination of JD Graduates (Full-time) 2015**

	Status	No. of students
On PCLL	CUHK PCLL (61.82%)	<b>68</b>
Not on PCLL	Other Careers (7.27%)	<b>8</b>
	Unknown (30.91%)	<b>34</b>
	Total:	<b>110</b>



**Destination of JD Graduates (Part-time) 2015**

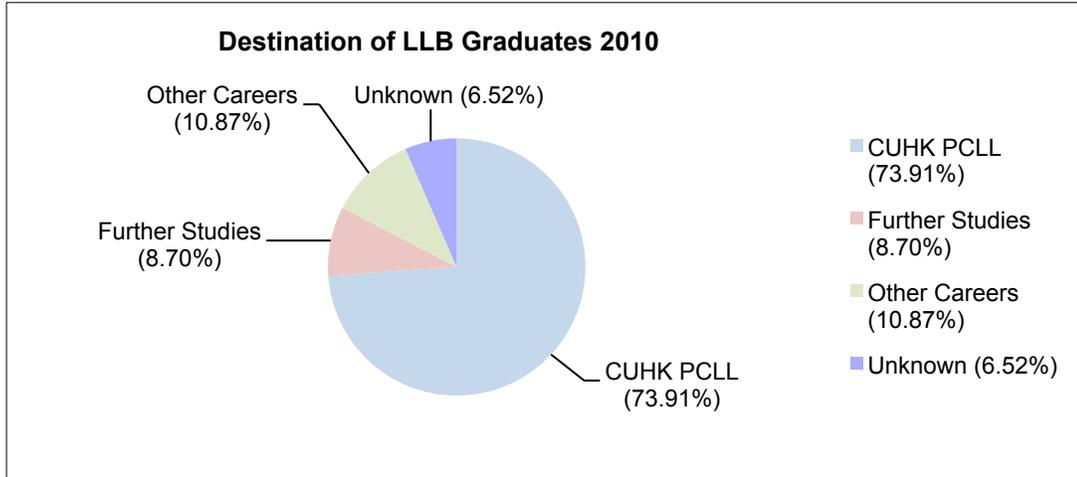
	Status	No. of students
On PCLL	CUHK PCLL (10.87%)	<b>5</b>
Not on PCLL	Other Careers (52.17%)	<b>24</b>
	Unknown (37.00%)	<b>17</b>
	Total:	<b>46</b>



Graduate Placement (PCLL Students only) is not available

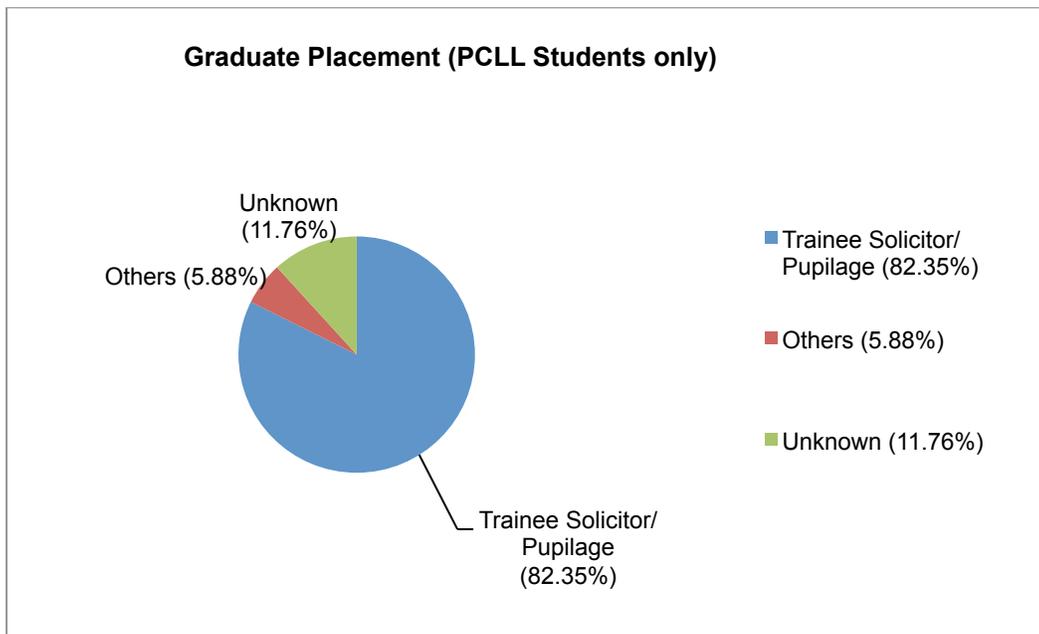
**Destination of LLB Graduates 2010**

	Status	No. of students
On PCLL	CUHK PCLL (73.91%)	<b>34</b>
Not on PCLL	Further Studies (8.70%)	<b>4</b>
	Other Careers (10.87%)	<b>5</b>
	Unknown (6.52%)	<b>3</b>
Total:		<b>46</b>



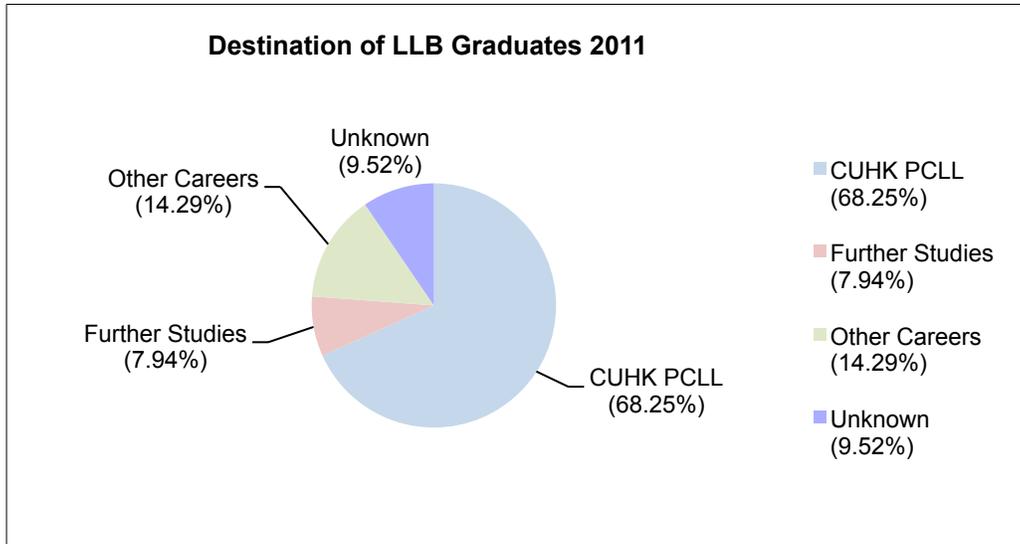
**Graduate Placement (PCLL Students only)**

Status	No. of Students
Trainee Solicitor/Pupilage (82.35%)	<b>28</b>
Others (5.88%)	<b>2</b>
Unknown (11.76%)	<b>4</b>
Total:	<b>34</b>



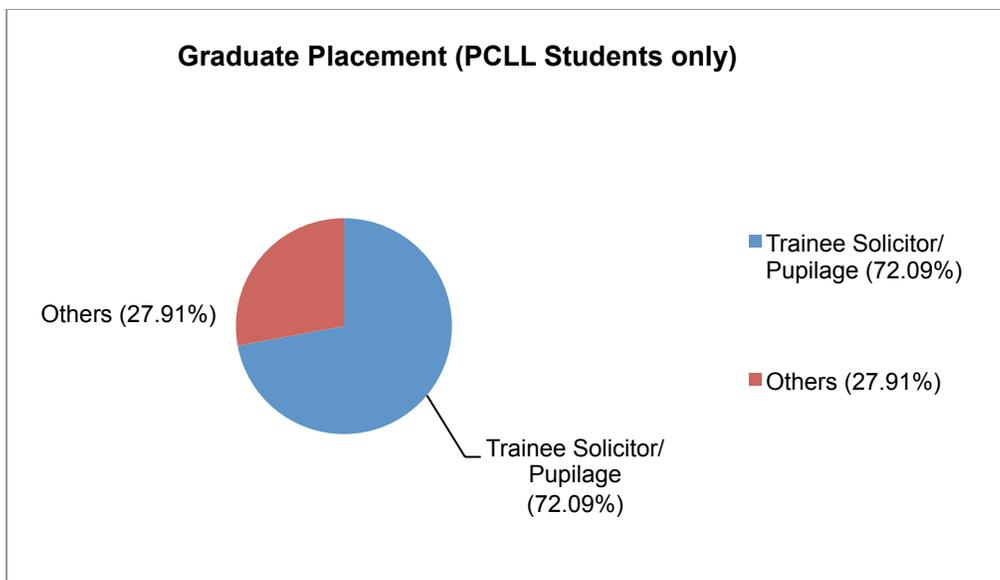
**Destination of LLB Graduates 2011**

	Status	No. of students
On PCLL	CUHK PCLL (68.25%)	43
Not on PCLL	Further Studies (7.94%)	5
	Other Careers (14.29%)	9
	Unknown (9.52%)	6
	Total:	63



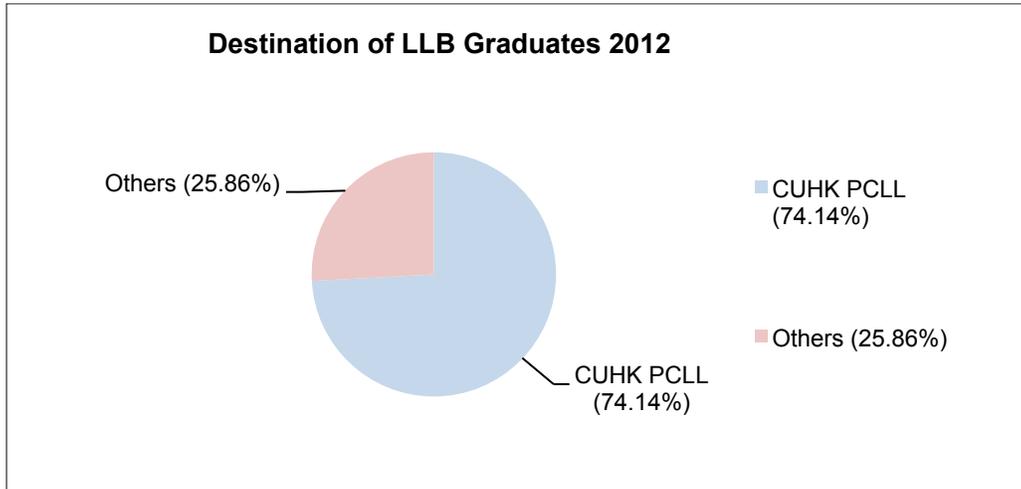
**Graduate Placement (PCLL Students only)**

Status	No. of Students
Trainee Solicitor/Pupilage (72.09%)	31
Others (27.91%)	12
Total:	43



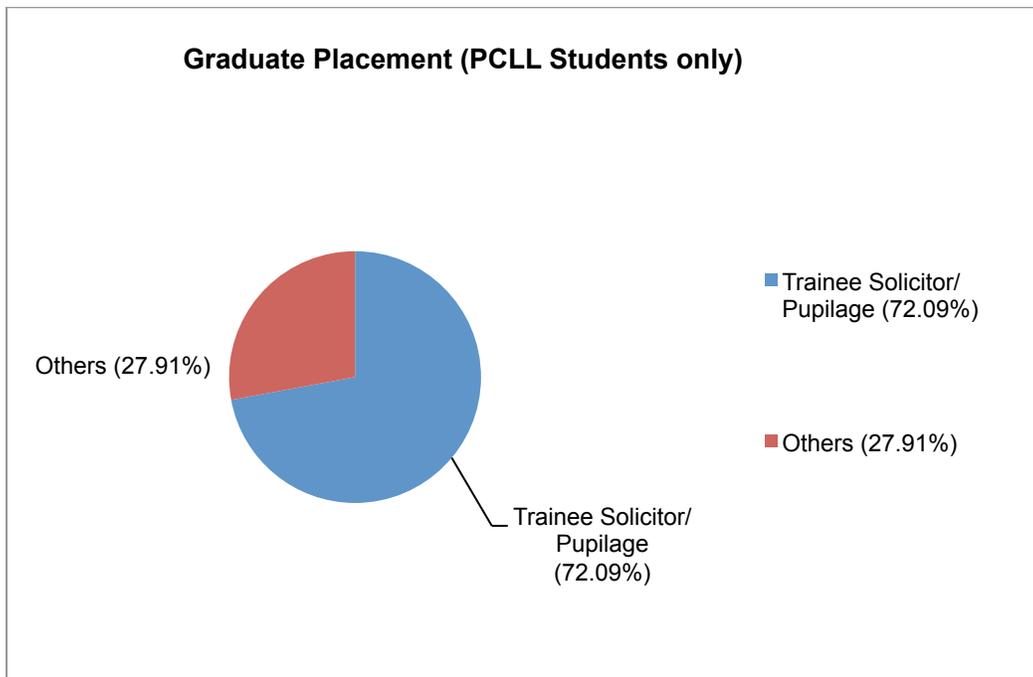
**Destination of LLB Graduates 2012**

	Status	No. of students
On PCLL	CUHK PCLL (74.14%)	43
Not on PCLL	Others (25.86%)	15
	Total:	58



**Graduate Placement (PCLL Students only)**

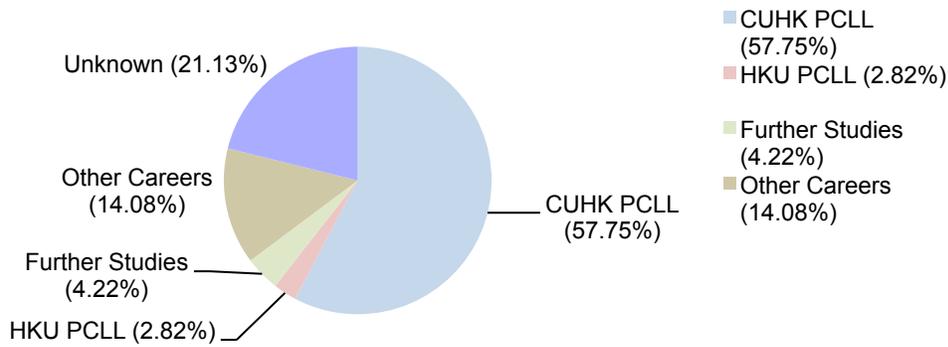
Status	No. of Students
Trainee Solicitor/Pupilage (72.09%)	31
Others (27.91%)	12
Total:	43



### Destination of LLB Graduates 2013

	Status	No. of students
On PCLL	CUHK PCLL (57.75%)	41
	HKU PCLL (2.82%)	2
Not on PCLL	Further Studies (4.22%)	3
	Other Careers (14.08%)	10
	Unknown (21.13%)	15
Total:		71

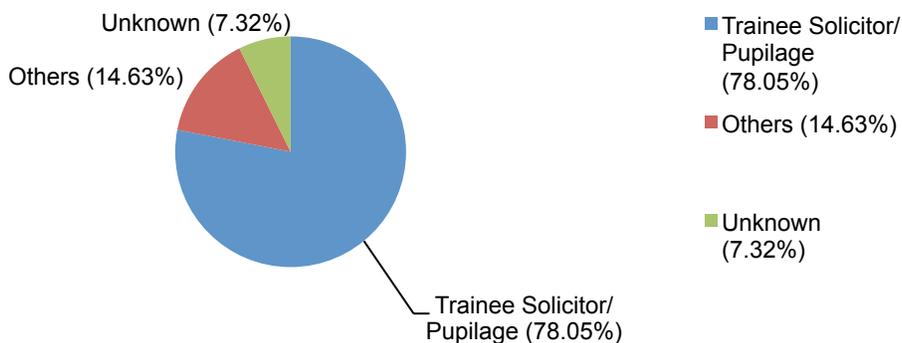
### Destination of LLB Graduates 2013



### Graduate Placement (PCLL Students only)

Status	No. of Students
Trainee Solicitor/Pupilage (78.05%)	32
Others (14.63%)	6
Unknown (7.32%)	3
Total:	41

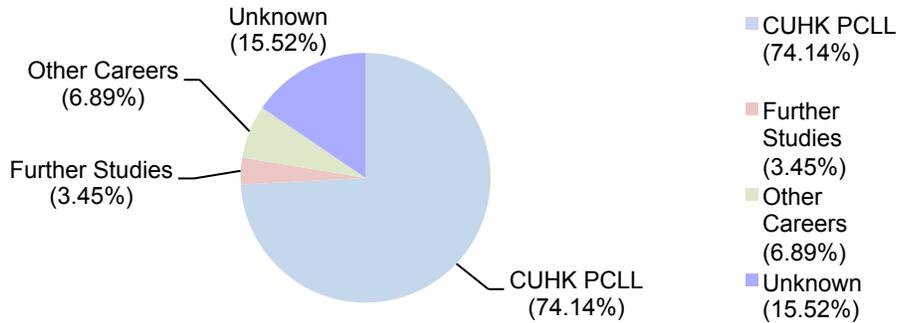
### Graduate Placement (PCLL Students only)



### Destination of LLB Graduates 2014

	Status	No. of students
On PCLL	CUHK PCLL (74.14%)	43
Not on PCLL	Further Studies (3.45%)	2
	Other Careers (6.89%)	4
	Unknown (15.52%)	9
Total:		58

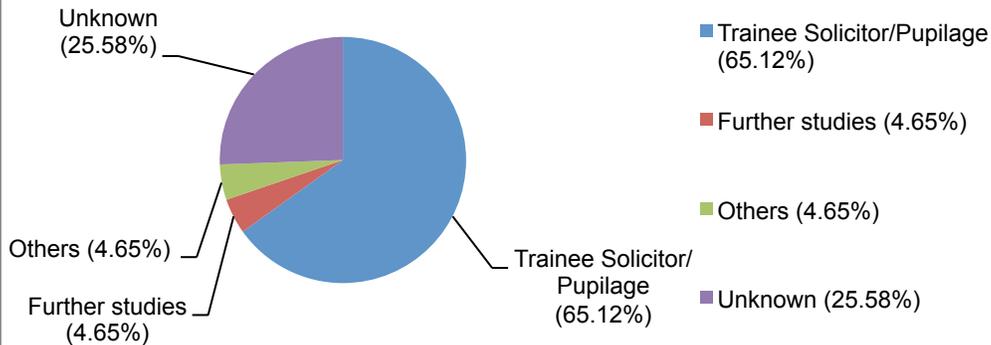
### Destination of LLB Graduates 2014



### Graduate Placement (PCLL Students only)

Status	No. of Students
Trainee Solicitor/Pupilage (65.12%)	28
Further studies (4.65%)	2
Others (4.65%)	2
Unknown (25.58%)	11
Total:	43

### Graduate Placement (PCLL Students only)



## Appendix 2

### APPLICATIONS FOR ADMISSION TO THE PCLL AT THE CHINESE UNIVERSITY OF HONG KONG 2013-2015

Intake year	Institutions	No. of applications (First choice)	No. of applicants admitted
2015-16	CUHK	159	129
	HKU	2	0
	CityU	1	0
	Overseas institutions	51	21
2014-15	CUHK	161	131
	HKU	2	0
	CityU	3	0
	Overseas institutions	43	19
2013-14	CUHK	189	127
	HKU	4	0
	CityU	2	0
	Overseas institutions	81	23

## **Comprehensive Review on Legal Education and Training in Hong Kong**

### **Second Response of The Law Society of Hong Kong to the Consultation Paper issued by the Standing Committee on Legal Education and Training**

#### **Regulatory powers of the Law Society**

1. Sections 4 and 73 of the Legal Practitioners Ordinance Cap. 159 empower the Law Society to prescribe qualification requirements for the entrants to the solicitors' profession.
2. Pursuant to Sections 4 and 73, the Law Society has prescribed the Trainee Solicitors Rules Cap. 159J ("Rules") for the admission of local entrants. Rule 7(a) of the Rules provides that a person may only enter into a trainee solicitor contract if he has passed or received a certificate of completion or certificate of satisfactory completion as the case may be in –
  - (i) the Postgraduate Certificate in Laws ("PCLL") and such other examination or course as the Law Society may require and set or approve; or
  - (ii) such other examination or course as the Law Society may require and set or approve.

#### **Common Entrance Examination**

3. The Council of the Law Society has decided that, starting from 2021, a person may only enter into a trainee solicitor contract if that person has passed a Common Entrance Examination ("CEE"). The CEE will be set and marked by the Law Society. The Law Society will require certified completion of the PCLL course but will not require any examination to be set by the providers of the PCLL. The Law Society will review the prerequisites for taking the CEE periodically.

#### **Timeline**

4. The CEE will be implemented no earlier than 2021. The 5 years' notice has taken into account the length of the LLB and PCLL Programmes so that those who have already embarked on these Programmes will not be affected by the CEE.

#### **The Purposes of the CEE**

5. The purposes of implementing a CEE are:
  - (i) To uphold the quality of the entrants to the solicitors' profession;

- (ii) To provide access to those who have the ability to qualify as a solicitor;
- (iii) As a regulator, the Law Society has a duty to maintain the standards of the profession and to protect public interest.

### **Logistics**

- 6. The Council is considering the logistics and will announce the details in due course.

5 January 2016

## **Submission to Review Committee on Legal Education and Training**

The secretary of the review, Ms Vivien Lee, has invited me as Chief Examiner for the Overseas Lawyers Qualification Examination (OLQE), to make a submission to the committee. I imagine that the system whereby a lawyer who is qualified in another jurisdiction may qualify for practice in Hong Kong is peripheral to the deliberations of the reviewers. There are however a few observations that I can make which may be of relevance.

The first is that, contrary to persistent impression amongst foreign lawyers, the examination is not operated as a means of restricting competition. The organisation of the examinations and the setting and marking of the questions comply with high standards. The pass rates in the subject with the most candidates, Conveyancing, has in recent years been consistently greater than 70% and in some years has touched 90%. In only one subject, Accounts and Professional Practice which has a low number of candidates, is the rate occasionally below 50%. The overall pass rate is much higher than in other jurisdictions and in the equivalent examinations of other professions in Hong Kong.

The second is that the Standards and Development staff at the Law Society, headed by Ms Vivien Lee, who organize and operate the examination are remarkably knowledgeable and efficient. Their efforts have contributed considerably to the success of the OLQE. However, they are few in number and have other demands on their time.

This leads to the third point, which is that the examination is dependent on the contribution of examiners and markers from outside the Law Society for its operation. A number of these are employed at the three universities with law schools. Some practicing solicitors do help also, but they tend not to be in full-throttle practice. Only a small proportion of practitioners have the knowledge or inclination to participate in legal education.

In consequence, I find it difficult to imagine that the proposed entrance examination to the solicitors' branch of the profession can be run by the Law Society without considerable contribution and goodwill from non-members, especially the relatively small number of teachers already engaged in legal education in this jurisdiction.

The only practical alternative would be to import the teachers, the preparatory course and the examination from elsewhere. But since the assumption underlying the existence of the OLQE is that practice in Hong Kong has its own unique features which must be learned before becoming a solicitor here, it would seem irrational to rely upon assistance from Britain or Australia in designing and delivering a local professional examination.

MALCOLM MERRY

Chief Examiner, OLQE (2008 - present)

Barrister

Adjunct Professor, Faculty of Law, University of Hong Kong

[merrylink@netvigator.com](mailto:merrylink@netvigator.com)



### **3. Further CEE-Specific Written Responses (May 2016)**



**LAW SOCIETY OF HONG KONG**  
**Consultation on the feasibility of implementing a common entrance examination in Hong Kong**

**About this consultation**

**Duration:** From 1<sup>st</sup> December 2013 to 14<sup>th</sup> February 2014

**Enquiries (including requests for the paper in an alternative format) to:** NLS.CEEConsultation@ntu.ac.uk

**How to respond:** Please send your response by 14<sup>th</sup> February 2014 to: NLS.CEEConsultation@ntu.ac.uk

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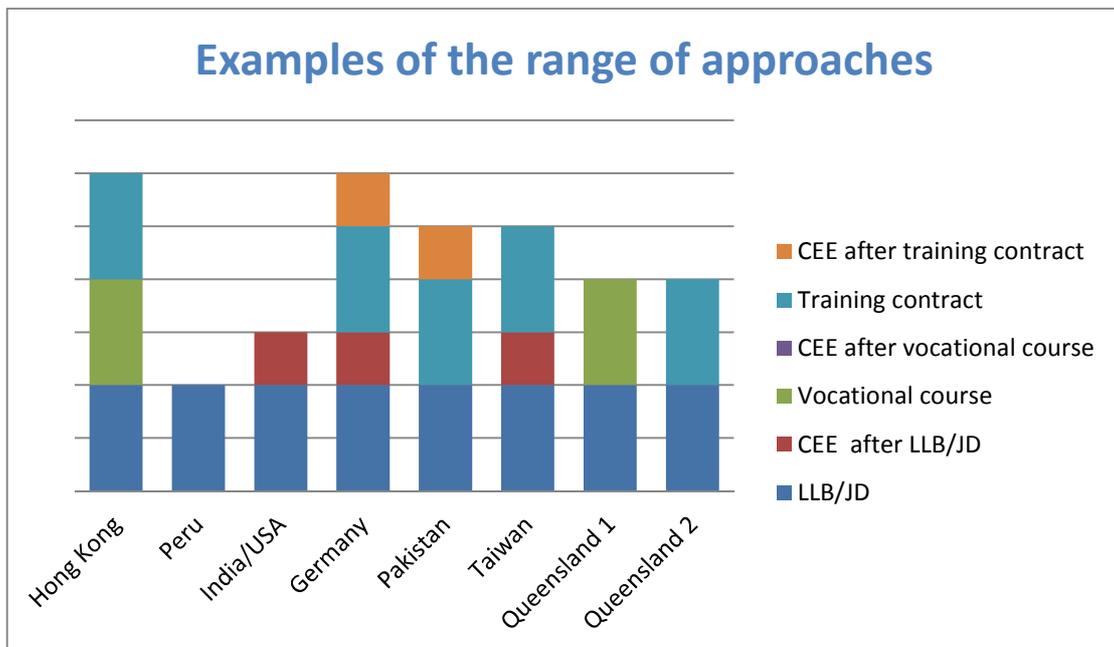
## TERMINOLOGY AND CONCEPTS

Admission	qualification to practise in Hong Kong, either by completion of the training contract or the OLQE
CEE	a generic term used in this paper for any form of “common entrance examination”
City U	City University of Hong Kong
CUHK	Chinese University of Hong Kong
Foreign lawyer	a lawyer admitted in a non-Hong Kong jurisdiction who is registered with HKLS and may practise non-Hong Kong law
GDL/CPE	Graduate Diploma in Law/ Common Professional Examination. A qualification of England and Wales designed as a conversion course into law for non-law graduates
HKLS	the Law Society of Hong Kong
HKU	Hong Kong University
Hong Kong QLD	a “qualifying law degree” which permits direct access into the PCLL, offered by Chinese U, CUHK and HKU.
JD	Juris Doctor: a postgraduate law degree
LLB	Bachelor of Laws: the undergraduate law degree
Mainland China	People’s Republic of China (not including the Hong Kong SAR)
NJE	National Judicial Examination, the common entrance examination used in Mainland China.
OLQE	the examination required of foreign lawyers wishing to transfer into the solicitors’ profession in Hong Kong
The Ordinance	the Legal Practitioners Ordinance (Cap 159)
Overseas lawyer	a lawyer admitted in a non-Hong Kong jurisdiction who wishes to seek admission as a solicitor in Hong Kong
PCLL	the Postgraduate Certificate in Laws required for entrants to the training contract
Position Statement	the HKLS position statement on legal education and training of 2008.
PRC	People’s Republic of China (including the Hong Kong SAR).
Standing Committee	The Standing Committee on Legal Education and Training, which includes membership from the professions, providers and the regulatory bodies.
Training contract	a two year period of employment in the legal sector required prior to qualification as a solicitor in Hong Kong

## 1 INTRODUCTION

This consultation is carried out on behalf of the Law Society of Hong Kong (HKLS), the regulator for all Hong Kong solicitors. This paper explores the idea of a common entrance examination (CEE), overseen by HKLS, as a means of admitting individuals to practice as solicitors in Hong Kong. The paper considers the problems to which a common entrance examination might be a solution and whether there might be alternative solutions. If a CEE is appropriate, there are then questions about when it should be taken and at what level; what should be assessed and how the CEE would relate to existing qualifications such as the law degree and Postgraduate Certificate in Laws (PCLL).

Globally, a wide range of approaches exist for the assessment of aspiring lawyers. There are self-standing bar examinations which act as an immediate passport to qualification; and forms of common assessment of mandatory vocational courses as well as models which rely on neither. Periods of pre-qualification experience (training contracts) are prescribed, or not, or may be an *alternative* to a postgraduate vocational course. Alternative routes to qualification, through longer apprenticeships or self-standing professional qualifications, may be available. Examples of the range include:<sup>1</sup>



Statements of curricula, standards, outcomes and competences for different stages of pre-qualification education and/or for the point of qualification may, or may not, be prescribed, and if they are, in varying degrees of specificity. Where possible, in discussing different options for Hong Kong, the paper gives examples of models in use elsewhere in the world and references to descriptions of them that are publicly available in English. A simplified summary of the examples appears in Appendix IV.

### 1.1 The Working Party on CEE of the Law Society of Hong Kong

HKLS has formed a working party on a CEE. The committee comprises members of the Legal Education Committee of HKLS, the Council, practising solicitors and

<sup>1</sup> This chart does not show the relative length of each stage or differentiate between undergraduate and postgraduate academic degrees.

members of the Young Solicitors' Group. The terms of reference of the Working Party are:

- 1 To consider the suitability and feasibility of implementing a CEE in Hong Kong.
- 2 To recommend to the Standing Committee on Standards and Development and the Council if a public consultation on the CEE or such other options shall be conducted and if so to formulate in draft for the consideration of the Standing Committee on Standards and Development and the Council the necessary consultation documentation;
- 3 If appropriate, to formulate in draft for the approval of the Standing Committee on Standards and Development and the Council, new rules and/or amendments to existing legislation to provide a framework for the implementation of the CEE or such other recommended alternative.

We understand from the Working Party that:

- a) it is not the intention of HKLS to abolish or replace the PCLL; and
- b) it is not the intention of HKLS to allow a non-graduate route into qualification as a solicitor in Hong Kong.<sup>2</sup>

## **1.2 The research team**

The research team consists of five academics with a range of perspectives on legal professional education and experience of carrying out research in the field. The majority of team members have practised as solicitors and several members of the team also participated in the recent research phase of the Legal Education and Training Review in England and Wales commissioned by the three largest regulatory bodies in that jurisdiction. Although the majority of the team is based in the UK, members have experience of working in and advising on legal education in a range of jurisdictions including, in some cases, Hong Kong.

The remit of the research team is threefold:

- a) to draft this consultation document and to receive and analyse responses to it;
- b) to conduct a number of interviews with key stakeholders;
- c) to provide a report to HKLS including recommendations as a result of the consultation.

It is also envisaged that members of the research team will visit Hong Kong following submission of the report to present it to HKLS and, at HKLS' request, to participate in a members' forum on the recommendations. Further details of the research team appear in Appendix VI.

## **1.3 The target audience for this consultation**

This consultation document is addressed to lawyers, educators, students and their families, legal professional associations, members of the judiciary, users of legal services and others with an interest in the justice system. A copy of this document will be posted in the public zone of the HKLS website. Responses to this consultation document will not be published by HKLS, but names of respondents (where consent has been given) and a summary of anonymised responses will be posted on the HKLS website in due course.

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<sup>2</sup> It may be exceptionally possible for non-graduates to enter the Hong Kong profession from a foreign jurisdiction through the OLQE.

## 1.4 The consultation document

This consultation document is divided into four sections:

- The working background to the consultation;
- The current system of legal professional education for solicitors in Hong Kong;
- Discussion of the concerns about the present system which might be addressed by a CEE;
- Consideration of a number of possible responses or solutions.

The consultation document does not contain any recommendations, nor should it be read as indicating that the research team has formed any views at this stage. Any alternatives suggested are intended only to help outline and stimulate the debate. Following analysis of responses to the consultation document and to a set of interviews to be carried out in parallel, a report containing recommendations will be delivered to HKLS by the research team. HKLS may then wish to engage in further consultation on any draft policy that emerges from those recommendations.

## 2 THE WORKING BACKGROUND TO THE CONSULTATION

### 2.1 The 2001 Review

A substantial review of all legal professional education in Hong Kong was carried out on behalf of the Steering Committee on the Review of Legal Education in Hong Kong (Redmond and Roper, 2001). This investigation made a large number of recommendations, some, but not all, of which, have been implemented. Recommendations relevant to this consultation included:

- a) a recommendation (*ibid*: 44) that there should be a statement of a common admission standard for entry into, in effect, the PCLL stage;
- b) that there should be no artificial numerical bottlenecks to control numbers or set standards.

A Standing Committee on Legal Education and Training was subsequently established under s 74A of the Ordinance. Its functions are:

- (a) to keep under review, evaluate and assess-
  - (i) the system and provision of legal education and training in Hong Kong;
  - (ii) without prejudice to the generality of subparagraph (i), the academic requirements and standards for admission to the Postgraduate Certificate in Laws programme;
- (b) to monitor the provision of vocational training of prospective legal practitioners in Hong Kong by organizations other than the Society or the Hong Kong Bar Association;
- (c) to make recommendations on matters referred to in paragraphs (a) and (b);
- and
- (d) to collect and disseminate information concerning the system of legal education and training in Hong Kong.

In 2012, the Standing Committee noted that, since the Redmond-Roper report, there had been a number of substantial developments in legal education in Hong Kong. In the same year, the then President of HKLS, in a message reported in *Hong Kong Lawyer*, also rehearsed some of the history of the development of legal education for solicitors in Hong Kong (Yih, 2012a). Significant changes include:

- Developments in the other educational structures in Hong Kong (e.g. the length of secondary schooling);
- The establishment of the third law school;
- The introduction of JD programmes and double degrees;
- Increased competition for PCLL places;
- Challenges in pursuing consistency between PCLL providers;
- The introduction of the conversion examination for the PCLL for holders of non-Hong Kong QLDs;
- The differing levels and purposes of the conversion examination, PCLL and Overseas Lawyer Qualification Examination (OLQE).

As a result of these changes, the Standing Committee (2012:3) indicated that it was “considering whether to conduct another review of legal education and training”. The then President suggested specifically that:

Members and stakeholders have recently been raising a question with me: whether a common qualifying examination for solicitors is worth considering?

We understand that this consultation on the specific issue of a CEE for Hong Kong is prompted by this enquiry. Although the President’s initial question was in the context of, in effect, a common assessment after the PCLL, we are asked to explore a number of possible responses.

## **2.2 The concerns over the present system expressed by different stakeholders.**

Concerns about the present system have been raised publicly (e.g. Yih, 2012a, McCauley, 2012; Broomhall, 2013) as well as in response to the President’s statement. We are also aware that suggestions that a CEE might be adopted have not received universal approval (e.g. Chan, 2013; Merry, 2013; Moy, 2013, Feng, et al, 2013). HKLS has kindly allowed us access to an anonymised summary of responses to the President’s statement. These included questions about:

- Consistency of assessments and performance standards;
- Differing approaches at the three providers and the admission criteria of the providers;
- The role of HKLS as the regulator (in contrast to the educational providers);
- The number of PCLL places and a suggestion that a CEE could act as an alternative for those unable to access the PCLL;
- Equality with foreign lawyers and international transportability of qualifications (in both directions);
- Whether changes might increase barriers to qualification;
- A suggestion that the OLQE should be aligned to the PCLL;
- Other parts of the system, such as the PCLL and training contract;
- Whether a CEE should test academic knowledge or practical skills, and whether it might take place before or after the training contract.

For the purposes of this part of the discussion, we have grouped these concerns into four broad categories.

### **2.2.1 Regulatory control**

A professional regulator may determine that it has a role as final arbiter of who enters the profession. A means of asserting such regulatory control may be to prescribe and monitor:

- Educational structures (e.g. courses and curricula as described in section 3 below); and/or
- Competences or outcomes to be demonstrated at a particular stage or on qualification.

A regulator may focus its resource on, for example, identifying and testing at least a minimum standard for members of the profession for which it is responsible, or on seeking to assure a higher standard.

Even more specifically, a regulator may focus its resources on particular risk areas. In England and Wales, for example, the Solicitors Regulation Authority, as regulator, considered a point of qualification assessment involving issues of ethics in order to satisfy itself of fitness to practise. A CEE could, for example, focus on issues of fitness and character, or on specific regulatory risk areas such as client care, or accounts. Questions of regulation are discussed further in the context of different possible options at 4 below.

*Q 1 What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?*

### **2.2.2 Competition from foreign lawyers**

Hong Kong's unique position makes it a target for foreign lawyers to set up practice advising multinational corporations and as a means of accessing the Mainland and surrounding countries.<sup>3</sup> In September 2013 there were 1,275 registered foreign lawyers and 68 foreign law firms registered in Hong Kong, compared with 7,717 Hong Kong lawyers in 816 law firms (HKLS, 2013c). In addition, 24 foreign law firms have associations with Hong Kong firms. The top four jurisdictions supplying foreign lawyers are the USA, England and Wales, Mainland China and Australia.

Under the Foreign Lawyers Registration Rules, a registered foreign lawyer may not practise Hong Kong law nor employ or enter partnership with Hong Kong lawyers although in some circumstances a registered foreign lawyer can be employed by a Hong Kong firm. Foreign law firms operating in Hong Kong may, of course, be able to offer training places in the qualification system of their own jurisdictions. There is clearly a substantial amount of legal work being carried out in Hong Kong otherwise than by Hong Kong qualified lawyers or offering opportunities to qualify as a Hong Kong lawyer.

The number of registered foreign lawyers can be compared with the number of overseas lawyers seeking transfer into the Hong Kong profession through the OLQE. HKLS statistics indicate a variation in numbers over time, with a low of 41 OLQE candidates in 2007 (HKLS, 2012d), rising to 256 OLQE candidates in 2012 (HKLS, 2012a: 156).<sup>4</sup> We understand from HKLS that 242 candidates registered for the OLQE in 2013.

Some concern has been expressed in the press about the extent to which clients might prefer foreign lawyers, or foreign lawyers be exploiting a base in Hong

<sup>3</sup> See, for example, the advice of the Law Society of England and Wales (2007).

<sup>4</sup> Of these candidates, 168 passed all the heads that they were required to sit (*ibid*: 161). Pass rates for the period 1995 to 2012 inclusive are set out in HKLS 2013b: 7.

Kong to access the Mainland (Wan, 2012).<sup>5</sup> It is also argued that foreign law firms are courting local firms and seeking to enhance their local expertise by recruitment, by links with local firms or through the OLQE (Kriegler, 2012).

It is not clear whether there is any preference for foreign or for locally qualified lawyers or firms. And, if there is such a preference, is this based on brand familiarity, cultural issues, language, resources, or on differences in education and competence? Questions of competition with foreign lawyers are discussed further in the context of different possible options in section 4 below.

*Q 2 What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practising in Hong Kong?*

### 2.2.3 Workforce demand and bottlenecks

The Government of the Hong Kong SAR published a *Report on Manpower Projection to 2018* (2012). Its predictions for the legal services industry (*ibid*: A7.26) suggest an increase between 2010 and 2018 of need for “Legal, accounting, business and related professionals” of an additional 2,000 and, over the same period, an increase of need for “Legal, accounting, business and related *associate* professionals” [our italics] of 1,930.

Fluctuations in workforce demand are not confined to overall numbers and may also include changes in the *kind* of workforce needed. A challenge for any education and qualification system, including a CEE used as a single qualification examination for entrance to the profession, will be a design which is to be sufficiently flexible to respond to such changes.<sup>6</sup> This could be sought by adjusting the prescribed subjects, for example to react to technological developments.

The question of workforce demand is, however, linked to that of the creation of bottlenecks in the qualification system. Data from HKLS suggests that in 2011/2012, there were 608 admissions to the PCLL (see Appendix III). We estimate, from the total number of trainees,<sup>7</sup> that there are in the region of 360 training contracts available annually. It could be argued that the PCLL provides, numerically, an appropriate number of graduates each year with some provision for growth.<sup>8</sup>

As a comparison, in England and Wales, the number of places on the LPC (PCLL-equivalent course) vastly exceeds the number of training contracts available each year. There remains considerable disquiet amongst students and young lawyers in particular about the fact that success on the course does not guarantee a training contract place. A large number of students, having paid a considerable sum of money to take the LPC, is, it is said, left in limbo, with no official “title” and no

<sup>5</sup> Hong Kong qualified lawyers and firms have, under the Closer Economic Partnership Arrangement, preferential access to practice in the Mainland. See HKTDC Research (2012).

<sup>6</sup> In contrast, perhaps, to wholesale changes in, for example, the content and structure of the degree or PCLL. Nevertheless, there is already sufficient space in both the LLB/JD and the PCLL to allow students to take optional subjects which might represent new forms of practice.

<sup>7</sup> 724 at as September 2013.

<sup>8</sup> This is a consciously broad statement: we do not at this stage have data on the number of fails, or on the extent to which graduates of all the PCLLs find, and succeed in, training contracts or pupillage as opposed to any other kind of legal work. Nor do we have data on the extent to which trainees, having been admitted, are able to retain employment.

obvious, or certain, means of proceeding into the profession.<sup>9</sup> A question largely beyond the remit of this consultation is whether, if there were more PCLL graduates, attention should be paid to the regulation of the training contract. There might, for example, be an appetite to offer training places outside the conventional law firm in, for example, financial institutions.

Clearly if there is a bottleneck and a corresponding appetite for trainees (if the training contract is retained in any fully reviewed structure), one means of addressing it would be to increase the number of PCLL providers or PCLL places. This idea is evaluated further below in section 4.

*Q 3 Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?*

*Q 4 If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?*

#### **2.2.4 Complexity, consistency and maintenance of standards**

The existing framework for qualification in Hong Kong is set out in section 3 below and summarised in Appendix I. There are essentially three routes, two for graduates and a third for incoming foreign qualified lawyers. Different courses and assessments are prescribed for each, with differences in curricula and the level at which assessment takes place. Allowing a variety of courses and course providers does not preclude, in principle, such courses being assessed centrally, just as schools teach towards national examinations. This has been adopted, not without teething difficulties, for parts of the Bar Professional Training Course in England and Wales (BSB, 2008). In some smaller jurisdictions, where there is a single provider of legal education, there is centralised and common assessment by default.

Unless all entrants do pursue such a single mandatory programme, delivered by a single institution/teacher (or through a single employer), there is scope for variation in the range and the standard of what has been covered. A regulator may seek to create consistency in the range by detailed prescription of the curriculum (input) or standards/competences/outcomes to be achieved (output). It may seek to promote consistency in standards by alignment to external qualification frameworks, quality assurance of providers/employers providing training and moderation of assessment tasks and marking. Another means by which consistency can be sought is to set a single, summative assessment (a CEE). In some cases the regulator's only concern is with this assessment and not with anything that precedes it.

Such an assessment may be seen as a filter, prescribing a *minimum* level for practice or for passage to the next stage. So, the All-India Bar Examination

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<sup>9</sup> In England and Wales, the regulatory body for the separate legal executive profession, IPS, will accord such individuals graduate member status, exempting them from the legal executive qualification system and conferring regulated status.

(International Bar Association, n.d. c; Law Society of England and Wales, 2010a); introduced in 2001 and taken after the LLB, has the stated objective that it will:

... assess capabilities of a law graduate at a basic level such as a candidate's analytical abilities and basic knowledge of law and is intended to set a minimum standard for admission to the practice of law. ...  
Bar Council of India, (n.d.)

Alternatively, where such an assessment is set, it may be envisaged as testing a higher level of "readiness to practise", frequently in terms of currency of legal knowledge or, more rarely, skills.

The question of what a CEE might assess, when and at what level is developed further below at 4.1.2.

*Q 5 To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?*

### **3 THE PRESENT SYSTEM OF LEGAL EDUCATION AND TRAINING IN HONG KONG**

#### **3.1 Background and context**

The present system of legal education and training in Hong Kong is similar to that of England and Wales (see SRA, 2013; International Bar Association, n.d. b). It involves an academic stage (the LLB or JD), followed by a vocational course (the PCLL) and a workplace apprenticeship known as the training contract. Overseas lawyers and those from Mainland China are able to transfer into the Hong Kong profession by a separate assessment (the OLQE). The framework for qualification and admission to practice is governed by legislation: the Legal Practitioners Ordinance (Cap 159) (the Ordinance), which permits HKLS to create a number of subsidiary rules.

In 2008, HKLS produced a position paper on Legal Education and Training (the Position Paper) which set out the following underlying principles:

- that a commitment to education and training is a defining characteristic of a profession;
- that legal education is a lifelong process;
- that each phase of the process of legal education ... must be provided to the highest possible standards;
- that solicitors qualified through such process must be equipped with the knowledge and skills to support a high standard of service to clients;
- that solicitors acquire knowledge and skills in both the day to day practice of law and through formal educational activities; and
- that this policy, and the provision of the various phases of legal education and training, should be reviewed periodically in order to ensure the maintenance and improvement of standards.

Although the remit of this investigation is the single issue of a CEE, because that CEE, if adopted, could occur at any of several stages in the qualification system, it is important to set out in some detail the existing qualification system for intending solicitors in Hong Kong.

#### **3.2 Distinctive issues in Hong Kong**

The research team has experience of legal education in a number of common law and hybrid jurisdictions. A number of the issues facing Hong Kong, such as increasing globalisation and the impact of technology, are familiar. We note, however, the following distinctive points:

- the existence of an overarching Standing Committee on Legal Education and Training, established under statute;
- the fact the PCLL is not solely a vocational course for those who intended to become solicitors but also for those who intend to become barristers;
- the bilingual English/Chinese context;(see Yih, 2012b; Standing Committee on Legal Education and Training, 2006-2012);
- the relationship of Hong Kong legal education and Hong Kong legal practice with that of Mainland China;
- that Hong Kong is “one of the major financial and commercial centres of the world; and that Hong Kong is commercially, and in other ways, a gateway both to Mainland China and from China to the rest of the world” (HKLS, 2008: 5);
- that a large number of multi-national and foreign firms maintain offices in Hong Kong for that reason.

*Q 6 What, if any issues make the legal services/legal education context of Hong Kong distinctive?*

### **3.3 The degree stage (LLB/JD)**

#### **3.3.1 The Hong Kong qualifying degree**

The four-year undergraduate law degree is the default means of entry to the professions of solicitor and barrister in Hong Kong. In its Position Paper (HKLS, 2008) HKLS stated that the aim of a qualifying law degree should be to permit students to acquire:

- general transferable intellectual skills;
- knowledge and understanding of the general principles, nature and development of law, and of the making and interpretation of common law and legislation;
- legal values, including a commitment to the rule of law, justice, fairness and high ethical standards;
- knowledge and understanding of the contexts in which law operates;
- knowledge and understanding of the role of the legal system in serving the needs of the community, thereby inculcating a sense of social responsibility, and
- a knowledge and understanding of the legal system of China.

In order to provide access to the second pre-qualification stage (the PCLL); a Hong Kong qualifying law degree (Hong Kong QLD) must cover 11 mandatory core topics:

- Business Associations;
- Civil Procedure;
- Commercial Law;
- Constitutional Law;
- Contract;
- Criminal Law;
- Criminal Procedure;
- Equity;

- Evidence;
- Land Law;
- Tort.

Hong Kong QLDs can currently be offered only by Hong Kong University (HKU), City University (CUHK), and, as a later entrant, Chinese University of Hong Kong (Chinese U) (LegCo Panel on Administration of Justice and Legal Services, 2004).

All three Hong Kong QLD-awarding universities also offer a two-year JD programme for postgraduates (in any discipline) which also enables entry to the PCLL and CUHK also offers a JD/MBA award. Joint degrees are also available (for example, the HKU/KCL double degree in English and Hong Kong Law which is a qualifying law degree for both jurisdictions).

In the Hong Kong Qualifications Framework (n.d. b), the LLB is placed at level 5 and the JD at level 6.

### 3.3.2 Other law degrees available in Hong Kong

Other institutions in Hong Kong may offer non degree programmes;<sup>10</sup> offer law-based modules in undergraduate degrees in Business or Business/Law degrees<sup>11</sup> or offer postgraduate degrees in law.<sup>12</sup> Graduates of such courses cannot obtain exemption from the Hong Kong QLD without taking or retaking subjects as a visiting student at one of the three Hong Kong QLD universities or completing the PCLL conversion examination (see section 3.4 below).

Institutions which do not offer a Hong Kong QLD themselves may provide routes into non-Hong Kong LLBs such as those of Mainland China or Australia (e.g. Hong Kong Shue Yan University, n.d.). Graduates of non-Hong Kong common law LLBs may, in principle, proceed to the PCLL, although they may have to “top up” required missing subjects. This is dealt with in section 3.4 below.

### 3.4 Hong Kong conversion examination for PCLL admission

Graduates of common law degrees other than the Hong Kong QLD are required to demonstrate equivalence in two ways:

- The 11 core subjects; and
- The “top up subjects” of Hong Kong Constitutional Law; Hong Kong Land Law and Hong Kong Legal System.

It would, of course, be possible for a law degree - or similar qualification such as the GDL - offered in another jurisdiction to cover both criteria, although access to the PCLL would then be filtered through the admission criteria of the relevant PCLL provider, see section 3.5.2 below.

If core or top up subjects are missing, they can be acquired through a number of routes:

- Taking a JD with one of the three Hong Kong QLD providers;
- Taking the Graduate Diploma in English and Hong Kong Law;<sup>13</sup>

<sup>10</sup> For example, the Open University of Hong Kong LiPACE’s Certificate in Laws (n.d.).

<sup>11</sup> For example, Hong Kong Shue Yan University’s Bachelor of Commerce with Honours in Law and Business (n.d.).

<sup>12</sup> For example the Open University of Hong Kong’s LLM in Chinese Business Law (n.d.).

<sup>13</sup> This two year part-time programme is offered by the University of Hong Kong School of Professional and Continuing Education jointly with Manchester Metropolitan University in the UK (HKU SPACE, n.d.).

- Becoming a “visiting student” with one of the three Hong Kong QLD providers for those subjects only; or
- Completing the Hong Kong PCLL Conversion Examination.

The conversion examination is overseen by the Conversion Examination Board (PCLL Conversion Examination and Administration Ltd, n.d.) of the Standing Committee on Legal Education and Training. There is no required preliminary course (although some are available from e.g. HKU SPACE (2013) and IP Learning (2013); and through websites (Anon, n.d. c)).

Papers are offered only in the three top up subjects and in Civil Procedure, Criminal Procedure, Commercial Law, Evidence and Business Associations. A candidate who has not covered, for example, Criminal Law or Land Law in their prior study, cannot therefore use this route to achieve access to the PCLL.<sup>14</sup> There is no limit to the number of attempts to pass. Assessment is on a pass/fail basis at “the standard of an LLB degree awarded in Hong Kong” (i.e. Hong Kong Qualification Framework level 5). Subjects need not all be taken at one sitting and can be taken prior to completion of an undergraduate degree. The assessment is entirely written, and involves scenarios which may involve questions of the “Advise X” variety, short answer questions and/or more essay-like questions such as

Critically analyse the remedies that are available to shareholders who wish to pursue wrongs done to them personally and evaluate which of the remedies is the most effective.  
(Business Organisations, 2013)

Papers vary in length, with the top-up papers being shorter than those for core subjects. The majority of papers are open book, with Hong Kong Legal System being closed book and Hong Kong Land law allowing limited materials only.

Candidates who have already covered one or more of the core or top up subjects otherwise than through a Hong Kong QLD are required to seek exemption from the examination, or part of it, such applications being dealt with by the Conversion Examination Board. It has, however, been recommended that, presumably for consistency, the Board could liaise with both the three providers and the legal profession to help determine “whether a particular degree or qualification would be recognized as a law qualification for the purpose of the entry requirements for PCLL” (Standing Committee on Legal Education and Training, 2012). In 2012, two sittings of the assessment were held and 1,543 candidates took one or more papers, with an aggregate average pass rate of 75% (*ibid*: 3-4).

### 3.5 The PCLL

#### 3.5.1 Conceptually

As a bridge between the academic content of the LLB or JD and entry into the workplace, *mandatory* vocational programmes exist in only some parts of the common law world. They may last for a period of months, or for a year or more. Notably they are not present in the USA or in jurisdictions who have adapted their model from that of the USA. There is some debate in England and Wales, for example, about their purpose where they occur prior to the training contract, particularly:

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a) . It covers the seven foundation subjects required for England and Wales together with the three top up subjects for Hong Kong. Consequently, students will need to cover the outstanding core subjects for Hong Kong before being eligible for the PCLL.

<sup>14</sup> It is specifically stated that the other subjects have to form part of the “main law qualification”.

- a) whether they are intended as an introduction to matters of practice, alternatively to enable the trainee to function at a very high level immediately on entry to the workplace;<sup>15</sup> and
- b) the extent to which a broad-based vocational course, even with elective subjects, can appropriately accommodate all forms of practice (e.g. specialised corporate or private client work, or in-house practice).

In some jurisdictions, a vocational course may be an *alternative* to a training contract (e.g. New Zealand, Queensland<sup>16</sup>) and in others, non-mandatory preparatory courses may be available in preparation for self-standing bar examinations (e.g. Japan,<sup>17</sup> USA). Further, in some jurisdictions the vocational course is undertaken *in parallel with* the training contract (e.g. Republic of Ireland,<sup>18</sup> New South Wales). The Graduate Diploma in Legal Practice, for example, available as a route to qualification in a number of Australian states, allows students to incorporate varying lengths of work experience in their diploma, balanced by a reduction in the number of electives undertaken (ANU, n.d.).

The PCLL in Hong Kong is intended to be completed before starting the training contract. It is designed as a vocational course similar to the LPC or BPTC in England and Wales, the Diploma in Scotland and to the vocational programmes used in some parts of Australia and in New Zealand (New Zealand Council for Legal Education, n.d., International Bar Association, n.d. f). The PCLL is unusual, although not unique (e.g. Mauritius) in that it provides entry to more than one profession.

A concise set of benchmarks for the PCLL is set out by HKLS (HKLS, 2007). As a postgraduate certificate, the PCLL is at level 6 of the Hong Kong Qualifications framework. There is, as set out in Appendix II, some variety in the way in which the three providers address them in their curriculum and course structure.

### 3.5.2 Entry to the PCLL

Successful completion of the PCLL is required of all entrants other than those entering through the OLQE or those working and training to be foreign lawyers in Hong Kong.<sup>19</sup> The three providers of the PCLL are defined in the Ordinance and are the same three institutions as for the Hong Kong QLD. At present, two of the providers offer both full- and part-time courses.

In order to apply for a place on the PCLL, applicants must normally have obtained at least a high 2:2 at degree level (HKLS, 2007). In addition, all applicants – whether native English speakers or not – must obtain an IELTS<sup>20</sup> certificate with a score of at least 7. In addition, applicants must satisfy the admission criteria of their chosen institution. In the case of applicants with qualifications other than the Hong Kong QLD, this involves a requirement that that qualification is “recognised and acceptable” to the PCLL provider. The information publicly available about the admission criteria of each institution is as follows:

<sup>15</sup> Clearly in those jurisdictions which use a vocational course as an alternative to a training contract, there is intended to be equivalence in the standard reached. In Australia and in New Zealand, this is promoted by use of a single set of point of admission competences.

<sup>16</sup> Queensland Law Society, n.d.

<sup>17</sup> Federation of Bar Examiners, n.d.

<sup>18</sup> Law Society of Ireland, n.d.; International Bar Association, n.d. d.

<sup>19</sup> For example a trainee from a UK law firm spending part of their training contract in Hong Kong but working towards qualification as a solicitor in England and Wales or a Canadian trainee undertaking “international articles”.

<sup>20</sup> International English Language Testing System.

- HKU (n.d. a) is explicit on its website that the CPE/GDL of England and Wales is an acceptable qualification for these purposes<sup>21</sup> and also indicates that law degrees must be common law degrees “normally from a Hong Kong or Commonwealth institution”, and that a minimum of a high 2:2 is required but that possession of a 2:1 does not guarantee a place (HKU, 2012-2013).<sup>22</sup> HKU does not interview applicants although admission personnel may ask for assessment regulations, curricula etc. so as to evaluate the original qualification. In addition, students on its joint programme with the University of British Columbia have the PCLL included as the fourth year of their programme of study (HKU/UBC, n.d.b).
- City University (n.d.) states that: “Applicants’ law degrees are assessed by reference to (a) classification, grades, marks (mainly concentrate at law subjects) and (b) the standing of the law school of the university issuing the degree”, and that a good 2:2 is required. City U may interview applicants.
- Chinese University does not interview, and explicitly states that it does not take prior possession of an offer of a training contract or pupillage into account (CUHK, 2012, n.d.). CUHK will only consider applications naming CUHK as first choice institution. A considerable amount of detail is given about documents to be submitted with the application to enable qualifications to be evaluated.<sup>23</sup>

There is clearly much interest in application to the PCLL, with substantially more applications than places awarded. Appendix III sets out statistical information obtained from HKLS about admissions to the PCLL. However the numbers of potential PCLL students may be different from the corresponding numbers of training contracts offered by employers. Currently available public data on graduates’ destinations after the PCLL (HKU, 2013; CUHK, 2013) provides some indications of the split between training contracts and other legal sector work.

### 3.5.3 The content and format of the PCLL

Although there are benchmarks for the content of the PCLL (HKLS, 2007) and the three providers report into the Standing Committee annually, external regulation of the content and delivery of the PCLL is comparatively light. The HKLS benchmarks for the PCLL, for example, are considerably shorter than the equivalent document for legal executive courses. Whilst a detailed competency framework/set of outcomes is not provided (as it is for the legal executive courses), considerable flexibility in approach and assessment is encouraged, including integration (both in delivery and in consistency) between PCLL and the training contract. We are, however, not aware of any deliberately integrated PCLL/training contract approaches or “bespoke” PCLLs designed for particular sector or for particular firms, as are available in England and Wales. Nevertheless, each of the providers will be governed by university standards for quality

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<sup>21</sup> although GDL graduates would also have had to complete a substantial proportion of the PCLL conversion examination in addition.

<sup>22</sup> HKU also indicates that “Selection for the PCLL will be carried out by the Admissions Office in accordance with the criteria laid down by the Admissions Committee of the PCLL Academic Board (which comprises representatives of the Judiciary and two branches of the legal profession) and the Board of the Faculty of Law.”

<sup>23</sup> “Applicants with degrees awarded by overseas universities by distance learning or by completing a curriculum of short duration may be required to provide assessment report from the Hong Kong Council for Accreditation of Academic & Vocational Qualifications (HKCAAVQ) on the level of qualification obtained. If necessary, applicants will be notified by Divisions concerned / the Graduate School separately.” (CUHK, n.d.)

assurance of delivery and assessment. A comparative table of content drawn from the publicly available material of the three PCLL providers appears at Appendix II.

### **3.6 Training contract**

#### **3.6.1 Conceptually**

The “training contract” or period of “articles” is usually envisaged as a period of apprenticeship in a legal workplace, required prior to formal qualification. The purpose of a training contract is not always closely stated and it is rare that the totality of what has been learned during the training contract is formally tested on its completion. The period may be thought of more as socialisation, or as work experience, than as a period of learning contributing to the standard of performance expected at the point of qualification.

Internationally, the length of periods of apprenticeship varies from months to years. In some countries (e.g. in India, Peru, the Philippines, South Korea’s new system and in the USA)<sup>24</sup> no formal period of pre-qualification experience is required.

In the USA, a bar examination, at the level of an individual state, is virtually universal, over and above completion of the postgraduate law degree (JD). There is no training contract requirement (see ABA, n.d. a and b). The fact that individuals may be entitled to practise without supervision directly from law school does not suggest that this is desirable and some employers and others in the USA adopt schemes for newly qualified attorneys which might resemble the support given under a training contract (e.g. Furlong, 2010; Westfahl, 2010; CUNY, 2012). It should also be remembered that a law degree will be a second degree for students in North America. There is some evidence that an oversupply of newly qualified attorneys, coupled with increased student debt, is pushing individuals into independent practice early and increasing pressure on ethics and quality of performance (Illinois State Bar Association, 2012).

In some countries, periods of articles or prior work experience are treated as an alternative to the degree stage. In South Africa, for example, an extended period of articles is an alternative route to qualification which bypasses the LLB, but not the vocational course (Law Society of South Africa, n.d.). Similarly, in England and Wales, members of the Chartered Institute of Legal Executives may proceed directly into the vocational course without having obtained a degree (SRA, 2013).

In other countries, a period of articles may be an alternative to a PCLL-equivalent vocational stage (e.g., New Zealand, Queensland and in the future in Ontario).

Where there is a requirement for pre-qualification work experience, the location and content of that experience may be closely prescribed (England and Wales, Hong Kong), in pro bono work or in a state organisation (e.g. Chile<sup>25</sup>) or in a variety of organisations (e.g. Germany<sup>26</sup>). Periods of work experience may, as in New South Wales, be perceived as, along with vocational courses, part of an integrated period of postgraduate “professional legal training” (Legal Professional Admission Board of New South Wales, n.d.; International Bar Association, n.d. e). The question of assessing what has been learned during a training contract stage is discussed further at 4.2.3 below.

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<sup>24</sup> For Peru, see International Bar Association, n.d. h; the Philippines, see Santos-Ong, 2012; Supreme Court of the Philippines, 2013; Spengler, n.d.; for South Korea, Kim and Cho, 2010; Korean Bar Association, n.d.

<sup>25</sup> Law Society of England and Wales, 2009.

<sup>26</sup> See Leith, 1995; Lonbay, 2001,.

### 3.6.2 The training contract in Hong Kong

The Position Paper identifies the aim of a training contract in Hong Kong as being to provide:

...the opportunity to gain experience in the basic skills and characteristics associated with the practice and profession of a solicitor of the High Court.

Under the Trainee Solicitors Rules (HKLS, n.d. c) a training contract must last for two years (although up to six months may be deducted for relevant prior experience). Some secondment to in-house practice or outside Hong Kong is permitted. The supervisor of a trainee must, under the Ordinance (s 20) be at least five years qualified. Forms of trainee contract prescribed by Practice Direction E made under Rule 8 of the Trainee Solicitors Rules (HKLS, n.d. c) require trainees to be given the opportunity to learn the principles of professional conduct and to practise a range of skills<sup>27</sup> and to have training in at least three of a specified range of practice areas.

Although individual firms may have expectations of what trainees should learn, and appraisal systems, there is no formal requirement to assess what has been learned during the training contract. Trainees are, however, required to complete at least 15 CPD points each practice year (HKLS, 2012-2013) and to complete the mandatory Risk Management Education Programme (HKLS, n.d. b).

A checklist for trainees (HKLS, n.d. a), however, provides in some detail expectations of the range of experience – both areas of legal practice and transactions to participate in – and in some cases, outcomes to be achieved. It is, however, explicitly framed as guidance and it is not clear what if any sanction is to be applied for failure to complete it. The outcomes do not, therefore, of themselves create a CEE although it is clearly the intention of HKLS (2008) that an outcomes-based approach should be taken to the training contract. No explicit statement of level of performance (e.g. Hong Kong Qualification Framework level 6 or above) is provided.

### 3.7 The OLQE

The Overseas Lawyers Qualification Examination (OLQE) for overseas practitioners who wish to transfer into the solicitors' profession in Hong Kong is overseen directly by the Standing Committee on Standards and Development of HKLS under the Overseas Lawyer (Qualification for Admission) Rules (HKLS 2013a and b). As with the conversion examination, there is no mandatory course attached, although a number of providers offer preparatory classes<sup>28</sup> and some informal online support is available (Anon, n.d. a and b). The course was reviewed by a working party of HKLS from 2001/2002 and some additional proposals for change are proposed for 2014 (HKLS, 2012c). Those who successfully complete the OLQE become entitled to practise immediately, without passing through either the PCLL or the training contract.

Under the Overseas Lawyer (Qualification for Admission) Rules made under s 4(1)(b) of the Ordinance, lawyers from other jurisdictions can be admitted if they:

- are overseas lawyers, as defined;
- are in good standing in their home jurisdiction; and
- satisfy admission and assessment requirements.

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<sup>27</sup> Communication, practice support, legal research, drafting, interviewing, negotiation and advocacy.

<sup>28</sup> E.g. IP Learning, 2013; Paul Kent Legal Training, 2013 and Lex Omnibus, 2013.

A certificate of eligibility is required certifying these criteria, but an IELTS certificate is not.

Applicants from common law jurisdictions with at least five years' experience must normally have one of:

- an undergraduate degree in law;
- a "qualification which is substantially equivalent to that granted by a Hong Kong tertiary institution and in addition an examination equivalent to the Common Professional Examination Certificate of the University of Hong Kong"; or
- a period of "not less than five years as a trainee solicitor or articled clerk";<sup>29</sup>
- and either
  - have studied or obtained experience in Contract, Tort, Property, Criminal Law, Equity and Constitutional and Administrative Law (or their equivalents); or
  - have passed the examinations prescribed by HKLS (i.e. the relevant aspects of the OLQE, which may in this case be completed prior to completion of the degree, five years' articles etc.)

and in any event, must pass the OLQE papers in Conveyancing, Commercial and Company Law and Accounts and Professional Conduct. Exemption from any of the papers is potentially available on a case by case basis.

Applicants from common law countries with less than five years' experience but with a degree or its equivalent who have completed one of

- at least two years as a trainee or articled clerk;
- at least two years post-admission experience; or
- a combination of the two of at least two years in aggregate;<sup>30</sup>

must in any event pass all the OLQE papers. Exemption on a case by case basis is not available. Although the two year period is clearly intended as an equivalent to the training contract, the guidelines for content and outcome of the training contract in Hong Kong are not applied to the period for incoming overseas lawyers.

Applicants from non-common law countries with at least five years' experience must normally pass all the OLQE papers together with an oral assessment in principles of common law. Those with at least two years' experience must normally complete a year's full time course in named common law subjects, the PCLL and at least three years' trainee and/or post admission experience.

The OLQE papers are divided into (at present) five "heads":

Head I – Conveyancing;

Head II – Civil and Criminal Procedure;

Head III – Commercial and Company Law;

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<sup>29</sup> This provision, requiring experience to have been gained in a particular role, does not therefore cover non-graduate paralegals. The five years' articles alternative to graduate entry to the profession in England and Wales has been abolished although clearly there are existing practitioners who qualified by that route. It has been replaced in practice by the legal executive qualifications which allow Chartered Legal Executives to transfer into the solicitors' profession if they wish.

<sup>30</sup> Earlier provisions that allowed an overseas lawyer working as a paralegal in Hong Kong to count that experience towards this requirement have been repealed.

Head IV – Accounts and Professional Conduct; and  
Head V – Principles of Common Law (oral).

The written assessments are 3½ hour open book examinations involving, in the case of the law papers, a sequence of short scenarios (which may contain extracts from legal documents) and short-answer questions. The accounts and professional conduct paper is split into two parts, one with short-answer questions on accounts and the other on professional conduct. The Head V oral assessment comprises 30 minutes reading time of a paper,<sup>31</sup> with an English dictionary and a law dictionary as a resource, followed by up to two hours questioning from a panel. “Standards” are set out for each head setting out outcomes and that the level required is that of “a newly qualified (day one) solicitor in Hong Kong” (HKLS, 2013a and b).

Appendix I includes a mapping of the heads of the OLQE against the 11 core Hong Kong QLD subjects, the mandatory requirements of the PCLL and the guidelines for the training contract. There is no requirement, for example, that OLQE candidates demonstrate competence in negotiation or in wills and estate management (a compulsory topic in the PCLL). OLQE graduates obtain rights of audience in the lower courts on admission without necessarily – depending on the qualification regime of their initial jurisdiction and their prior experience – either having received training or experience in advocacy, or demonstrating competence in it. Lawyers transferring through the OLQE are, however, the only Hong Kong lawyers currently formally tested as at the point of admission (implicitly a higher level than that of the PCLL).

### 3.8 Other legal professions in Hong Kong

We set out, by way of comparison, the qualification systems for other legal professions in Hong Kong. Of these the most significant at present is that for barristers, because of the joint purpose of the PCLL.

Qualification for the **Bar** (Hong Kong Bar Association, n.d. a and c) in Hong Kong mirrors the solicitors’ route at least until the compulsory elements of the PCLL are complete. Intending barristers are then required to specialise at the elective stage of the PCLL. Solicitors with at least three years’ post-qualification experience and overseas lawyers who have completed the Barristers Qualification Examination (Hong Kong Bar Association, n.d. b) then all proceed to the pupillage stage.

The Barristers Qualification Examination involves five papers (individuals may be exempted from one or more):

- Civil Law, Procedure and Evidence, Professional Conduct and Advocacy;
- Contract and Tort;
- Criminal Law, Procedure and Evidence;
- Hong Kong Legal System; Constitutional and Administrative Law, Company Law;
- Property, Conveyancing and Equity.

All apart from Advocacy are by open book written examination. The Advocacy assessment is by a skeleton argument and 30 minute submission. In the written papers, substantive law tends to be tested by way of scenario and “advise X”,

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<sup>31</sup> The 2011 paper demonstrates a variety of types of question, from the very specific (“name the major courts and tribunals in Hong Kong”) through commentary on judicial dicta to scenario-based analysis.

whilst procedural law is tested by scenario and short-form questions (Hong Kong Bar Association, n.d. e).

The Bar Association provides a statement of the standard expected in all the assessments (*ibid*: 10):

The standard expected is that of a competent junior barrister. An examiner is entitled to expect a junior competent barrister to have a good working knowledge and understanding of the subject and to demonstrate the ability to apply that knowledge and understanding correctly, and in a manner appropriate to everyday legal practice.

Although candidates have access to the High Court Library, there are no required preparatory courses.

Subject to reduction for prior experience, pupillage is of one year divided into two periods of six months, completion of each of which is on submission of a completed pupillage logbook signed by the pupilmaster. After the first six months has been completed, a limited practising certificate can be obtained (s 31 of the Ordinance), with a full practising certificate on completion of the full period. Minimum requirements for the content of the experience – which is expected to include both civil and criminal exposure – are provided (Hong Kong Bar Association, n.d. d).

Several institutions offer courses for **legal executives** (HKLS, 2012b). HKLS provides a detailed set of benchmarks for legal executive courses, including learning outcomes (HKLS, 2011). In contrast to the benchmarks established for the PCLL, the outcomes for legal executive courses are prescribed in some detail. Although a number of the mandatory topics overlap with the Hong Kong QLD and PCLL, it is clear from the language of the outcomes that their minimum level is envisaged as being lower than the Hong Kong QLD/PCLL (Hong Kong Qualification Framework level 4).<sup>32</sup> There are routes from legal executive professional diplomas<sup>33</sup> into non-Hong Kong LLBs, into the Graduate Diploma in English and Hong Kong Law and possibly, for mature students, into Hong Kong QLDs.

Some legal executive courses, such as the Diploma in Legal Studies offered by HKU SPACE (n.d. b) are also clearly intended to accommodate **paralegals**. Overseas institutions may also offer courses and accreditation to those working in Hong Kong.<sup>34</sup>

Hong Kong **notaries** must have prior qualification as a solicitor (Hong Kong Society of Notaries, n.d.). The Hong Kong Institute of **Patent Attorneys** allows some exemption from its own assessments for LLB/JD/PCLL graduates, solicitors and barristers (but the reverse is not true) (Hong Kong Institute of Patent Attorneys, n.d.). The Hong Kong Institute of **Trade Mark Practitioners** accepts membership from solicitors, barristers and others practising in the field and through a Certificate in Hong Kong Trade Mark Law and Practice which has been offered by HKU SPACE (Hong Kong Institute of Trade Mark Practitioners, n.d.).

### 3.9 Other professions in Hong Kong

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<sup>32</sup> Although statements of competency standards are being developed across a range of occupational activities by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications, (Hong Kong Qualifications Framework, n.d. a) these have not (yet) impacted on the legal services sector. They are used in some of the other professions in Hong Kong (see Appendix V).

<sup>33</sup> or similar courses such as the Diploma in Legal Studies of HKU SPACE (n.d. b).

<sup>34</sup> such as the Chartered Institute of Legal Executives, the National Association of Licensed Paralegals and Institute of Paralegals in the UK.

An outline of the qualification structures of other professions in Hong Kong, drawn from the professions represented by the Hong Kong Coalition of Professional Services, appears in Appendix V. A variety of combinations of equivalents to the training contract, and of final qualifying interview or assessment, is used.

## **4 THE WAY FORWARD?**

### **4.1. Introduction**

The remit of the research team is, within the context of a possible CEE, to explore different options for reforming and improving the current system; weighing up the advantages and disadvantages and examining feasibility, probability and implications for Hong Kong. This task can be divided into three elements, each of which informs the others:

- What is the purpose of a CEE?
- When should it be taken and at what level?
- What should it assess, and how should it be assessed?

#### **4.1.1 What is the purpose of a CEE**

If all candidates are required to take the same assessment, the purpose of that assessment may be:

- a) as with the BCAT (BSB, n.d.) in England and Wales, to filter out the bottom 10% who are thought unlikely to be successful in the next stage;
- b) positively to assess "aptitude";<sup>35</sup>
- c) to seek a consistent baseline between candidates entering from different educational backgrounds);<sup>36</sup>
- d) to manage risk by seeking a minimum level of knowledge or performance in key areas only;<sup>37</sup>
- e) to seek to ensure that a level of current legal knowledge is retained at a particular stage;
- f) to seek to ensure a level of actual performance in practice, e.g. to avoid negligence;
- g) additional purposes such as to demonstrate equivalence with the requirements of another profession or jurisdiction.

#### **4.1.2 When should a CEE be taken, and at what level?**

The purpose of a CEE to a large extent defines when it should be taken. If it is intended to filter out, to assess early aptitude or to create a consistent baseline across graduates of different LLBs or PCLLs, it is appropriate for it to take place prior to qualification. If it is intended to assess currency of legal knowledge and/or actual performance for practice, it is appropriate for it to take place at the point of qualification.

This will also define questions of level. For example, if it is important to assess whether knowledge of the law is still current at the point of qualification, it may be appropriate for the level of the assessment to be pegged to the LLB/JD or PCLL. If actual performance for practice is to be assessed, then a level higher

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<sup>35</sup>As with the LSAT used in the USA, and LNAT by some universities in the UK, to assess aptitude for entry into academic law degrees. For discussion of "aptitude tests", see LNAT, n.d.; LSAC, n.d., Baron, 2011, Dewberry, 2011; and LETR Literature Review (Webb et al, 2013, Chapter 4).

<sup>36</sup>For example, LLBs from different institutions; an LLB route or an apprenticeship route, incoming foreign-qualified lawyers, All India Bar examination or Irish final examination

<sup>37</sup>For example, substantive legal knowledge, ethics, client care.

than that of the PCLL might be expected, to allow for the additional learning in practice that has taken place during the training contract.

In countries where there is *both* a CEE of some kind *and* a requirement for a training contract, practice differs as to the timing of the CEE.

#### CEE before the training contract

In Mainland China, the national judicial examination (NJE) is taken after completion of LLB or LLM/JM and prior to a one year training contract (International Bar Association, n.d. g). In Taiwan, a bar examination is taken prior to a short vocational course and to a short training contract (Chen, 2012; Zhang, 2012). In some jurisdictions, a degree is perceived simply as providing exemption from the first stage of a diet of professional examinations, with the remainder of those professional examinations taken prior to the training contract (e.g. Japan, Sri Lanka,<sup>38</sup> Ireland).

#### CEE during or after the training contract

In Vietnam, the bar exam is taken after the training contract (Khoa, 2002; Law Society of England and Wales, 2010b). In Pakistan, an admission test, including an interview with a judge, is taken after completion of a year's training contract or pupillage (Pakistan Bar Council, n.d.). In Denmark, a written and oral assessment is taken after the training contract.<sup>39</sup>

In Ontario, at present, the Licensing Examination may be taken before or during articles and a Professional Responsibility and Practice Course is completed, and assessed, prior to the end of the period of articles (Law Society of Upper Canada, n.d.).

#### 4.1.3 What should a CEE assess, and how should it be assessed?

The concept of a CEE involves an assumption that a consensus can be reached on the topics that are sufficiently important – or sufficiently high-risk – to be assessed.

Conventional bar examinations tend to be focused on knowledge, analysis, problem solving, sometimes ethical problems and some elements of drafting. The US bar exams are possibly considered (outside the US) the archetype of a free market, common law approach to admission. It is, therefore, useful to consider comment from those with experience of them. The Society of American Law Teachers produced a set of questions in 2010 for states considering the adoption and detailed design of bar exams, including proposals to increase both validity and reliability of assessment (SALT, 2010). It should also be noted that they invited states to consider alternatives, including, in our terminology, training contracts and vocational courses (SALT, n.d.). The recent draft report of the American Bar Association Task Force on the Future of Legal Education (ABA, 2013:25) commented, of US state bar examinations:

Shifting examination design toward more emphasis on assessment of skills and less tendency to add testing on substantive subjects would favorably influence legal education.

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<sup>38</sup> Legal Studies Awareness Forum, 2012; Incorporated Council of Legal Education, n.d.

<sup>39</sup> See Advocatsamfundets, 2008; Stockholm Institute for Scandinavian Law, 1957-2010; International Bar Association, n.d. a.

Knowledge, analysis, problem solving and the like are easier to assess than other practice skills, such as research, advocacy, interviewing and negotiation. Some jurisdictions (e.g. Mauritius,<sup>40</sup> Denmark) include skills assessments, typically advocacy, in centralised or common assessment structures. A model drawing on approaches used in medicine is used in the Qualified Lawyers Transfer Scheme in England and Wales – the equivalent to the OLQE (SRA, 2012). The most distinctive aspect of the QLTS is the use of OSCEs (objective, structured clinical examinations) – short tasks involving knowledge and skills such as writing, drafting, interviewing and advocacy.<sup>41</sup> Principles adapted from medical education are also used to set and calibrate assessment standards (see ICF GHK, 2012, and Fry et al, 2012).

Assessment design needs validity, reliability, fairness and feasibility.<sup>42</sup> These are balanced by cost and resource of monitoring and quality assurance of the assessment when delivered.

### Validity

This is the alignment of the assessment with what it claims to test. It will involve decisions about the range of topics, skills and attributes tested, and the way in which they are tested. It is, for example, inappropriate to attempt to test oral advocacy skills by a completely written examination. We can also include here elements of “practice validity” – the extent to which what is expected and tested in the assessment mirrors what is actually done in practice.<sup>43</sup>

From the point of qualification, it is possible to look backwards, determining what skills, knowledge and attributes<sup>44</sup> are desirable at that point and at what level; establish where these may be best learned and test accordingly. Such an approach would be focussed on practice, but has implications wider than the CEE, possibly for all of the Hong Kong QLD, the conversion course, the PCLL and the OLQE. Full investigation of what is required for practice is not an easy task, although there is a clear trend in common law countries to attempt it (see references at section 4.2.2). Nevertheless, if the purpose of Hong Kong legal education is, as stated in the Position Statement, to fit students for a particularly Hong Kong practice – already recognised in the bilingual aspects of its education – there is a case for investigating what that practice requires.<sup>45</sup>

### Reliability

This is the consistency and rigour of the assessment. If the same assessment could be retaken by the same person, in the same circumstances, would it achieve the same result?

### Fairness

This includes assessing only those topics which candidates were told would be tested, assessing at the level candidates can reasonably be expected to have

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<sup>40</sup> Attorney-General’s Office, 2011.

<sup>41</sup> As HKLS indicates that trainees should be competent at the point of admission to exercise their “rights” of audience, there may be a case for a point of qualification assessment of advocacy competence.

<sup>42</sup> In some professions these factors are explored and mapped in some depth. See for example the approach of the General Medical Council Postgraduate Medical Education and Training Board (2007). Some of these issues are also explored by the Society of American Law Teachers (2010).

<sup>43</sup> Approaches to common assessment need not exclude an element of assessment being devolved to employers.

<sup>44</sup> Including an ability to continue to learn and to improve one’s practice focused on the future.

<sup>45</sup> At its simplest, it might result in a mandatory topic relating to financial services in the LLB/JD/PCLL.

reached at the point the assessment is taken and allowing for diversity between, for example, men and women or older or younger candidates, and candidates from different backgrounds.<sup>46</sup>

## Feasibility

This involves more pragmatic issues. More usefully effective assessments can require greater resources. Assessment of skills, and attributes such as “professionalism”, can be more difficult, more resource intensive, and more expensive.<sup>47</sup> Where monitoring and quality assurance takes place not only in relation to the assessment, but also of the course or workplace experience which leads up to the assessment, there is an additional burden. There is, of course, not simply a question of increased resource or increased cost, but on whom it falls: regulator, profession; employers; institutions or candidates.

### 4.2 Possible responses or solutions

The research team has been asked specifically to set out some possible responses or solutions in this document. This list of possible approaches is not intended to be exclusive, but to engage participants and to inform discussion and debate. For the purposes of this consultation document, this part of the discussion focuses on

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<sup>46</sup> This question, as it affects native English and native Chinese speakers, is one of particular significance for Hong Kong.

<sup>47</sup> See, for example, the discussion, in England and Wales, of a balance between a desire for a common measure against feasibility in proposals to centralise assessments on the Bar Professional Training Course: (BSB, 2008: 61-62):

#### **Central assessment**

147. Both the Neuberger and the Wilson Reports contain recommendations that the final examinations should be set and marked centrally. This would have the benefit of ensuring a common exit standard across all the providers.

148. We agree that, so far as possible, papers should be set and assessed centrally for the reason given; but we do not think that it is feasible to apply central assessment across the entire course.

149. The most obvious case for this treatment are the examinations in the knowledge-based parts of the course. The same [multiple choice questions] MCQs and [short answer questions] SAQs can be set to all students on the same day and marked according to a commonly agreed set of marking matrices. MCQs could be marked electronically. The options are also potentially capable of being set and assessed centrally.

150. In the skills areas the exercises themselves could be set centrally, but assessment in some cases is much more difficult. Advocacy exercises and conferencing can only be judged *in situ* over a period of time. The exercises themselves could be set centrally. While it might be argued that each student should be assessed by two examiners, one from outside his or her [course] provider, such a system would in our view complicate the administration of the examinations and distinctly add to their cost. In the skills areas such as advocacy and advising in conference we do not think that the BSB can go beyond establishing a framework for a common set of exercises and a common marking scheme.

#### **Board of Examiners**

151. To carry into effect the proposal that examinations should be centrally set and marked the BSB will have to set up a central Board of Examiners or similar body to oversee the process. The Board should contain a mixture of experienced practitioners who will have a good sense of the level and type of problems which should be set, persons with experience of Examination Boards, and representatives of each of the [course] providers. It would be necessary to have sub-groups to deal with each of the papers. ....

152. Centralisation will emphasise the importance of external examiners, especially in the SAQs, opinion-writing and drafting, advocacy and advising in conference. A strong and active body of external moderators will also be required; but centralisation should simplify the work of the moderators.

the purpose, timing and level of assessment, and questions of feasibility. There is also an exploration of the advantages and disadvantages for the regulator, candidates, employers and providers. It is assumed that the common objective of all approaches is to secure the best possible provision of legal services for the client.

#### **4.2.1 Retain the status quo**

A “no change” option is deliberately included. The existing qualification system is well-known and has a developed supporting infrastructure. It can be argued that there is already sufficient flex within it to allow individual providers, such as the three QLD/PCLL providers, to adjust their programmes to meet the developing and changing needs of employers or, indeed, as in England and Wales, to develop PCLLs tailored to particular legal sectors.

The formalisation of a distinct legal executive profession is too recent for its implications on the solicitors’ profession to be seen. It may develop over time as a distinct profession, taking up some of the workforce demand for lawyers of a particular kind. On the other hand, to the extent that the existing system does not produce lawyers with the right knowledge and skills; or produces too many part-qualified graduates, or too few qualified lawyers, retaining the status quo leaves it to the market to address questions of bottlenecks and competition from foreign lawyers.

#### **4.2.2 Address the concerns by means other than a CEE**

Although the remit of this consultation is that of a CEE specifically, it is, of course, possible that concerns over the existing structure could be addressed by other means.

##### **Review the whole of the qualification structure**

A different approach to the concerns identified in section 2.2 could involve a complete review of the qualification system, including curricula, outcomes, standards and assessments at each stage rather than the CEE element in isolation. This could not, of course, be completed in the very short term and could involve a great deal of additional empirical enquiry. It would also involve retaining the status quo whilst the enquiry took place and, of necessity, consulting with the Bar.

##### **Prescribe demonstration of competences or outcomes instead of a separate CEE**

In an increasing number of jurisdictions, a set of outcomes or competences tied to the point of qualification has been created.<sup>48</sup> In certain Australian states and in New Zealand, such sets of competences can be used to help promote consistency of result amongst candidates who have pursued alternative educational routes. In the recent examples of Canada and the USA, for example, the task of determining the competences was undertaken with the aid of considerable empirical work (Federation of Law Societies of Canada, 2012; National Conference of Bar Examiners, 2012).

Once a set of such competences has been created it is then possible to determine sub-strata of lower level competences to be achieved at earlier stages of the

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<sup>48</sup> For example, APLEC 2002, 2012; Law Society of Scotland, 2009, 2010, n.d.; Webb et al, 2011; SRA, 2011, 2012. See also the LETR final report for England and Wales (Webb et al, 2013).

qualification system. A common set of competences designed for practice in Hong Kong could be applied to both local candidates and overseas transferees.

In such a model, the regulator might, for example, concern itself only with the setting of outcomes and the standards by which they are demonstrated, and might choose:

- to allow complete freedom of choice in the means by which a candidate chooses to acquire the competences; or
- to prescribe at least some parts of the system by which the competences should be acquired (e.g. the QLD and PCLL but not the length of the training contract).

If there was complete freedom of choice, suitable mature candidates might qualify earlier, as they might be able to demonstrate the competences quickly on the basis of prior experience in the workplace. However, without the protection of having to complete a prescribed period of study or training contract, candidates might find themselves under pressure (from employers or by reason of cost) to present themselves for assessment before they are ready. We are not aware of any jurisdiction which has yet taken this approach and, as noted above, a non-graduate option is not under discussion for Hong Kong.

Those jurisdictions which use such frameworks prescribe at least some of the system. Established structures such as the LLB, JD or PCLL might be used as preparation for assessment of the competences. Although a number of jurisdictions are attempting the competences route, there is so far little history through which to examine the effect of this approach.

[Create more PCLL places/accredit additional PCLL providers rather than create a CEE](#)

The question of numbers was previously considered when the third university joined the Hong Kong QLD/PCLL providers group (LegCo, 2004). It was recently revisited by the three PCLL providers:

Questions about the entry requirements for the PCLL, the limited number of places available in the PCLL programmes and alternatives to this, as well as the impact on the employment market of large numbers seeking entry to the profession, are examples of matters that can and should be reviewed.  
Feng et al (2013:15)

Although it would require legislative approval, a bottleneck could be addressed by creating more PCLL places or providers. This would provide increased choice for students – with the potential for increased variety and tailoring in PCLL curricula. If additional students pass the PCLL and go on to qualify, it could increase the number of Hong Kong lawyers in a position to compete with foreign practitioners. The regulatory infrastructure for monitoring the PCLL already exists and could be extended to additional suitable providers, limiting any increase in regulatory burden. We understand from HKLS, however, that it may not have sufficient resources to monitor additional PCLL providers.

However, increasing PCLL numbers does not of itself address any existing inconsistencies in standard, or guarantee training contract places for a larger number of PCLL graduates. Nor does it guarantee the aptitude or quality of the additional PCLL students.

#### **4.2.3 Adapt existing structures**

Alternatively, it might be possible to adapt existing structures to address the concerns identified. There may be some advantages in resource, familiarity and regulatory burden in doing so.

#### Centralise the assessments of the PCLL

This model would retain the separate PCLL courses, but demand that students at all of the institutions took the same, pooled, assessment. There are divergent schools of thought about centralising assessments. This is demonstrated, for example, by the situation in England and Wales where ILEX Professional Standards prides itself on use of centrally set assessments for trainee legal executives; the Solicitors Regulation Authority has rejected centrally set assessments for intending solicitors and the Bar Standards Board has adopted a mixture of locally and centrally set assessments for intending barristers (see BSB, 2008; 2013).

If a central assessment were set for the PCLL – and historically the experiment has been made – it would, if it covered core subjects, need to involve the Bar. In terms of regulatory monitoring for HKLS, the regulatory burden for HKLS might be lowered in terms of regulating the assessment itself, as a single set of papers and tasks.

The regulatory burden might, however, be increased in terms of quality assuring the performance of the different institutions against the centralised assessment and co-ordinating the setting, marking and moderating of the assessment, unless, as with the conversion examination, this was delegated to an outside organisation, or the additional burden was placed on the providers. It would also appear, see Appendix II, that at present the curricula of the three providers differ quite substantially in structure and a considerable degree of adjustment might need to take place to render centralised assessment, even of the core mandatory subjects, possible. A centralised assessment would affect the providers' ability to exercise academic autonomy in design and assessment of their courses. In addition, to the extent that any of the providers is perceived as targeting its course at employment in a particular legal sector, that effect would be removed by a central assessment.

#### Assess the training contract at equivalence with the OLQE instead of a separate CEE

"Assessing" the training contract, or what has been learned in it, has been attempted. Such an assessment may be on-going and formative during the training contract, but targeted at standards set for the point of admission. It may, as with the work-based learning pilots conducted by the Solicitors Regulation Authority and ILEX Professional Standards in England and Wales, involve significant contribution by employers to both support and assessment.<sup>49</sup> As indicated above, in some jurisdictions, the training contract and vocational course are perceived as components of a single educational structure, or as alternatives achieving the same end.

A training contract could be assessed by reference to a set of competences; or through a combination of employer sign-off and discrete course and/or assessments,<sup>50</sup> possibly adapted from the OLQE or on identified risk areas such as ethics. The opportunity could be taken to review the OLQE at the same time.

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<sup>49</sup> See SRA, 2009; IWBL, 2010; BMG Research, 2012; ILEX Professional Standards, n.d a, b, c.

<sup>50</sup> In some jurisdictions, although the training contract itself may not be formally assessed, short courses on high risk aspects of practice, such as accounts or ethics, are, however, sometimes mandatory during the training contract and these may be formally assessed. Some of the other

Such an approach would require trainees to be given opportunities to undertake work that will allow them to reach assessment standard. There would be challenges in creating an assessment that is sufficiently precise to provide reassurance as to consistency, whilst being sufficiently flexible to allow for the wide variety of work carried out in legal practice.<sup>51</sup> Some firms will, however, already have well-developed internal mechanisms for appraising trainee performance which could be harnessed to a training contract assessment, although the additional requirements could hamper some firms in taking trainees. The extent to which existing HKLS training contract monitoring could be extended into moderation and checking of employers' assessments of trainees, or whether this process – and the process of assessment itself – could be delegated to another organisation, or to the providers, would also be a factor in assessing any increase in regulatory burden.

#### Extend the OLQE as a self-standing CEE to all applicants for admission

The basic infrastructure already exists to administer the existing OLQE to all applicants for admission. A centrally set written examination is comparatively easy to create and check. It could be administered in secure surroundings to a large number of candidates simultaneously.<sup>52</sup> Preparatory courses, as for the OLQE, need not be prescribed, but the market might ensure that they were available to those with the personal resources to take them.

There would be a greater burden of marking and moderation of scripts. The market for preparatory courses, much of which is in the private sector, could expand, although this might then put pressure on HKLS to monitor and quality assure providers of preparatory courses in a way they currently do not. Providers of PCLLs and other law courses, as well as training contract supervisors, could choose, or find themselves obliged by the market, to help trainees prepare. For the PCLL providers, there might be issues of conflict between academic autonomy and pressure to teach to the test.

It should, however, be noted (see Appendix I) that the scope of the existing OLQE assessment does not, at present, replicate the topics and skills that candidates following the PCLL + training contract route are required to cover. In this model, the scope of the OLQE should be reviewed to determine what it should assess. If adjustments were substantial, then this would amount, in effect, to design of a new self-standing CEE.

#### 4.2.4 Design fresh CEE structures

##### Set a new self-standing CEE prior to entry into the training contract in addition to the PCLL

Placing a CEE at this point seeks to capture knowledge, skills and attributes prior to the trainee entering the workplace. Its results may, therefore, be of assistance in recruiting. It does not, however, predict how the knowledge, skills and attributes might be applied in practice. Unlike the existing PCLL assessments, such a CEE could focus specifically on topics of relevance to the solicitors'

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professions in Hong Kong include reports on what has been learned in practice as part of their qualification procedures (see Appendix V).

<sup>51</sup> Interviewing or advocacy, for example, may be regular activities for some trainees, and completely unknown to others. Ethical problems may be dealt with routinely by some trainees, but escalated to senior lawyers in other organisations.

<sup>52</sup> For a detailed example of the challenges of setting, marking, moderating and quality assuring a centralised assessment, see BSB, 2013.

profession. Alternatively, it could, as indicated above, focus principally or solely on high risk areas of interest to the regulator, rather than repeating the PCLL topics.

There is an additional burden on trainees in taking, possibly very close together, both PCLL and CEE assessments. It is likely, therefore, that there would be pressure on the PCLL providers – and possibly on the QLD – to begin to teach to the CEE. To the extent that the PCLL did not provide direct preparation for the CEE – as in some jurisdictions where there is a self-standing bar exam without any mandatory vocational course – an open market in “cramming” courses can involve additional financial pressure on individual candidates.

Whether this model would increase the regulatory burden may involve a question of priorities. It would be possible, for example, for the regulator to decide to monitor only the self-standing CEE, and lighten regulation of other elements, such as the PCLL. It is the view of HKLS, for example, that it would not be necessary for external examiners to monitor course materials and classes each semester, but to move to an audit of PCLL provision on a 2-3 year cycle. As indicated above at 4.1.3, there are significant resource issues if the CEE is to test skills as well as knowledge.

A related approach would involve sharing the assessment load between the PCLL and a CEE. For example, the skills component might be provided by the PCLL assessments, with more knowledge-based components assessed in a separate CEE written examination. Both assessments could contribute to the qualification threshold in pre-determined percentages. The regulatory burden would then be split between at least some elements of the PCLL and the new CEE. Nevertheless, the providers might still need to assess the subjects covered in the CEE in order to confer their university awards.

A CEE at this point would not, however, address issues of inconsistency with the OLQE. It would, however, be possible to align the design of such a CEE with the OLQE, so that the OLQE measured the same things, but at a higher level; or assessed matters which are learned only during the training contract.<sup>53</sup>

#### Set a new self-standing CEE at the point of qualification

Placing a CEE at this point may seek to assess whether knowledge of the law acquired during the LLB/JD or PCLL remains current. Alternatively, it may seek to assess how a trainee will perform at the point of qualification. A CEE at this point could be linked with the OLQE, an option discussed further above at 4.2.3. If the CEE is a broad assessment, rather than, for example, focussed solely on high-risk issues, there are, as noted above, challenges in merging a CEE with the OLQE without also redesigning the OLQE. This is because of the differences between the topics and skills required in the PCLL and the Hong Kong training contract which are not tested in the OLQE.

Similar issues arise as for a CEE prior to entry into the training contract. Here, however, there might be pressure on the employer to pay for cramming courses and/or to give study leave to candidates. There is a risk for employers in taking on trainees who do not ultimately pass the CEE and become unable to qualify. Where a CEE can be taken *during* a training contract, there may be a need for the regulator to require employers to provide study leave.

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<sup>53</sup> This exercise has been carried out in England and Wales, where the outcomes of the Qualified Lawyers' Transfer Scheme (the OLQE equivalent) have been mapped against the outcomes of the LPC (the PCLL equivalent) (SRA 2011, 2012).

### 4.3 Number of attempts

Finally, a question to be determined in any discussion of assessment is the extent to which a candidate should be permitted to retake it. There are, again, two schools of thought. In some jurisdictions a limited number of attempts is permitted before a candidate is either terminated or obliged to re-take any mandatory courses again. This approach may be informed by fears of decreasing currency in knowledge over time, or thought of as a fairness to very weak candidates. In other cases it is a matter of principle that a candidate should be allowed to sit assessments as often as they choose to do so, resulting in candidates expending time and money in continually resitting assessments sometimes over very many years. It is likely that candidates who have taken multiple attempts to pass assessments are at a disadvantage in the employment market.

*Q 7 Are you in favour, in principle, of the adoption of a CEE?*

*If so, why?*

*If not, why?*

*Q 8 If a CEE is adopted, what should its primary purpose be?*

*Q 9 If a CEE is adopted, when should it be taken, and at what level?*

*Q 10 If a CEE is adopted, what should it assess? How should those things be assessed?*

*Q 11 If a CEE is adopted, what resource, monitoring and quality assurance issues arise?*

## 5 CONCLUDING COMMENTS

The question of a CEE for intending solicitors in Hong Kong involves exploration of a complex set of variables, and understanding the position of a range of stakeholders: clients, candidates and their families; providers; employers;

practitioners (barristers, legal executives and solicitors); employers; regulators. The research team invites all those who feel able to contribute to do so.

*Q 12 Do you have any other suggestions or comments that should be taken into account?*



HK visiting student	QLD/as internal	Other degree/qualification Conversion Course)	recognised (Hong Kong	law	Overseas lawyer route (OLQE)
<b>Training contract (guidelines)</b>					
<ul style="list-style-type: none"> <li>• Principles of professional conduct</li> </ul>					
<ul style="list-style-type: none"> <li>• Communication</li> </ul>					
<ul style="list-style-type: none"> <li>• Practice support</li> </ul>					
<ul style="list-style-type: none"> <li>• Legal research</li> </ul>					
<ul style="list-style-type: none"> <li>• Drafting</li> </ul>					
<ul style="list-style-type: none"> <li>• Interviewing</li> </ul>					
<ul style="list-style-type: none"> <li>• Negotiation</li> </ul>					
<ul style="list-style-type: none"> <li>• advocacy</li> </ul>					
<b>At least three of:</b>					
<ul style="list-style-type: none"> <li>• Banking</li> </ul>					
<ul style="list-style-type: none"> <li>• Civil litigation</li> </ul>					
<ul style="list-style-type: none"> <li>• Commercial</li> </ul>					
<ul style="list-style-type: none"> <li>• Company</li> </ul>					
<ul style="list-style-type: none"> <li>• Criminal litigation</li> </ul>					
<ul style="list-style-type: none"> <li>• Family</li> </ul>					
<ul style="list-style-type: none"> <li>• Insolvency</li> </ul>					
<ul style="list-style-type: none"> <li>• Intellectual property</li> </ul>					
<ul style="list-style-type: none"> <li>• Property</li> </ul>					
<ul style="list-style-type: none"> <li>• Trusts, wills and probate</li> </ul>					

## APPENDIX II THE PCLL MODELS AVAILABLE IN HONG KONG

This table has been generated from examination of publicly available information. It is, therefore, a simplification. In particular it may not clearly show the placing of subjects and skills taught pervasively or embedded into other subjects.

	University of Hong Kong	City University of Hong Kong	Chinese University of Hong Kong
<b>Mode of delivery</b>	Full and part-time	Full time (part-time is suspended for the 2013 cohort and final part-time cohort in 2014-2015)	Full-time
<b>Fees</b>	Full time: Government-funded: HK\$42,100* (HK\$135,000* for 'non-local' students)	Government-funded: HK\$42,100 (HK\$100,000 for non-local students)	Government-funded: HK\$42,100* (HK\$100,000* for 'non-local' students)
	Self-funded: HK\$126,000	Self-funded: HK\$4,030 per credit (2012/2013)	Self-funded: HK\$138,600 [2013-2014 subject to approval]
	Part-time: HK\$147,000 (2013/2014)		
<b>Compulsory subjects</b>	<b>4 core subjects</b>	<b>12 core subjects</b>	<b>5 core subjects</b>
• <b>Property law practice</b>	Property Transactions I	Conveyancing practice	Property and Probate Practice
• <b>Wills and estate management</b>		Wills and Probate practice	
• <b>Criminal litigation practice (including advocacy)</b>	Criminal Litigation	Litigation Writing and Drafting Criminal Litigation Practice	Criminal Litigation Practice
• <b>Civil litigation practice (including advocacy)</b>	Civil Litigation	Litigation Writing and Drafting Civil Litigation Practice	Civil Litigation Practice
• <b>Commercial and corporate law practice</b>	Corporate and Commercial Transactions I	Commercial Writing and Drafting Corporate and Commercial Practice	Commercial practice
<b>Pervasive subjects</b>			
• <b>Advocacy</b>		Interlocutory advocacy and interviewing Trial Advocacy Mediation and Negotiation	
• <b>Professional conduct (including e.g. client care and professional self-development)</b>	Professional Practice and Management	Professional Conduct and Practice	Professional Practice
• <b>Trust and office accounts and financial management</b>		Understanding Financial Statements and Solicitors' Accounts	
• <b>Client care</b>		Professional Conduct and Practice	
• <b>Revenue practice</b>	[pervasive]	[pervasive]	[pervasive]

	University of Hong Kong	City University of Hong Kong	Chinese University of Hong Kong
<b>Elective subjects</b>	<b>Three electives</b>	<b>Two electives</b>	<b>Five electives (* = mandatory for intending barristers)</b>
• <b>Advanced litigation</b>	Trial advocacy Personal injury litigation Property Litigation	Bar Course Personal Injuries Practice	Writing and drafting litigation documents* Trial Advocacy*
• <b>Family law</b>	Matrimonial Practice and Procedure	Family Law Practice	
• <b>Corporate finance</b>	Corporate and Commercial Transactions II Listed companies		Corporate Finance
• <b>China law transactions (in Chinese)</b>	China Practice Use of Chinese in Legal Practice Mediation in Chinese	Foundations in Mainland related Legal Transactions	Writing and Drafting Litigation Documents (in Chinese) China Practice Writing and Drafting Commercial Documents (in Chinese)
• <b>Environmental law</b>			
• <b>Administrative/public law</b>			
• <b>Banking</b>		Financial regulatory Practice	Lending and Finance
• <b>Intellectual property</b>	Commercial Dispute Resolution	International Arbitration practice	Alternative Dispute Resolution
			Writing and Drafting Commercial Documents
	Property Transactions II Wills, trusts and estate planning		
			Conference skills and opinion writing *

### APPENDIX III PCLL NUMBERS

Information kindly provided by HKLS or derived from information on the website of the Standing Committee on Legal Education and Training (2012).

The number of applications (italic) for admission to PCLL and the number of admissions (bold)	2008/09	2009/10	2010/11	2011/12	2012/13
<b>City University</b>	<i>437 (261 full-time, 176 part-time)</i>	<i>607 (379 full-time, 228 part-time)</i>	<i>435</i>	<i>520</i>	<i>700</i>
	<b>103 (79 full-time, 24 part-time)</b>	<b>126 (94 full-time, 32 part-time)</b>	<b>120</b>	<b>138</b>	<b>161</b>
<b>Chinese University</b>	<i>303</i>	<i>340</i>	<i>391</i>	<i>453</i>	<i>426</i>
	<b>76</b>	<b>101</b>	<b>145</b>	<b>150</b>	<b>150</b>
<b>Hong Kong University</b>	<i>270</i>	<i>504</i>	<i>622</i>	<i>673</i>	<i>970<sup>54</sup></i>
	<b>133 (133 full-time)</b>	<b>292 (246 full-time, 46 part-time)</b>	<b>275 (226 full-time, 49 part-time)</b>	<b>320 (240 full-time, 80 part-time)</b>	<b>322 (242 full-time, 80 part-time)</b>
<b>Total applications (some applicants may have applied to more than one provider or for more than one mode of study)</b>	<i>1010</i>	<i>1451</i>	<i>1448</i>	<i>1646</i>	<i>2096</i>
<b>Total admissions</b>	<b>312</b>	<b>519</b>	<b>540</b>	<b>608</b>	<b>633</b>

<sup>54</sup> Some applicants applied for both full-time and part-time courses.

## APPENDIX IV SUMMARIES OF LEGAL QUALIFICATION APPROACHES DESCRIBED IN THIS PAPER

There is some simplification in this table as, for example, some jurisdictions have separate routes for those wishing to become prosecutors. “LLB” includes equivalent JD programmes and GDL/PCLL-like graduate conversion courses. Where there are multiple professions, that closest to the role of a solicitor has been selected.

	Degree	Post degree common assessment	Mandatory vocational course <sup>55</sup>	Training contract/articles	Point of qualification common assessment
<b>Australia</b>					
<b>New South Wales</b>	LLB/Diploma		Practical legal training including approx. 4 months work experience.		Outcomes set
<b>Queensland</b>	LLB		Practical course or 1 year	Legal Training	Outcomes set
<b>Canada</b>					
<b>Ontario (current system)<sup>56</sup></b>	LLB		Licensing examinations 10 months articles Both to be completed within a 3 year period.		Outcomes set
<b>Chile</b>	LLB (5 years)			6 months	
<b>China</b>					
<b>Hong Kong SAR</b>	Qualifying law degree		PCLL	2 years (including RME course)	Outcomes set
<b>Mainland</b>	LLB	National Judicial Examination	JM	1 year	
<b>Denmark</b>	LLB and LLM			3 years (including 20 days in the classroom)	Advocacy test and written examination
<b>England and Wales</b>	LLB/exemption for CILEx/		Legal Practice Course	2 years (including Professional Skills Course)	Some outcomes set
<b>Germany</b>	LLB	First state examination	Some study contract 2 years	prescribed during formal training	Second state examination
<b>India</b>	LLB				All India Bar exam

<sup>55</sup> Does not include preparatory or “cramming” courses for bar examinations if participation in them is not mandatory.

<sup>56</sup> An alternative, involving a more integrated short vocational programme followed by a placement is being tested (Law Society of Upper Canada, 2012). It is intended to test cohorts of students pursuing both routes by the same final assessment.

	Degree	Post degree common assessment	Mandatory vocational course <sup>57</sup>	Training contract/articles	Point of qualification common assessment
<b>Republic of Ireland</b>	LLB //professional preliminary examination	Final examination	PPC I and II during training contract 2 years		
<b>Japan</b>	JD/preliminary examination	National Bar Examination	1 year Legal Training and Research Institute		
<b>Malaysia<sup>58</sup></b>	LLB	Certificate in Legal Practice examination		9 months	
<b>Mauritius</b>	LLB		Law Practitioners Vocational course	1 year	
<b>New Zealand</b>	LLB		Professional Course or 1 year	Legal Studies	Outcomes set
<b>Pakistan</b>	LLB			1 year	Admission test and judicial interview
<b>Peru</b>	LLB (5 years)				
<b>Philippines</b>	LLB (as postgraduate degree)				Philippine Bar Examination
<b>Scotland</b>	LLB		Diploma in Professional Legal Practice	2 years	Outcomes set
<b>Singapore<sup>59</sup></b>	LLB or Part A bar examinations		Preparatory course and Part B bar examinations 6 months		
<b>South Africa</b>	LLB (4 years)/5 years articles route		Short course + 2-5 years or Full time course + 1 year		Attorneys' Admission examination (may be taken during or after articles)

<sup>57</sup> Does not include preparatory or "cramming" courses for bar examinations if participation in them is not mandatory.

<sup>58</sup> See Malaysian Bar, 2012; n.d..

<sup>59</sup> See Ministry of Law, n.d.

	Degree	Post degree common assessment	Mandatory vocational course <sup>60</sup>	Training contract/articles	Point of qualification common assessment
<b>South Korea</b>					
<b>Old system</b>	LLB	Korean Bar examination	Judicial Research and Training Institute course (2 years)		
<b>New system</b>	JD				Korean Bar Examination
<b>Sri Lanka</b>	LLB /professional preliminary examination	Professional final examination	6 months		
<b>Taiwan</b>	LLB	Bar examination	Lawyers Training Institute (1 month)	5 months	
<b>Thailand</b>	LLB		1 month (assessed)	6 months (followed by exam)	
			or		
			1 year apprenticeship + examination		
<b>USA</b>	JD/alternative e.g. law office program				State bar examination
<b>Vietnam</b>	LLB (4-5 years)		Training course (6 months)	2 years	Bar Examination

<sup>60</sup> Does not include preparatory or “cramming” courses for bar examinations if participation in them is not mandatory.

## APPENDIX V SUMMARIES OF OTHER PROFESSIONAL QUALIFICATION STRUCTURES IN HONG KONG

Because this list is provided for comparison only, only entry routes for domestic graduate candidates are shown. There is some necessary simplification. Several professions provide a number of grades of membership, and a full or "member" grade has been chosen for the purposes of comparison.

	Degree	Post degree common assessment	Mandatory vocational course	Practice period	Point of qualification common assessment
Hong Kong Institute of Architects (2013)	Degree	Academic Qualifying Assessment for graduates of non-recognised schools only		12-24 months practice experience	8 written papers <sup>61</sup> + professional interview
Hong Kong Institute of Certified Accountants (n.d.)	Accountancy degree/non-accountancy degree + conversion programme/		Practical experience based on a competency framework 3-5 years 4 assessed modules studied in parallel		Final examination (2 written papers)
Hong Kong Chartered Secretaries (n.d.)	Degree		Preparatory courses at HKU SPACE	3-6 years work experience (before, after or during study)	Qualifying Examination <sup>62</sup>
Dental Council of Hong Kong (2013) <sup>63</sup>	Dental degree/other qualification			4 years	Licensing examination (written and practical assessments) <sup>64</sup>
Hong Kong Institute of Engineers (n.d.)	Degree/equivalent		CPD in parallel with practice period	2-3 years pre-approved formal training + 1-2 years responsible experience Or 5 years general experience + 1 year's responsible experience	Professional assessment (report on practice period, portfolio of work, CPD record) + interview + essay test
Hong Kong Institute of Landscape Architects (n.d.)	Accredited academic qualification			2 years	Professional practice examination (written test and oral test)

<sup>61</sup> Some of the papers may be taken after 12 months' experience.

<sup>62</sup> Graduates of specific masters degrees at City U, Open University of Hong Kong and Hong Kong Polytechnic University are exempt from the examination.

<sup>63</sup> A statement of competences for the degree and licensing examination stages is available (DCHK, 2009).

<sup>64</sup> Graduates of a specific HKU degree are exempt from the examination.

		<b>Degree</b>	<b>Post degree common assessment</b>	<b>Mandatory vocational course</b>	<b>Practice period</b>	<b>Point qualification common assessment</b>	<b>of</b>
Medical Council of Hong Kong (2013)		5 years' medical training including internship	Licensing examination (knowledge, medical English and clinical) <sup>65</sup>		1 year internship		
Hong Kong Institute of Planners (2011)		Degree/diploma			1 year	Qualifying Examination <sup>66</sup>	
Hong Kong Institute of Surveyors (n.d.; 2012)		Degree		Pre-qualification learning	structured 2 -3 years <sup>67</sup> (report on practice period and on structured learning)	Practical task Assessment of Professional Competence interview	+

<sup>65</sup> Graduates of HKU and Chinese U are exempt from the internship and licensing examination.

<sup>66</sup> Graduates of a specific HKU degree are exempt from the examination.

<sup>67</sup> A statement of core competencies is provided.

## APPENDIX VI RESEARCH TEAM

### Jane Ching



Jane Ching is Professor of Professional Legal Education at Nottingham Law School, the law faculty of Nottingham Trent University in England. She is a co-director of its Centre for Legal Education. She is a solicitor and her PhD work was on the learning of early career litigation solicitors.

She has worked on projects in the UK for the Council for Licensed Conveyancers and Solicitors Regulation Authority. The latter involved a substantial project involving the testing of performance by portfolio at the point of qualification for intending solicitors (the "work-based learning pilot"). Jane was a member of the multi-institution research team working on the Legal Education and Training Review for England and Wales.

Jane was involved in the initial design for the training of local tutors for the Law Society of Hong Kong Risk Management Education programme. She has acted as an external advisor on a tenure application for one of the Hong Kong universities and supervises a Ph D student exploring professional legal education in Mainland China.

### Pamela Henderson



Pamela Henderson is a senior lecturer at Nottingham Law School, teaching across a wide range of undergraduate, postgraduate and practitioner courses, including those for intending solicitors and trade mark attorneys. She is a solicitor and member of the Centre for Legal Education.

Pamela's main area of research interest is legal education, especially at the vocational and practitioner career stages. She participated in the work-based learning pilot. More recently, she was commissioned by the Solicitors Regulation Authority to undertake a comprehensive, research-based review of its CPD Framework for solicitors in England and Wales, which was published in 2012.

### Jane Jarman



Jane Jarman is a reader at Nottingham Law School. She is a solicitor and a member of the Centre for Legal Education.

She is a specialist in curriculum design and development of qualification frameworks and courses for practising legal professionals. Jane designed the new vocational framework for trade mark attorneys in the United Kingdom in 2011. She has a special interest in insurance litigation, professional conduct, regulation and ethics, Solicitors' Accounts Rules issues and common breaches, risk management for solicitors, anti money laundering legislation and enforcement, regulation and compliance issues in England, Wales and Northern Ireland as well as in relation to the Law Society of Hong Kong Risk Management Education in Hong Kong.

## Paul Maharg



Paul Maharg is Professor of Law in the College of Law, Australian National University, and is currently setting up a legal education centre in the College. He also holds a 0.2 post as Professor of Legal Education at Nottingham Law School.

Prior to this he was a Professor of Legal Education at Northumbria University School of Law and Professor of Law in the Glasgow Graduate School (GGSL), University of Strathclyde. There, he was Co-Director of Legal Practice Courses, and Director of the innovative Learning Technologies Development Unit at the GGSL, as well as Director of the two-year, JISC/UKCLE-funded project, SIMPLE (SIMulated Professional Learning Environment – <http://simplecommunity.org>) and consultant to the JISC/HEA Simshare project (<http://www.simshare.org.uk>).

Paul was a member of the multi-institution research team working on the Legal Education and Training Review for England and Wales. He is a visiting professor at the University of Hong Kong.

## Avrom Sherr



Avrom Sherr was Director of the Institute of Advanced Legal Studies from 2004 to 2012 and was Deputy Dean of the School of Advanced Legal Studies from 2011 to 2012. He joined the Institute in 1995 as the founding Woolf Professor of Legal Education, a research chair. Prior to joining the IALS, after teaching at the University of Warwick for 16 years, he was the first Alsop Wilkinson Professor of Law at the University of Liverpool and Director of the Centre for Business and Professional Law at Liverpool.

His main areas of interest have been the development of legal education, the sociology of the legal profession, ethics in professional work and the provision of legal services. He has also written in the area of freedom of protest, discrimination relating to AIDS/HIV and issues of welfare rights provision within health care. He was the principal architect of assessment of legal competence in the development of legal aid and legal services. Since 1989 he has been fully involved in taking forward the research concepts and refining them in an original approach. This has taken the legal profession forward into an assessment of the quality of their own legally aided work, ensuring the quality of legal services received by the public. Recent work has also included two projects looking at On-line Dispute Resolution.

He is the founding editor of the International Journal of the Legal Profession, was the project leader producing the seminal report "Willing Blindness" on regulation of the legal profession, and has coordinated a number of trans-European projects on legal ethics, money laundering, legal and accountancy practitioner defaults and discrimination. He was a member of the Legal Services Commission Quality Assurance Joint Working Group and of the Lord Chancellor's Advisory Committee on Legal Education and Conduct. He was Chair of the Advisory Board & Strategy Committee of UK Centre for Legal Education, and the Advisory Committee of the Office of the Independent Adjudicator for Higher Education. He is Chair of the Hamlyn Trust and the Advice Quality Standards Project Committee. His recent

work includes the Legal Education and Training Review funded by the Solicitors Regulation Authority, the Bar Standards Board and ILEX Professional Standards.

He has visited Hong Kong on a number of occasions and has spoken at each of the University Law Schools and to the profession. In 1991-1992, he received a British Council Grant to Review and Consult with Hong Kong University regarding teaching methodology in professional qualification courses.

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## RESPONDING TO THIS CONSULTATION DOCUMENT (ENGLISH)

Name of responding person:

Name of organisation (If responding on behalf of an organisation):

Responses will be published on the HKLS website in one of two ways. :

- I want my response to be included in a summary of anonymous responses; or
- I want my name or that of my organisation to be listed on the website as a respondent.

Occupation (eg PCLL student, solicitor, judge, other interested person, etc):

In submitting a response, you are confirming your understanding that:

- All responses, whether published in summary or not, will be held and processed for the purposes of the consultation on a common entrance examination in Hong Kong.
- Your participation is voluntary and that you are free to withdraw at any time up to 14<sup>th</sup> February 2014 without giving any reason and without any negative consequences. You can contact the research team with any questions or complaints, or to withdraw, by e-mailing: NLS.CEEConsultation@ntu.ac.uk
- Your responses will feed into the consultation project, forming the shape of future research, and any useful insights you provide may be used in reports.
- Responses will be stored by members of the research team, and, unless published in summary, will only be accessible to them and to any transcriber or interpreter, until the conclusion of the consultation exercise. At the end of the consultation exercise responses will be retained in public or anonymised format by the Society and the research team. Copyright in responses will become vested in the Hong Kong Law Society at the end of the consultation exercise but quotations may, after expiry of an embargo period, be used by the research team in later publications.
- If your response is anonymised, whether or not it has been included in the anonymised summaries, you should be aware that the research team is not in a position to guarantee that they will be able to redact all details which might inadvertently identify you or your organisation, and you should bear this in mind in drafting your response.

Please provide the following contact details or indicate if you are not willing to be contacted further.

I am/am not prepared to be contacted further.

Name (if different to above):

Tel:

Email:

## **RESPONDING TO THIS CONSULTATION DOCUMENT (CHINESE)**

Chinese text of the consent form is available on request from [NLS.CEEConsultation@ntu.ac.uk](mailto:NLS.CEEConsultation@ntu.ac.uk).



## Consultation on the Feasibility of Implementing a Common Entrance Examination in Hong Kong

Response from

The Faculty of Law, The Chinese University of Hong Kong

### Preliminary Observations

- 0.1 This paper is prepared in response to the Consultation Document, prepared for the Law Society of Hong Kong [“LS”], on the Feasibility of Implementing a Common Entrance Examination [“CEE”] for Solicitors in Hong Kong.
- 0.2 It should be observed, from the outset, that the Faculty of Law has found it difficult to respond to this consultation in the absence of any clear indication of why it is felt that a Common Entrance Examination is needed, what shortcomings in the current arrangements for admission to the solicitors’ branch of the legal profession it would be designed to address, and how it would address them. It is our understanding that the Law Society does not contemplate the CEE as a replacement for any part of the current arrangements, and one must therefore ask what additional purpose such an examination would serve, and what would be the relationship (if any) between the CEE and other elements of the professional education and training of potential solicitors. It should also be observed that one of the distinctive features of the current arrangements in Hong Kong for the education and training of future lawyers is that intending solicitors and barristers are able to follow a “common path” prior to embarking on their practical professional training (as pupil barristers or trainee solicitors). The introduction of a CEE – depending upon its timing at least – would detract from what we regard as a strength of the current arrangements.
- 0.3 Subject to these general observations, the Faculty submits the following response to the questions raised in the consultation.
- 1. What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?**

1.1.1 The Faculty readily acknowledges that the Law Society performs a legitimate role, as a professional regulator, in controlling entry to the profession. However, that control is, in our view, to be exercised primarily with regard to the quality of entrants, and their aptitude for professional practice. In this regard, the Law Society acts (or at least should act) not only in the interests of the profession, but in the interests of consumers of services provided by solicitors, and the community as a whole.

1.2 In that sense there can be little dispute that the quality of entrants to the profession is an entirely legitimate interest for the Law Society. If the Law Society had, prior to, or as part of, this consultation, taken steps to indicate how, in its view, the introduction of a CEE might enhance the quality of entrants to the profession, the Faculty would, no doubt, have been able to respond to such proposals. In the absence of such indication, we are left to speculate on whether there are other purposes that the introduction of such a CEE might serve.

1.3 If, for example, the CEE were to be seen as a means by which access to the profession could be controlled on grounds other than quality, then that is something to which the Faculty would be strongly opposed. This is particularly the case were the CEE to be introduced as a means of controlling numbers of entrants.

1.4 Experience in other jurisdictions suggests that from time to time professional bodies have sought to employ entrance qualification mechanisms as a means of regulating numbers. This has been regarded as an anti-competitive practice incompatible with the public interest. If there were any intention to use the CEE in this way – or, indeed, any perception that it was being used in this way – it would seriously undermine public confidence in the process by which entry to the profession of solicitor is governed.

1.5 The Faculty is also of the view that the quality of entrants to the profession of solicitor is not solely the concern of the Law Society. The Universities that currently offer qualifying degrees in Hong Kong, and the Postgraduate Certificate in Laws [“PCLL”], also have a concern for quality, and a strong interest in ensuring that the education and training provided to aspiring members of the legal profession is of the highest standard. The providers of qualifying law degrees and the PCLL are subject to significant internal measures of scrutiny of their courses and programmes, and to external review through a variety of mechanisms. Indeed, the Law Society itself is engaged in that process of review in relation to the PCLL. It is legitimate to ask, then, in what way(s) the Law Society believes the Universities are failing to contribute fully to the quality of entrants to the profession.

**2. What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practising in Hong Kong?**

2.1 The opportunities for foreign lawyers to practice in Hong are varied, and, indeed, reflect the strength of Hong Kong as an internationally recognized commercial centre, supported by high quality legal services.

2.2 Under current arrangements, foreign lawyers operating in Hong Kong may choose to do so either as registered foreign lawyers, or through the OLQE. The latter route is only required for those who wish to practice Hong Kong law, and is only open to those who are qualified in another jurisdiction.

2.3 For these reasons, it is not necessary to consider the situation of foreign registered lawyers since their presence in Hong Kong has no bearing on the “qualification system for Hong Kong solicitors” (whatever bearing they may have in terms of competition for legal business in Hong Kong).

2.4 So far as concerns lawyers qualified to practice as solicitors in Hong Kong through the OLQE, the relevant part of the “qualification system” to which such foreign lawyers may present a challenge is, presumably, the PCLL. But if this is what lies behind the question, then it is, we believe, a misconception to draw comparisons between these two routes to qualification. Essentially, the PCLL is intended as a “bridge” between the qualifying law degree and entry into the professional practice stage of qualification. As such its primary focus is on the development of the skills and knowledge required of a completely new entrant to the profession. The OLQE, since it caters only for foreign qualified lawyers who have satisfied a minimum requirement of legal practice in their jurisdiction of origin, is directed towards ensuring a satisfactory level of familiarity with Hong Kong law.

2.5 In our view, therefore, the routes by which foreign lawyers enter into practice in Hong Kong do not really have a bearing on the question of a CEE, unless, of course, it were to be suggested that the CEE would replace the OLQE. This in our view would hardly make sense in terms of ensuring that the foreign lawyer has sufficient familiarity with Hong Kong law, nor would it make much sense in terms of ensuring that the foreign lawyer has the appropriate practical skills, since, presumably, that requirement is satisfied by professional experience in another jurisdiction.

**3. Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?**

3.1 Manpower planning in the context of the legal profession is notoriously difficult, since it depends upon range of variables which are directly affected by such considerations as the general state of the economy (which increasingly embraces the wider global economy), changing perceptions of the role of the legal practitioner and the emergence of new areas of legal business.

3.2 In any case, what is meant by the proposition that there are “too many or “too few” lawyers in a given community - “too many” or “too few” by reference to what benchmark? When compared to many other jurisdictions Hong Kong is not over-supplied with lawyers *per capita* of the population as a

whole. On the other hand, it is possible that there are areas of legal services that are under supplied, while others are over-supplied.

3.3 There are very few measures available to gauge the issue of over- or under-supply. One measure is the employment of students completing the PCLL. In common with other law schools in Hong Kong we see no evidence of under-employment of these young people. Indeed, we are (at least conversationally) told by many firms that they have a continuing demand for well-qualified entrants.

3.4 For the future, all that can be said is that the need for legal services will be driven by the business and social conditions within which legal services are provided. Given the inevitable uncertainties in that regard, it would in our view be unwise to attempt to manage entrant numbers, especially given the length of time that it takes for an entrant to complete both a qualifying law degree and the PCLL.

#### **4. If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?**

4.1 Again, this is an issue that is dependent upon the state of the market for legal services – which will always vary. It is also dependent upon what is or would be acceptable as a “training contract” in this context. If, for example, the practical training opportunities for aspiring practitioners were to be extended to include opportunities in forms of legal practice in addition to those that are presently recognized by the Law Society then clearly this would expand the number of training contracts.

4.2 At first sight it is arguable that the profession would benefit from an increase in the number of PCLL graduates, since this would increase the pool of available talent from which future practitioners could be drawn. But at the same time it needs to be borne in mind that an expansion in the number of students admitted to the PCLL programmes across Hong Kong would likely be achieved by a reduction in the academic standard of those entrants – albeit in many cases only a slight reduction.

4.2 It is in no-one’s interests – least of all the interests of potential entrants to the profession – for there to be an expansion of PCLL graduates to a level that cannot be absorbed by the profession. Of course there can never be an exact match – and some “over-supply” can be defended on the grounds of enhanced choice for potential employers and healthy competition between potential employees. Insufficient opportunities in legal practice can, of course, lead to students pursuing alternative career choices on the completion of their law degree – as has happened elsewhere – and that is not in itself a bad thing. However, in the context of Hong Kong, where there appears to be a reluctance on the part of students studying law (or at least the LLB) to regard it as a broadly-based degree which opens up a range of career opportunities, any expansion of PCLL places without a reasonable relationship between the number of places and the number of trainee places would be bound to generate resentment.

4.3 It should also be noted that, at least under current arrangements, an expansion of UGC-funded PCLL places is unlikely. That means, then, that there could only be an expansion in PCLL places by relying on self-funded PCLL places.

## **5. To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?**

5.1 As providers of legal education we are probably not as well placed to comment on this question as the legal profession itself. Only the profession is in a place to make comparisons between those who enter the profession as graduates from the different Universities in Hong Kong, graduates of Universities outside Hong Kong, those who enter the profession with a law degree followed by a PCLL, and those who enter practice through the OLQE route. Certainly we have seen no objective evidence of this, although we have no doubt that this is an area that might benefit from an evidence-based approach.

5.2 That said, we have been made aware, albeit informally / anecdotally, that there are perceived differences between those who come to the profession via the three PCLL providers.

5.3 In common with the other law schools, we do not regard difference as something that is necessarily undesirable. Indeed, a variety in the approaches to the development of skills is something that many would regard as desirable, since it offers to the profession candidates with a range of attributes and qualities, thus allowing potential employers to select those candidates whose achievements and competencies most closely match their needs.

5.4. We do accept that if there were significant differences in *standard(s)* between the different PCLL providers that this would be a matter of concern – not only for the professions, but for the programme providers as well.

5.5 But although we have been made aware of these concerns, these have been fairly non-specific, and certainly we have not been made aware directly of any such concerns about the programme provided by The Chinese University of Hong Kong. We believe this to be so in the case of the other PCLL providers with respect to their programmes.

5.6 The professions – Bar and Law Society – are involved in the setting of standards for the PCLL and we are always willing to work with the professions to ensure that the appropriate standards are achieved in our programmes. If there are concerns, then we believe that these can be effectively addressed by open and frank dialogue between the Universities and representatives of the professional bodies. As University teachers we are used to evaluation of what we do – at class, course and programme levels – and we are confident that if the professions were to raise with us concerns about the standards that we achieve we would respond constructively. We do not, however, see how the introduction of a CEE would address such concerns, and certainly we do not see how they would address such concerns more effectively than discussion between the professions and the PCLL providers.

5.7 The Law Society has expressed concerns about the resources available for the current arrangements for monitoring the PCLL. We are not convinced that the introduction of a CEE would result in fewer demands on busy professionals. Indeed, the operation of a CEE, if it is to be seen as relevant, fair, rigorous and efficiently delivered, is likely to be very demanding of resources. It might be suggested that this would not be so if the CEE were to be administered by a third party, but it is not clear to us why that should be so. Presumably the Law Society would still wish to monitor the delivery and outcomes of the CEE.

5.8 Monitoring is of course demanding. If it is the case that the current arrangements present major practical difficulties for the profession, then it might be suggested that alternative monitoring arrangements could be explored. These exist in other jurisdictions that are not fundamentally different from Hong Kong, and advice on their operation could no doubt be obtained from the professions counterparts elsewhere.

## **6. What, if any issues make the legal services / legal education context of Hong Kong distinctive?**

6.1 The consultation paper sets out a number of factors which make Hong Kong legal education and services distinctive, and we would broadly agree with those.

6.2 Probably the factor that most distinguishes Hong Kong in this respect is its particular relationship with the rest of China. While it is true that legal practice in many parts of the world is increasingly impacted by China's growing economic power and political influence, the education and training of lawyers in other jurisdictions does not need to take account of this in ways that will have to be addressed, sooner or later, in Hong Kong.

6.3 For example, we are increasingly aware of the importance of the language skills that are increasingly expected of entrants to the profession. It is no longer sufficient that students speak Cantonese and English. They must also be at least competent in Putonghua.

6.4 Given the geographical and constitutional relationship with the rest of China, it is likely that, increasingly, some acquaintance (at least) with Chinese law and the Chinese legal system will become a more significant part of the legal education of Hong Kong law students. Indeed, given the highly international character of legal practice in Hong Kong (and indeed elsewhere), it is arguable that our system of legal education and training should move in the direction of emphasizing the global nature of legal practice.

## **7. Are you in favour, in principle, of the adoption of a CEE? If so, why? If not, why?**

7.1 It is not possible to state whether or not one is in favour of something whose purpose, content and operation have not been disclosed. All that can fairly be stated is that we have not yet seen the justification for introducing the CEE, either by reference to what is currently done by way of legal education and training, or by reference to what the CEE might achieve that is not achievable under the present system, either as it stands or modified by agreement between the providers and the profession. In that sense, then, we do not favour the introduction of a CEE

7.2 At the risk of repeating observations already made, we would be very willing to consider reasoned proposals for changes to the current system. It is, one imagines, possible that such a dialogue might point to fundamental problems that cannot be addressed within the current framework (although we doubt that), and if that were the case then no doubt a range of alternatives could be addressed. The difficulty with the current approach is that really no alternatives other than the CEE have been presented. If the only way forward is the as yet undefined CEE then it is difficult to see what merits it might have.

7.3 There is one further concern: Although the Law Society has indicated that it does not see the CEE as a substitute for the PCLL, there is bound to be a concern on the part of the PCLL providers that the CEE would be a precursor to the disappearance of the PCLL.

7.4 The comment is made not because we at the Chinese University regard the PCLL as a source of income. We would be opposed to the disappearance of the PCLL because we regard it as providing a necessary link between the academic study of law and its effective professional implementation. Programmes of this kind are successfully operated in other major jurisdictions (including the UK jurisdictions) and are regarded by many as the best way of equipping new graduates for the challenge of legal practice. Indeed it is the absence of such pre-professional training that is increasingly lamented in other jurisdictions which rely on bar examinations as the gateway to practice.

7.5 If the CEE is pursued as an additional hurdle for those seeking entry to the profession, then, again, its acceptability is dependent upon the justifications offered, and in this regard one can surely ask, "How would a CEE better equip a potential trainee for practice".

7.6 It may of course be that that is not the objective, but that the CEE is intended to "weed out" those who are not appropriately equipped. But unless the CEE is intended to be a comprehensive examination of both knowledge and skills, then it is difficult to see how that would work. The name suggests a form of examination that would not embrace skills – and the concerns about resources would tend to support that. If the CEE were to emerge as a paper examination, then its suitability as determining a candidate's suitability for legal practice must be questioned.

7.7 The feasibility of a CEE (which is central to this consultation) is also difficult to judge in the absence of an indication of its form and objectives. As indicated above, it is likely that a CEE, properly implemented for all candidates for admission (other than those admitted through the OLQE) would require considerable resources in terms of setting, assessing and administering the test. And since one of the concerns which the CEE may be designed to address is that applicants for the PCLL, if unsuccessful at the first attempt, are unlikely to be successful at a second attempt, the CEE would have to accommodate repeated attempts. There is no indication, moreover, whether this would follow the lines of the Conversion Examinations in which such repeated attempts are permitted (and if so how success after, let us suggest, five or six attempts somehow demonstrates the appropriate level of achievement for admission to the profession).

**8. If a CEE is adopted, what should its primary purpose be?**

8.1 We have previously indicated that we do not support the introduction of a CEE. But if it were to be introduced then there would seem to be two possibilities:

(a) As a test of professional competence to be administered at the end of a candidate for admission's traineeship. Administering a test at this stage would serve a defensible purpose of ensuring that candidates have acquired a sufficient level of knowledge and skills to be admitted as solicitors with full practicing rights. But if the CEE were to be applied at this point, then it would be necessary for the profession to ensure that there was, if not a common professional training programme, then at least a system by which the Law Society could ensure that the standards of professional training provided across the piece in Hong Kong were broadly comparable and met an agreed threshold of standards.

(b) An alternative purpose might be to ensure that the graduates of the PCLL across the three providers could achieve broadly comparable results in a test that is not linked to any one course or programme, but that was capable of demonstrating a threshold level of achievement appropriate for an intending trainee – the “first day trainee” or “day one solicitor” test that is referred to in some other systems. Such a test would have to be agreed between the profession(s) and the providers, but might provide a measure of uniformity of achievement (albeit only in this test).

## **9. If a CEE is adopted, when should it be taken, and at what level?**

9.1 We believe that this question essentially addresses issues raised under the previous heading.

## **10. If a CEE is adopted, what should it assess? How should those things be assessed?**

10.1 If the CEE were to take the form suggested in paragraph 8(1)(a) it would necessarily take the form of a test of professional competence, assessing the knowledge and practical skills that are fairly to be expected of a newly-qualified solicitor.

10.2 If the CEE were to take the form suggested in paragraph 8(1)(b), then it would have to take the form of a test that demonstrated the candidate's ability to address an issue or issues of law or legal practice that one could fairly expect the graduate of any PCLL programme to be able to address

10.3 We add, again, that this should not be taken as an endorsement of the idea of a CEE.

## **11. If a CEE is adopted, what resource, monitoring and quality assurance issues arise?**

11.1 Running an examination of any kind is a resource-intensive activity – beginning with the setting of the examination, ensuring that it is of an appropriate standard, that the tasks or questions set are relevant to the purpose of the assessment, and extending to the administration of the test, its supervision (especially if it is to be taken under “exam conditions”) and, of course, the assessment of the

outcomes. It would (probably) be necessary to establish a mechanism for addressing appeals and complaints about the examination. Since it would, presumably, be a test based on Hong Kong law and practice, it would require substantial local skills and knowledge both to set and assess the examination.

11.2 One of the very real advantages of running an assessment system within a University is that the process is conducted by examiners and administrators who are experienced and skilled in the practical running of exams, who are working towards defined pedagogical objectives, and who are working within established quality assurance frameworks.

11.3 If a CEE were to be introduced it would require to operate within these kinds of constraints and parameters.

## **12. Do you have any other suggestions or comments that should be taken into account?**

12.1 While the discussions surrounding this consultation, and the process of responding, have provided everyone with a valuable opportunity to reflect on how Hong Kong currently addresses some important issues in the process of qualification as a solicitor, we believe that this is something of a missed opportunity.

12.2 Since the process has invited everyone to consider the CEE, it has tended to compel both a narrow focus, and a reactive one. In our view, if there is to be a reconsideration of how solicitors are educated and trained, then it would be much more clearly in the interests of all concerned to invite a more open and holistic examination of the issues. In particular, the relationship between what students study in the Universities and the training that takes place once they reach the stage of professional training requires much consideration, as does the content and supervision of the professional training provided by the profession.

12.3 Such an opportunity is presented by the review of legal education and training proposed by the Standing Committee on Legal Education and Training, and it is our view that that review would be capable of stimulating a more productive and far-thinking exchange of ideas. All other considerations aside, the difficulty that we are faced with the current consultation is that it appears to assume that the only thing that is needed to improve professional education and training in Hong Kong is the introduction of the CEE. We believe that that is far from the truth.

**Response of**  
**the School of Law of City University of Hong Kong**  
**to**  
**the Law Society of Hong Kong**  
**on**  
**the Consultation on the Feasibility of Implementing a**  
**Common Entrance Examination in Hong Kong**

## Introduction

1. A strong and efficient legal system lays the foundation of a fair, just and developed nation/jurisdiction. The legal profession is the core of that system. Any change in that system affects multiple strata of the society and should be done carefully and after evaluating multiple options. The changes recommended in the Consultation paper presented by the Law Society of Hong Kong (HKLS) would have far reaching consequences and will directly impact our society as it will bring a fundamental change to the present system on who can become a solicitor in Hong Kong. It is in the interest of every stakeholder and also in public interest to make any change only after due deliberations and not in a rush.
2. As we pointed out in the Legislative Council (LegCo) meeting, the justifications provided to us by the HKLS for the introduction of the Common Entrance Examination (CEE) have not been clearly set out. Without knowing clearly the justifications, it is difficult to assess whether the proposed CEE will be the proper solution. Against that background, this paper will respond directly to the questions raised in the Consultation Paper and will also state our position on various issues that were not directly addressed in these questions but were mentioned in the Consultation Paper.

### **Q1- What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?**

3. Under the current statutory framework, the HKLS has been given the authority as the regulator to determine who can enter the solicitors' branch of the legal profession. We recognize the position of the HKLS as being the main stakeholder in the matter of solicitors' qualification, maintenance of standards, overseeing the conduct of lawyers, etc. Under the current structure of vocational training for solicitors, the HKLS already has a large say in the matter of educational structure, standard-setting, as well as monitoring/quality assurance.
4. It is our view that the HKLS should exercise its authority primarily, if not solely, for ensuring the quality of the solicitors.
5. It should also be noted that in exercising its authority as a regulator the HKLS should take into account the public interest, and also the interests of other stakeholders involved or affected.

6. We acknowledge that the HKLS has the authority to introduce or approve new examination/courses such as a CEE in addition to the existing PCLL. However, the exercise of such power should be subject to the conditions noted in paras. 4 and 5 above.
7. Certainly, it is not in the public interest to have people admitted as solicitors who do not meet the necessary standards. Nor is it in the public interest to have too few or too many people admitted as solicitors.

**Q 2-What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practicing in Hong Kong?**

8. Hong Kong is in a unique position of being an international commercial hub. The entry of foreign lawyers and the foreign law firms emphasize the ever growing importance of Hong Kong. It would be naïve to say that just because the number of foreign lawyers is increasing they are taking work away from the local lawyers. On the contrary, there are now more opportunities for our young lawyers to work in international firms that did not exist earlier. Cutting the entry of foreign lawyers would not reduce the work for local lawyers but might lead to international firms growing their Shanghai/Singapore offices or recruiting more foreign lawyers.
9. There are two kinds of foreign lawyers in Hong Kong: (i) those who practice foreign law only; and (ii) those who are qualified to practice Hong Kong law through the Overseas Lawyers Qualification Examination (OLQE). The first category is not a concern as they practice only foreign law. The second category of foreign lawyers does compete with local qualified lawyers. But that is not an issue the introduction of the CEE can resolve.
10. The key concept is “quality”. If the quality of our trained lawyers is good and competitive then they will get more opportunities. After all, the law firms are business organizations and they will not import foreign lawyers if they can have good lawyers locally grown and trained. If we further reduce the quality of lawyers by removing or diluting the PCLL programme, this could backfire. We should adopt a competitive approach rather than a protectionist attitude which fuels underperformance.
11. As far as the qualification system for Hong Kong solicitors is concerned, the PCLL and the OLQE are designed for two completely different purposes. The former is to provide skills training whereas the latter is to test the understanding of local law of foreign qualified lawyers, i.e. it is knowledge-based. The two mechanisms do not compete directly with each other.

12. But if the CEE were to be introduced, it might constitute direct competition with the PCLL. While acknowledging competition might bring positive results, we must be cautious and ensure that various foreseeable negative impacts be properly addressed before the introduction of the CEE. Currently, the system in Hong Kong promotes meritocracy and only allows students who have consistently performed well over the years to become lawyers but the CEE disregards all their previous work and focuses solely on one exam which presumably could be taken multiple times. Further, those who have passed the CEE might not have received proper skills training.

**Q 3- Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?**

13. The answer to this question will depend on the economy of Hong Kong as well as of mainland China. On the one hand, we have heard concerns that there are too many PCLL graduates produced in Hong Kong. On the other, we have also heard comments that there are not enough high-street lawyers.

14. A detailed independent market survey should be conducted in order to provide a more accurate answer to part one of the above question. CityU's statistics shows that the employment rate for our PCLL graduates for 2010 to 2012 is above 90%.

15. As to the prediction of demand for the next five years, it is anyone's guess. If the prediction that China's economy will continue to grow at the rate of 7 to 8 percent each year in the next five years is correct, our judgment is that demand for solicitors will continue to grow.

**Q4 – If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?**

16. The answer to this question depends, among others, on market and economy at a particular time. For the time-being, our perception is that the current number of places is acceptable to the market. Our statistics mentioned in para. 14 supports this.

17. But if the HKLS is of the view that there are insufficient PCLL places, we are ready to provide more places. We are certain the other two Law Schools will take the same position.

18. On the other hand, it has been seen in the USA and the UK, having too many qualified lawyers can have a grave impact on HK society and cause significant unrest amongst the qualified yet unemployed lawyers. The relevant question here is whether we should have a large number of PCLL graduates who cannot obtain training contracts or whether we should have LLB/JD graduates who cannot enter the PCLL programme and are thus forced to look in other areas. The cost for doing self-financed PCLL programme is well over HK\$100,000. If we can influence students who are not fully committed towards another more realistic field we are helping them in the long run and they could choose a profession in which they might excel.
19. If the current number of PCLL places is already the maximum the market can absorb, then increasing the number of PCLL places only postpones the problem for a year as the training contracts are still governed by market demand and this will most probably not change, even if there are changes to the HKLS regulations. It is difficult to predict market demand beyond a 1-2 year time-frame for the legal industry. Currently, a good balance is maintained between the demand for and supply of lawyers.

**Q5- To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?**

20. There are two kinds of inconsistencies as far as we can see. One is the inconsistency raised by the HKLS among the PCLL programmes provided by the three Law Schools. The other is the consistency between the PCLL and OLQE.
21. We have addressed this inconsistency in the joint submission of the three Law Schools to the LegCo. Nevertheless, for the sake of convenience, we repeat and/or stress the following.
22. The purpose of a Law School in Hong Kong is essentially to provide the necessary training in order to equip graduates with the necessary skills and knowledge to successfully meet the demands of practice as a trainee solicitor. It is the Law School's responsibility to encourage creative and analytical thinking in its students. It has been generally accepted in a number of recent overseas reports on skills based training for law students that there is no one absolute approach which should be utilized in teaching and learning in the discipline of law. Therefore, while a degree of consistency is important in teaching law students, there should be scope for utilizing different teaching and learning approaches.

23. The three Law Schools have been provided with benchmarks from the two professional bodies and are monitored extensively by the two professions. Apart from following these benchmarks the Law Schools have structured the programmes as they see best. If the two professional bodies feel that it is time to revisit the benchmarks then that is something that we would certainly welcome, consider and we would work with them to make any reasonable changes. Nevertheless, we have not been made aware of any perceived inconsistencies among the PCLL providers.

24. As far as maintaining a certain standard is concerned there is already in place a system devised by the two branches of the profession:

- The two professional bodies vet, through their external academic advisers (“EAA’s”) to the PCLL, all assessment scripts prior to them being undertaken and subsequently checks and reports on the marking of a sample of these completed assessments. These EAA’s also attend Assessment Panel Meetings which formally sign off on all results.
- The two professional bodies are sent all course materials used in PCLL Programs to review.
- The HKLS sends external academic advisers to sit in on certain small group and large group classes and then reports on the quality of teaching in those classes.
- The HKLS distributes wide ranging surveys to its trainee solicitors to evaluate the quality and effectiveness of the PCLL Programs.

25. The Bar Association and the HKLS as well as interested groups such as the Department of Justice and the Judiciary have their representatives on the Academic Boards of all the three PCLL Programmes. These PCLL Academic Boards were set up to review matters such as assessment and course design and curriculum.

26. If the problem of inconsistency among three PCLL providers is really a concern, one easy solution is to have common examination for several core courses which can be assessed through written examination during the PCLL, rather than thereafter. But it should be noted that some skills training courses are not suitable for such an examination.

27. In regard to the second problem of inconsistency, it is not a problem at all. This is because the PCLL and OLQE are designed for different purposes; one is for skills training, the other is for testing local legal knowledge. Therefore, this amounts to a rational difference rather than an inconsistency.

28. If we use the CEE to replace both the PCLL and the OLQE or to use the OLQE as the CEE, the objective of providing skills training through the PCLL will be defeated.

**Q6- What, if any issues make the legal services/legal education context of Hong Kong distinctive?**

29. We would like to add and/or emphasize the following points in addition to the ones mentioned in the Consultation Paper. Hong Kong has a very special geographical position. The one country two systems which enables it to maintain a direct connection with Mainland China and the rule of law gives Hong Kong footing in both the common law and the civil law world. What further distinguishes Hong Kong from other jurisdictions is that China's civil law system has unique features which may be very different from the civil law system practiced in the European continent.
30. Unlike other jurisdictions, where legal practice deals more with local/internal matters, in Hong Kong most of the transactional work (which is a large percentage of the legal practice) is of international/cross-border in nature. This opens the doors for international practitioners to practice here. Apart from practice, students from other common law jurisdictions can also apply for entry into the PCLL programmes and can qualify to practice law in Hong Kong. This is distinct and unique in itself and provides an edge to these students and helps them fit into the diversified nature of legal practice here.
31. A one year practical training in the form of the PCLL programme is both a valuable asset and a valuable training ground that students can benefit from as it prepares them for the complex nature of practice in this jurisdiction.

**Q7- Are you in favor, in principle, of the adoption of CEE? If so, why? If not, why?**

32. This answer is provided based on the submissions given by the main representative of the HKLS at the LegCo Panel Meeting on 16 December 2013 categorically stated that it was not the intention of the HKLS to abolish the PCLL. See <http://www.legco.gov.hk/yr13-14/english/panels/ajls/general/ajls1314.htm>. It is difficult to be in favor or against CEE without knowing the details of how it would be conducted; what it is trying to assess, at what stage it will take place (post-PCLL or post-training) and what issues we are trying to address by introducing it. The details on these issues will determine the response.
33. If the purpose is to lower the standards of trainee lawyers then the answer will certainly be in the negative. If the purpose is to resolve a legitimate problem then of course all stakeholders would support such a move and would work on a mutually agreed reform. A well-thought out change is always welcome. As we have the time and resources to

learn from other jurisdictions' experiences, we should make sure that we do not make the mistakes that they have made. Otherwise, we will be spending a decade resolving problems like an abundance of qualified lawyers with no jobs.

34. For the time being, since we have not been provided with convincing justifications for the introduction of the CEE, we are not in favor of its introduction.

**Q8 If a CEE is adopted, what should its primary purpose be?**

35. From the justifications put forward so far by the HKLS, the real concern is a perceived inconsistency between the three PCLL providers. If that is the case, we are not convinced yet for the need to achieve any further consistency among the three PCLL providers.

**Q9 If a CEE is adopted, when should it be taken, and at what level?**

36. Since graduates from the PCLL enter at the trainee level, they still need to do two more years of training in law firms before being admitted. The quality of admitted lawyers is therefore a more critical issue here. It is more logical then to design the CEE to test the quality after the two years of traineeship.

37. It is, however, well known that there is a great variance in training that the trainees get from various law firms and it would certainly be extremely difficult for the HKLS to maintain any form of "consistency" at that point.

**Q10 If a CEE is adopted, what should it assess? How should those things be assessed?**

38. It is relatively easier to assess theoretical legal issues but it is extremely difficult to assess skills without a good structure and qualified assessors. Purely based on logistical and costs concerns (see paragraph 41 below) a CEE, post-PCLL, could not effectively assess oral skills such as those in advocacy, negotiation and mediation, interviewing and advising for thousands of candidates. While theoretically possible, concerns also exist on whether assessment of knowledge based courses such as Professional Conduct and Practice or those relating to written skills, such as Legal Writing and Drafting might lead to an overly reductionist approach to the alignment between teaching and assessment. The CityU PCLL has a strict attendance requirement to make sure that the students acquire sufficient training in all skills based areas. This requirement, combined with the comprehensive training that a one year course can offer provides a guarantee that any

student who graduates from the programme has the basic knowledge, skills and values required to begin training. These concerns about a CEE detracting from, rather than adding to, the skill set in PCLL graduates will be expanded upon in paragraph 40 below.

39. In the absence of any detail about the structure and content of the proposed CEE, it remains skeptical whether skills can be properly assessed by a CEE.

**Q11 If a CEE is adopted, what resource, monitoring and quality assurance issues arise?**

40. If a CEE is adopted, it is foreseeable from foreign experiences that private providers will crop up to provide training to pass the exam. So the issue of monitoring and quality assurance will arise. Quality is easily compromised if the final goal is purely economic.

41. Since the CEE will be new, enormous resources need to be invested in setting examination papers, and marking the answer scripts. According to the current applications received by the three Law Schools, the number of scripts will be more than 1,500 for each course. If the HKLS is already saying that it is short of human resources at the moment, once the CEE is introduced, we are uncertain how the HKLS can cope with that. If the HKLS gets different people to mark those thousands of answer scripts, how the standards and consistency can be achieved better than the current system remains to be seen.

42. The HKLS has suggested on various occasions that it is already difficult for it to monitor and provide quality assurance over the three existing PCLL providers. After the introduction of the CEE, monitoring and quality assurance will be an enormous expense as a different monitoring and/or quality assurance mechanism may be needed. Foreign experiences need to be studied in this aspect. Existing monitoring and/or quality assurance mechanisms within the three PCLL providers may be used as the starting point.

**Q12- Do you have any other suggestions or comments that should be taken into account?**

43. It seems that there are no pressing issues regarding the PCLL programme that have been brought to light other than the fact that many applicants are not getting places. This issue can certainly be resolved if the involved stakeholders enter into a dialogue together. No sound reason has been given to change the current system that will not have the effect of diminishing the quality of trainees and thus significantly impacting the quality of lawyers that Hong Kong is producing. We would like to make the following suggestions.

44. Firstly, unless distinct problems can be identified which cannot be resolved within the current system there seems to be no need for any fundamental change.
45. Secondly, the Standing Committee on Legal Education plans to do a comprehensive review and is in a position to (with input for the HKLS) to identify any perceived problems and establish viable options. They in particular, the Standing Committee on Legal Education will be able to consider the issues relating to legal education in Hong Kong from the perspective of all stakeholders, including, the HKLS, the Bar, the DOJ and the Judiciary.
46. Thirdly, the three universities have agreed that they are able to increase the number of places if that would resolve the problem. We would still not support the lowering of standards for admission though. It is written in the Consultation Paper that *“If additional students pass the PCLL and go on to qualify, it could increase the number of Hong Kong lawyers in a position to compete with foreign practitioners”*. This assumption in itself is flawed as we already have more graduates than training contracts in Hong Kong. The current standards of PCLL graduates at CityU are very high. We already have many graduates going to international law firms and doing well. Increasing the number of graduates (supply) is not going to increase the market demand.
47. Fourthly, as far as the issue of centralizing the assessment is concerned there is a detailed involvement of the HKLS in the running of the PCLL programmes (course development, exam setting, marking, etc.). Centralizing the assessment is not going to resolve any issues but will diminish the autonomy and freedom currently enjoyed by the providers to offer to their students the best teaching and learning models that they can. Any kind of centralizing may lower the standard and diversity of the PCLL.
48. Fifthly, the three universities and the two professional bodies have to work together to ensure that the standard of the legal profession is preserved. The impact of these changes is so radical that the proposal should not be limited to just the working group within the HKLS. It is understandable that it is not possible to get each HKLS member to respond to the consultation but there should be a written response from each law firm to ensure that majority’s view is properly presented. Considering the importance of the consultation, the time period provided for the consultation was extremely short and late submissions, if any, should be entertained.
49. Finally, to underscore a notable trend in legal education all around the world, it is moving towards a post-graduate practical legal training model including the places which had a CEE or equivalent. It would be a retrograde step for Hong Kong to move away from a

programme which is already at the cutting edge of satisfying the evolving needs of the legal industry.

28<sup>th</sup> February 2014

School of Law

City University of Hong Kong

Email response from Department of Justice

Dear Sirs,

I refer to the last paragraph of your letter attached to your email of 12 May 2016 below which has been passed to me for reply.

You may wish to note that the Law Society had made submissions to the Panel on Administration of Justice and Legal Services for its meeting on 16 December 2013, by which a copy of the 2013 consultation paper was attached as Annex 1 which is available for public viewing at: <http://www.legco.gov.hk/yr13-14/english/panels/ajls/papers/aj1216cb4-225-3-e.pdf>

In respect of your request for our complete response to the Law Society's 2013 consultation paper on the CEE, please note that the DoJ did not make any written response at that time. Pending release of the Consultants' final report and the opportunity to study it, the DoJ would keep an open mind on the Law Society's proposed CEE.

Regards,

Janice

Senior Government Counsel (Ag)  
GLPU 1, Legal Policy Division

Email response from Estate Agents Authority

Dear Sir/ Madam,

Your email dated 12 May 2016 has been received.

The Estate Agents Authority is a statutory body set up under the Estate Agents Ordinance to regulate the practice of estate agents in Hong Kong. The consultation paper on Common Entrance Examination is outside our purview and we do not have any comments to offer.

Thanks for your understanding and kind attention.

Regards,

Nicole Leung

Assistant Manager (Corporate Communications)

Estate Agents Authority

## The Proposed Common Entrance Examination

1. Even though the proposed CEE is meant only for entrants to the solicitor profession, it will indirectly affect the Bar in at least 2 ways:

(a) It may affect the number of students who would otherwise want to join the solicitor profession to come to the Bar.

(b) It would affect the pre-qualification training of those who intend to join the Bar in that it may affect the decision of the universities in whether to continue with the PCLL courses or at least in their decision on the amount of resources to be put into the PCLL courses.

2. The difficulty of commenting on this proposed CEE is that there are too many uncertainties in this proposal. The major uncertainty lies on (i) whether it is proposed that this CEE should be taken during or after the stage of trainee contract or (ii) whether it is to be a common examination before the student would be qualified to commence his trainee contract. The effect on the Bar would be more if it is the latter. Without any further details of the proposal, it is not possible to put forward any definite views or recommendation to the Bar Council.

3. The consultation paper put forward by the Law Society has identified some concerns expressed by some stakeholders, but it is by no means clear as to whether these concerns were justified and to what extent the proposed CEE could really address these concerns.

4. The Special Committee on Legal Education of the Bar had previously met and discussed on the quality of the newly qualified barristers. The conclusion was that while there were obviously differences in the ability of the individuals, on the whole, there was no problem with the quality and standard of the newly qualified barrister in general.

5. At the moment the main stream for joining the Bar is through the PCLL. However we do not see any problem with the

variation of standards amongst the new entrants because of the fact that they are educated by different PCLL providers. The differences lie on the difference in ability amongst the new entrants and not from the differences in the courses they had taken during their PCLL.

6. It is possible to join the Bar by taking the Bar Qualifying Examination, but the number of entrants through this route is quite few and those who qualify through the BQE would not normally be treated as a beginner barrister.

7. Speaking of the proposed CEE for the solicitors, so long as the OLQE is retained as a separate route for qualified foreign lawyers to join the profession without having had to pass that CEE, we do not see how one can say that the CEE would be able to address the concern that there is no uniformity or consistency of assessments of the performance and standard of those joining the profession even at the beginner level.

8. We are concerned with the relationship between the proposed CEE and the PCLL. Is it proposed that the CEE is to replace the PCLL so that upon the implementation of the CEE students are no longer required to take the PCLL course and could get qualified simply by passing the CEE? If this is the case, would the PCLL course be relegated to a course for the preparation of the CEE? If the PCLL course is to remain a compulsory course that students must take in order to take the CEE, then what is the difference between the new CEE examination and the PCLL examination? If the PCLL course is merely optional and that students are not really required to take any particular course before they could attempt the CEE, then the incentive for the universities to continue to provide the PCLL course (or a preparatory course for the CEE) would be reduced and that would affect the training of the barrister students as well.

9. We consider that there is a point to be served by making students to take a compulsory course after the law degree and before attempting a qualifying examination such as the PCLL at the present moment. This is because there are some practical training in advocacy and other lawyer skill which are difficult to acquire just by self study. It is of importance and certainly is beneficial that all

lawyers, be he barrister or solicitor should have some minimum training in these areas even though he may like to specialize in particular areas in the future.

10. At the moment, with the PCLL being a common qualification for both barristers and solicitors, there is a certain degree of flexibility to allow one to switch from one profession to the other. The commonality of the qualification is recognition of the fact that there are some basic knowledge and training which are common to both professions. Students taking the right option subjects in the PCLL course in fact could switch without being required to take any further examination. The flexibility may be reduced if in the future the solicitor students are to take the CEE and the Bar students are to take the PCLL or whatever would be the equivalent.

11. If the CEE is to be an additional examination on top of the PCLL for the intending solicitors, this would appear to be very harsh on the students and one is entitled to ask what the purpose of this CEE is? If it is conceived that the education and training of the PCLL is not sufficient, then the better course must be to ask the PCLL providers to improve their PCLL course. There is no evidence that the PCLL providers are not responsive to the suggestions and views of the professions.

12. It may be said that if there is just one CEE with one syllabus for all entrants to the profession, this would be better than the current situation where the syllabi of the 3 PCLL providers are somewhat different, because then one could expect a greater degree of uniformity in the knowledge and skill of the entrants when they join the profession. On the other hand, the divergence in the PCLL syllabi of the 3 universities would give rise to greater varieties and wider spectrum of training to the students and to allow potential employers to have a wider choice.

13. The thought that the profession should have the control of the admission to the profession is a nice one and it may be thought by many that this alone would justify an examination to be administered by the professional body guarding the entrance to the profession. Without commenting on the validity of such thoughts, it

has to be pointed out that this self regulation would come with a price. It is a costly exercise to administer an examination and it is even more costly to set up a course to provide the preparation of that examination. At the least the training and education aspects are better left to the education institutions.

14. It is recognised that there are from time to time complaints that the PCLL places are too few such that some good and deserving students could not get a place in the PCLL. It is also said that because of the great competition for places, in reality a student who accidentally does not do too well in his law degree examination may, in reality, be barred from joining the legal profession. These are valid criticisms of the current system. The shortage of places may be somewhat relieved by asking the universities to increase their PCLL places. But even with the increase in the places, there will always be someone who just misses the threshold line. Furthermore, in so far as there are more people who want to join the legal profession than the profession could absorb, there will be a bottle neck somewhere. It would be a greater waste of resources if someone is to have taken and passed the qualifying examination and only to find that he is not able to secure any training contract.

15. In reality for those who are really dedicated to join the legal professions in Hong Kong but are met with such misfortune of not being able to get into the PCLL, all is not lost. He can still get qualified elsewhere and later on gain admission to the legal profession here via the OLQE or the BQE as the case may be. No doubt this is a much longer and probably more expensive route, but this is a fact of life.

11 December 2013.

Edward Chan

**RESPONSE**

**of**

**The Faculty of Law, The University of Hong Kong**

**to**

**The Law Society of Hong Kong**

**Consultation on the Feasibility of Implementing a Common Entrance  
Examination in Hong Kong**

February 2014

## Prelude

- 0.1 This paper is prepared in response to the Consultation Document, prepared for the Law Society of Hong Kong (LS), on the Feasibility of Implementing a Common Entrance Examination for Solicitors in Hong Kong. The proposal to introduce a Common Entrance Examination (CEE) represents a major change to the existing system, but regrettably there is scanty information about the proposal. For example, what are the justifications for introducing the change? What problems is it going to address? In what ways is it able to address these problems? When is the CEE to be held? What does the examination intend to examine? Who are eligible to sit for the examination? Is it intended to replace the PCLL or is it intended to provide a parallel system? How would the two systems interact with each other if the examination is to provide a parallel system? How would it improve the quality of solicitors, or would it at all? Is it in the public interest? While we appreciate that some of these questions are to be addressed in the consultation, it appears, to say the least, cavalier to put forward a proposal with far-reaching consequences when there is not even the slightest proven justification for doing so.
- 0.2 Without knowing the justifications for the proposal and the problems that it is alleged to address, it is almost impossible to provide any meaningful response, let alone to support this proposal. Our responses below are to be read in this light.

### **I. Initial Consultation**

#### **1. What, in your view, is the role of HKLS, as professional regulator, in controlling entry to the profession?**

- 1.1 As regulator of entry into the solicitors' branch of the legal profession, LS has a legitimate interest in the *quality* of entrants into that branch. But it is not the only party with such an interest. By quality we refer not only to the point of commencement of training contract, but (more importantly) upon qualification as a solicitor. The traineeship period is as important as the academic stage in the training of a solicitor.

- 1.2 As far as control of the *numbers* of entrants to that branch, the LS is in a different position. The LS is a members' organization and representative of solicitors. There will be a clear conflict of interest if the number of entrants to the profession is to be controlled by the professional body itself. Any measure, such as a CEE, adopted by the LS with a view to monitoring the quality of entrants may become, or be seen to be, an instrument for limiting numbers – in other words, a restrictive and anti-competitive practice which is against the public interest.
- 1.3 The CEE was presented by certain officers of the LS initially as a response to facilitating access to the legal profession and later as a response to concerns about consistency in the PCLL examinations offered by the three PCLL providers. There were then vague suggestions about the uneven quality of PCLL graduates. None of these justifications has been clearly articulated. At the same time, however, it was put to us repeatedly by the LS that there were no major concerns with the quality of the new entrants to the legal profession. By contrast, one often hears observations by members of the LS to the effect that “there are too many solicitors”. These inconsistent justifications for the CEE legitimately give rise to the impression that its purpose is simply to introduce a further barrier to entry into the legal profession.
- 1.4 Even if this did not happen, perception is as important as reality and the CEE might well be seen as a gateway to practice that is controlled exclusively by the solicitors' branch in its own interests. In this context, it should be noted that the Overseas Lawyers Qualification Examination (OLQE) is often described as protectionist: rightly or wrongly the perception persists.
- 1.5 In our view, it is wrong in principle for the professional body, which has a vested interest in restricting new entrants, to be in charge of an examination which may have the effect of controlling the number of new entrants to the profession. Accordingly, the proper role of the LS as regards entry should be limited to the maintenance of standards, that is to say, a concern that entrants have a minimum acceptable level of legal knowledge, skill and competence. That role can be discharged within the current system which was designed with standards in mind. If the quality of entrants is legitimately thought to be too low, that problem can be addressed by more effective use of the current system, with improvements to that system which are thought to be desirable and which are acceptable to all interested parties, including the Bar Association.

**2. What, in your view, are the challenges, if any, to the qualification system for Hong Kong solicitors presented by foreign lawyers practising in Hong Kong?**

- 2.1 Registered foreign lawyers do not practise Hong Kong law. Foreign lawyers who wish to practise Hong Kong law may, and may continue to, take the OLQE. Only lawyers who are already qualified in a foreign jurisdiction are eligible to sit the OLQE. As a result, it appears that the OLQE is mainly designed to test local knowledge, and not skills or competence, which are assumed. This is very different from the PCLL, which is intended to prepare law graduates for undertaking traineeship.
- 2.2 There is no way to predict how many foreign lawyers will take the OLQE each year, which makes manpower planning extremely difficult. It would not be in the public interest if the domestic legal system relies too heavily on foreign lawyers who may lack commitment to the local community.
- 2.3 The PCLL and the OLQE were designed and operated with very different target groups in mind. If it is believed that foreign lawyers practising in Hong Kong pose new challenges, then the solution lies in reforming the OLQE. It would be misguided to introduce a CEE to replace both the PCLL and the OLQE. After all, the number of foreign lawyers who qualify through the OLQE is relatively small. It is not a sound justification for introducing fundamental changes to the existing system which will seriously affect the qualification of law graduates entering the profession.

**3. Are there too few, too many, or enough competent solicitors qualifying through the existing system? Will demand, in your view, remain constant, or change, in the next five years?**

- 3.1 In any society demands for legal service will change with time and in accordance with changing social and economic conditions. It is also important to bear in mind the public interest of having sufficient locally trained lawyers and that there is a long lead time in producing a lawyer.
- 3.2 Having said that, we are of the view that there are enough competent solicitors for present purposes. Insofar as HKU is

concerned, there is a 100% rate of employment of our PCLL graduates (excluding those who pursue further studies).

- 3.3 Demands for legal service may also vary with different service areas. It has long been observed that Hong Kong lacks “High Street solicitors”, especially in the suburbs and new towns, and that demand for such services will increase. Our Clinical Legal Education Programme, under which law students are assisting qualified lawyers to provide pro bono legal services to the public and which is the first of its kind in Hong Kong, has taken up around 400 cases since its introduction in 2011 with little attempt on our part to publicize the service. This testifies to the huge unmet demand for legal services in the community.
- 3.4 Corporate and financial lawyers keep telling us that there are insufficient solicitors/trainees. We also see an increasing demand for solicitors in the general commercial sector as in-house lawyers and regulators. On the other hand, conveyancing lawyers used to complain about too many law graduates, although in recent years we have heard that there is a shortage of experienced conveyancing lawyers now as most conveyancing lawyers have shifted to other specialties in recent years.
- 3.5 Economies elsewhere, such as in China or Britain, will affect the supply and demand here in Hong Kong. The large number of PCLL applicants from Britain from 2009 was partly a result of poor job opportunities for the legal sector in the UK, although we have seen a fall-off in such applicants in the last year or so.
- 3.6 In short, future demand for legal services will depend very much on the performance of the economy since historically this is the predominant influence on that demand.

**4. If there were more PCLL places so that there was an increase in the numbers of potential trainees, to what extent would there be training contracts for them?**

4.1 This depends on how many more PCLL places we are talking about and the state of the economy. At present, the majority of trainees are employed in large or medium-sized firms, so the answer to the question of the capacity to absorb more trainees is likely to be dependent upon the ability of those firms to expand their number of training seats. At the same time, if there are insufficient job opportunities, it may lead to

a reduction of PCLL applicants, as students seek opportunities elsewhere. There has been such a development in Britain with a fall in applicants for PCLL equivalent courses. The market will adjust itself. It is also important to note that a traineeship is not the only job option available to PCLL graduates. Law graduates excel in many different fields.

**5. To what extent is there a problem of consistency in the current qualification system for Hong Kong solicitors?**

- 5.1 We do not see any major problem. There are indeed only two main routes to becoming a solicitor in Hong Kong: the PCLL or OLQE.
- 5.2 The issue is unnecessarily complicated by going into who is eligible to apply for the PCLL or OLQE. Of course applicants come from many different sources, just as students applying to the university come from all over the world. This is just misleading, as, whatever their origins, be they LLB, JD, or London U International, they will all take the PCLL before they qualify as solicitors.
- 5.3 The only other route is the OLQE, but it is targeted at a different group who are required to achieve a different standard. The PCLL is for fresh law graduates; the OLQE is for experienced overseas qualified solicitors. The PCLL is designed to ensure that graduates are ready to become competent trainees, whereas the OLQE is designed to ensure that a successful candidate is qualified to practise as a local solicitor. The PCLL is primarily a skills-based training programme that lasts for a full year; the OLQE assumes the candidates are already competent solicitors and is primarily a test for local knowledge without any skills component. If there is any suggestion of merging the PCLL and OLQE, we believe that this is entirely misconceived and fails to appreciate that the two examinations serve completely different purposes. It follows that the expectation of the two different examinations should be different.
- 5.4 As far as the PCLL is concerned, there are only three providers. All three providers work closely with the legal profession. Indeed, each of the PCLL programmes is controlled and monitored by an Academic Board on which the legal profession is heavily represented. The three PCLL providers are expected to comply with the teaching and learning benchmarks that have been set by the legal profession. While the three providers may approach their teaching differently, this is healthy and to be encouraged, as there

is more than one way to tackle any legal issue. We see this diversity as a strength rather than a weakness, so long as all PCLL graduates possess the same core competences. An example here may help. Let us assume that the learning outcomes of a particular course is to equip students with the skills to interview clients, the ability to collate the facts and identify missing gaps, as well as to discern the relevant legal principles and offer a viable solution to clients. As long as the Law Society and the law schools agree on the learning outcomes, one law school can teach these skills using a land case whilst another may choose to use a commercial crime case. There is no need for the three law schools to use exactly the same teaching materials to achieve these outcomes. In this regard, we do not see any problem of consistency.

- 5.5 Let us give another example to illustrate the point that diversity is a strength rather than a weakness. Suppose a student is required to go through training for conducting an interview with a client. What is expected of the student at the end of the learning exercise is that he or she will be able to understand what the client wants and what his concerns are; that he will be able to distinguish fact and evidence from assertions and speculation; that he is able to ask the relevant questions to extract the necessary facts; and that he is able to identify the main legal issues and to structure his questions accordingly. These objectives can be met by different means. Law School A decides to test these skills in a criminal case. Law School B decides to test these skills in a corporate case, and Law School C decides to test these skills in a public law case. There is no need for a common examination, and, as long as the benchmarks and the expected outcomes are clearly set out in advance, each provider can be left to design the appropriate assessment that ties in well with other parts of the curriculum.
- 5.6 At present, the Bar Association and the Law Society each set their own benchmarks which are followed by all three Law Schools. We think this is the right approach and are prepared to engage with the profession to further refine the benchmarks and the expected outcomes. Beyond the core competences, each Law School offers its own electives. The diversity indeed produces graduates who may excel in different areas. Some students may want to specialize in litigation; others may wish to be exposed to listing work. Not all lawyers are doing the same thing in Hong Kong. It will be a sad day and contrary to the public interest if all the Law Schools produce only the same kind of graduates.

- 5.7 A justification that has been put forward for proposing a CEE is that the quality of PCLL graduates produced by the three universities is uneven and that some graduates are inadequately prepared for undertaking traineeship. Assuming that this is correct, the answer is not to impose a further test of competence but to improve the existing system. The mechanics for moderation of PCLL courses and examinations by the profession are in place. The LS, however, says that it finds it difficult to operate them to its satisfaction. External examiners and Academic Boards provide opportunities for the profession to intervene if dissatisfied with standards achieved.
- 5.8 We appreciate that the LS depends upon volunteers from amongst its members who are for the most part busy people. If monitoring is important, then resources have to be made available for this purpose. If the current system of monitoring is found to be inadequate, the proper solution is to review the method of monitoring (such as replacing an annual review with a less frequent but more intensive review). In this regard, we note that there are over 25 providers of PCLL equivalent programmes in the UK, and consistency has not been an issue. The trend in the UK has been to move away from monitoring and to foster closer partnership with the providers in refining the expected outcomes. We believe that this should be the future direction to be pursued in Hong Kong.

## **6. What, if any issues make the legal services / legal education context of Hong Kong distinctive?**

6.1 In addition to the 6 factors which make Hong Kong legal education and services distinctive which have been set out at 3.2 of the consultation paper, we would point out that

- the PCLL is a qualification recognized by statute and a common qualification for both solicitors and barristers;
- the PCLL is taught at the principal and reputable universities in Hong Kong and is thus subject to strong academic as well as professional regulation;
- the context is in effect trilingual since students and practitioners are expected to have knowledge of spoken Cantonese (the language of most clients and the public) as well as Mandarin (Putonghua) and English;

- Being taught at the principal universities in Hong Kong, the PCLL is heavily subsidized by the Government and as a result, the cost of pursuing PCLL in Hong Kong is relatively modest, at least for the Government-funded places. This is of great significance as the drive behind diversifying the entry to the legal profession in the US and the UK is financially driven – many students are simply unable to afford the high tuition fees of the universities in pursuing their law studies. This is far removed from the situation in Hong Kong. It is not in the public interest that under-privileged students in Hong Kong are denied access to the legal profession due to prohibitive tuition fees charged by commercial providers.
- Hong Kong is a common law jurisdiction within a civil law country. In light of the special constitutional position of Hong Kong, the maintenance of the rule of law in Hong Kong is of enormous importance. It is in the public interest to maintain a strong legal profession that is committed to Hong Kong.
- The PCLL is offered by universities, which are neutral and independent institutions with no vested interests or political ambition apart from providing the best education for their students.

**7. Are you in favour, in principle, of the adoption of a CEE? If so, why? If not, why?**

- 7.1 We are not in favour. Indeed it is not possible to be in favour of a CEE when there is no information as to what form it is to take, when it is to be introduced, what it is to examine and what its relation and impact on the PCLL would be.
- 7.2 On the information available to us, we find that a CEE would serve no useful or appropriate purpose. It would only add to the burden upon students. Further, the introduction of a CEE is not in the public interest as it is unlikely to produce lawyers of better or even comparable quality to those who graduate from the PCLL. The legitimate objectives of a CEE, if any, could be achieved by other means. It is doubtful that a CEE is feasible as a prelude to traineeship.

- 7.3 Perhaps inadvertently, the consultation paper presents the Hong Kong system of qualification as a solicitor as somehow eccentric. It is implied that the system is shared only by Mauritius. In fact, the Hong Kong system closely reflects the English model and has done so since its inception more than 40 years ago. As is apparent from the tables in the appendices to the consultation paper, this system is one of the more detailed and, we would venture to say, sophisticated and effective in the common law world. Yet the suggestion of introducing a CEE implies that the system is defective and cannot be improved without the imposition of a further, or replacement, examination. We do not think that this implication is correct.
- 7.4 A CEE makes sense only if it is a replacement, wholly or in part, for the PCLL examinations or if it is held at a point in the education of would-be solicitors which is different from that of the PCLL examinations.
- 7.5 There have been repeated assurances by LS leaders (assurances acknowledged by the consultants) that there is no intention to replace the PCLL. We assume that this means both the PCLL course and the PCLL examinations. Accordingly, if the proposed CEE is to take place before entry into traineeship, entrants would be required to take two sets of examinations, the PCLL examinations and the CEE, within a very short time frame. In that event it is difficult to imagine what the CEE could possibly test which is, or could not be, tested by the PCLL examinations. Students could legitimately ask why they must have two sets of examinations which are so close together and examine similar subject matter. Indeed, the only purpose the CEE would serve in that situation is to create an additional hurdle to the entry to the legal profession, which is contrary to the public interest.
- 7.6 It has also been suggested that the CEE is intended to provide an alternative route of access to the legal profession as the number of places for the PCLL is necessarily limited. However, if the PCLL is still required, the introduction of a further examination will only serve to impose another restriction to access to the legal profession.
- 7.7 It has been vaguely suggested that the CEE could work as a parallel system to the PCLL. This suggestion is ill-thought out and raises more questions than it answers. For instance, who is eligible to sit for the CEE? Is it confined to those rejected entry into the PCLL because they failed to meet the *academic standards*? Should there

be a minimum standard of academic performance before one is allowed to sit for the CEE? If yes, why should it be different from that currently adopted for admission to the PCLL? Why can't this be accommodated within the PCLL? If not, what is the implication on the quality and standard of professionalism of the legal profession? Is it in the public interest to lower the admission standard to the legal profession? Will there be any course to prepare students to sit for the CEE? If not, how could the CEE provide a better, or even comparable, quality of education and training than is currently offered by a year-long PCLL course? If yes, what will be its contents and who will be the providers? How will the LS monitor the quality of the providers? Is there a sufficient pool of competent providers who are sufficiently familiar with the Hong Kong system? Is the proposed CEE financially viable? One may say that the market will decide about the providers, but this will be irresponsible if a public examination is to be introduced without even any assurance of properly-qualified instructors to provide the training. What about the cost of the CEE? How much would it cost, both financially and in terms of human resources? Who should pay for it? Would the fee be so high that it becomes another obstacle to the entry to the legal profession, which is again not in the public interest? None of these questions seems to have been considered.

- 7.8 There is also no consideration of the relationship between the CEE and the PCLL if the CEE is to provide a parallel system. The PCLL curriculum is now based on transactions and skills. If the curricula and standards of the two examinations are different, is this not the very same problem that the LS alleges to exist with the current three PCLL providers? If they are the same, is it fair for those who take the CEE without an intensive training programme like that offered for PCLL students? Even if they pass the CEE, is it an acceptable way to ensure Hong Kong's solicitors have received proper training? It has been suggested that the PCLL could provide the training for the CEE examination, but then it begs the question why the PCLL examination is not sufficient and what purpose the CEE is to serve. The idea of turning the PCLL into a preparatory course for a public examination is untenable, as this is not the appropriate role of publicly-funded universities.
- 7.9 Since the consultation concerns the *feasibility* of a CEE, consideration should be given to the practicalities of holding a CEE.

This is barely touched upon in the consultation paper. The practicalities mainly raise issues of timing and resources.

- 7.10 The running of a proper CEE would require an immense amount of resources, in terms of both financial and human resources. If the LS does not have sufficient resources to monitor the existing PCLL, it would have even more difficulty to properly run a CEE, let alone to monitor both the CEE and the PCLL if they are parallel systems. At present, the admission to the PCLL, the organization of examinations, the quality assurance system, and the appeal system are all within the jurisdiction of the academic institutions, which, being neutral institutions with no interest in practice, are free from any conflict of interest. All these would have to be provided for in a CEE. If it is to test the skills of the students, the traditional written examination mode is far from adequate. The university conducts continuous assessments throughout the year.

**8. If a CEE is adopted, what should its primary purpose be?**

- 8.1 We have already pointed out that there is no justification for adopting a CEE. Thus, the following answers are subject to this general reservation.
- 8.2 The only sensible purpose of a CEE would be to ensure minimum standards of knowledge and competence at the point of entry into the solicitors' branch of the legal profession. That point is at the end of traineeship and before admission to the roll of solicitors. We have pointed out above that the period of traineeship is as important as the academic stage. However, if the CEE is to serve this purpose, it would only be fair if there is a common training programme, proper requirements of standards and proper monitoring of the traineeship programmes offered by different law firms. None of these exists, or exists adequately, at the moment.
- 8.3 The limitation of numbers entering the solicitors' branch should not be a purpose of a CEE. To avoid this, or the appearance of this, the CEE would have to be administered by a body in which solicitors were in a minority.

**9. If a CEE is adopted, when should it be taken, and at what level?**

- 9.1 As previously indicated, if a CEE were to be adopted, with which we do not agree, we think that it should be held after (or possibly during the later stages of) traineeship and shortly before admission to practice. At that point the CEE would be able to test competencies acquired during traineeship and the true aptitude of candidates for entry to the solicitors' branch of the profession.
- 9.2 Little is known about the standards achieved or expected in traineeship. Anecdotally, standards appear to vary greatly. There seems to be only light regulation or monitoring. A CEE at or towards the end of the training period would ensure a minimum standard of attainment. After all, students spend only 1 year in doing the PCLL, yet they spend two years in traineeship. This period of training will have crucial impact on the quality of new entrants to the profession, and it is essential to ensure that the traineeship is properly run and monitored.
- 9.3 On this basis, the level to be expected to satisfy the CEE examiners should be that of a newly qualified solicitor embarking upon practice – the “day-one solicitor”. This is also the standard which OLQE candidates are expected to achieve. Yet they are different in that the entrants are tested on what they have learned during traineeship, whereas OLQE candidates are those who have already gone through traineeship elsewhere and the concern is whether they have enough local knowledge. If skills are a concern, then the OLQE is inadequate at the moment.
- 9.4 There is really only one other point at which a CEE would be sensible: after passing the PCLL and before commencement of training. However, at such a point the CEE would inevitably be largely duplicative of the PCLL and would impose an unnecessary burden upon candidates, as we have already pointed out.
- 9.5 Recognizing this, the consultation paper canvasses the possibility of amending the PCLL syllabus, in effect moving certain topics out of the PCLL and into the CEE curriculum. This is putting the proverbial cart before the horse. The natural question is why some topics should be taken out of the PCLL simply to allow the CEE to have some content. It is pedagogically unsound when there is not even any certainty that there would be any course for the CEE or any assurance about the quality of such courses if they exist at all. We have considerable reservations about this flawed approach.

**10. If a CEE is adopted, what should it assess? How should those things be assessed?**

- 10.1 If follows from the above that we think that, if there is to be a CEE, with which we do not agree, it should assess the abilities of those about to be enrolled as solicitors and should concentrate upon skills and knowledge acquired during traineeship and expected of a newly qualified solicitor.
- 10.2 We doubt whether these matters could appropriately or adequately be tested by traditional in-hall examinations (the predominant method employed in the current OLQE) alone. Such skills would best be assessed by performance in ‘real-time’ practical exercises observed by examiners.

**11. If a CEE is adopted, what resource, monitoring and quality assurance issues arise?**

- 11.1 Needless to say, a properly-run CEE which aims to measure what has been acquired by candidates during traineeship would require a substantial investment of time, care, manpower and money. Experience elsewhere suggests that the cost and resources required for properly running an examination of this nature are phenomenal, and, to give credibility to such an examination, at least a substantial number of the examiners must have local experience. Some expertise would presumably have to be brought in, but this cannot replace the bulk of local experience that is required; LS members would have to be involved in monitoring the CEE and also act as assessors in addition to their work of monitoring the existing PCLL courses. There also has to be in place a proper quality assurance system and an appeal mechanism. If the CEE is to provide a parallel system, an obvious issue is where do the necessary human resources come from?

**12. Do you have any other suggestions or comments that should be taken into account?**

- 12.1 While the consultation paper is informative, there are certain aspects in which we think it does not reflect the reality in Hong

Kong. This is understandable given that none of the consultants is fully familiar with the jurisdiction.

- 12.2 The role of the Standing Committee on Legal Education and Training (SCLET) does not seem to be adequately appreciated. As the paper notes, the SCLET is a statutory body. Its remit is the whole of legal education and training. This includes not just the PCLL (which potentially is affected by the CEE proposal) but also any other courses or examinations, which impinge upon the process of becoming a legal practitioner. It seems somewhat unrealistic for the consultants to ignore the fact that whatever may be proposed for the CEE with its inevitable consequences for the PCLL, will be subject to review by the SCLET.
- 12.3 Furthermore, earlier in 2013, the SCLET announced its intention to carry out a thorough review of legal education and training in Hong Kong. This would include both the PCLL and the training stages – the very stages which would be affected by a CEE. The consultation paper mentions this review only in passing (page 7) without discussing the ramifications for the CEE proposal.
- 12.4 The second area which is ignored by the consultation document is that qualification as a solicitor is governed by statute. This means that any proposal is bound to attract the attention of members of the Legislative Council: indeed the CEE proposal has already done so.
- 12.5 We do not think that any investigation into the *feasibility* of an additional hurdle for entry into one branch of the legal profession can sensibly ignore these realities.
- 12.6 On the other hand, assuming that the introduction of the CEE does not mean that the LS is going to lower its benchmarks set for admission to the PCLL, and that there would not be sufficient resources to take in all possible applicants, it is very likely that the difference in the number of students involved will be small. The Faculty is of the view that this can easily be addressed and taken care of within the existing system. The Faculty intends to propose to the Admissions Committee and the PCLL Academic Board that the admissions practice of the PCLL be amended with effect from 2014 to give recognition to the practical legal experience of candidates and the Faculty is certainly open to further discussions in this direction.
- 12.7 We would also like to comment upon the provenance of this consultation and the idea of a CEE. It is striking that members of

the LS, including members of its Council, seem not to have been kept informed of the intentions of the working party or of the officers who have pursued the idea. We have also received comments from many practitioners who have expressed concern about this idea and the lack of consultation of members of the profession. Rumours have reached those interested in knowing what has been going on, but enquiries have been met either with silence or protestations of ignorance. Indeed, the SCLET itself has been given only the barest of information and then only upon asking questions.

- 12.8 We are concerned about the process at well. The original consultation period of just a few weeks, straddling the holiday period, was surprisingly short. The period has now been extended, which is appreciated. Nevertheless, the shortness of the original period gives sustenance to the impression that there is an attempt to rush through the CEE proposal and “bounce” participants into compliance with whatever emerges from the consultation. With respect, it is at the very least surprising to engage in a major consultation exercise with a view to making fundamental changes to the existing system when there is not even the slightest justification for doing so. Different and inconsistent reasons have been suggested at different times, and it is not at all clear what issues the CEE is intended to address – and how it will address them - when a proposal of such far-reaching consequences is put forward. Up to this stage we have still been kept in the dark as to why this consultation was launched in the first place and what the underlying concerns of the LS are. These concerns might have been addressed and resolved by a frank discussion among the LS and the universities without having to resort to this consultation exercise, which has generated unnecessary suspicion and speculation. We have enjoyed a very good relationship with the legal profession over the last four decades, and have every intention to maintain that relationship. We firmly believe that mutual trust, respect and frankness will be the way forward.

## **II. Further Consultation**

13. On or about 17 February 2014 we received further information from the consultants and were invited to make further observations on a number of new issues, which we do below.
14. We may preface our further observations by pointing out that some of the concerns raised by the LS that were set out in the further information referred to in paragraph 13 above were raised for the first time, or at least for the first time since the proposal to introduce the CEE. Had these concerns been raised and discussed properly among the stakeholders, we are sure that they would have been addressed without having to resort to this elaborate exercise. We have been pressing for clarification about the concerns of the LS over the past nine months but have been left with the distinct impression of moving goal posts. While we are pleased and willing to work with the LS to address their concerns, we discern that there is a lack of trust here, which is not helped by the manner in which the proposal of the CEE has been made so far.

### **15. The Law Society's Concerns**

- 15.1 For the first time we have been told of the concerns of the LS. They include the high pass rates in particular institution(s); use of seen examinations or prior examination briefings; different numbers of assessment examinations for the same subject/course; preferential entrance to PCLL for an institution's own JD students; and different standards of entrants to the profession from the different Universities. The LS feels that, as a regulator, it has no real control over the PCLL, and no sanction for any actions by the providers which it does not endorse.
- 15.2 Our first observation is that some of these concerns are anecdotal and without any evidential basis. Take an example. There have been widespread rumours in town that it is extremely difficult to get into the HKU PCLL and that we only admit first class degree students. Nothing is further from the truth. Take the year 2013-14, we admitted one out of every two of our applicants and have only rejected about 10 students with 2(I) degrees on the grounds that they have done very poorly in their basic law subjects such as contract and tort which are not counted towards the honours

classification of their degrees, or simply because of grade inflation in the particular institution (we know of some institutions awarding 85-90% of their law students with first class and 2(I) degrees). Another couple of 2(I) applicants were not able to take up our offer because they failed the conversion examination. Nonetheless, these few cases have been escalated to an entirely misleading magnitude. Thus, our response is that the best way to deal with these problems is to have frank discussions and, as a first step, look at the facts and evidence first before we jump to a conclusion that a CEE is required.

- 15.3 Secondly, we discern that there is an underlying lack of trust with the tertiary institutions involved in legal education. As an academic institution, we care about our reputation. Some of the suggested concerns are tantamount to cheating, and if this is substantiated, we are sure that any respectable institution would be quite prepared to follow it up. The problems cannot be addressed if they remain anecdotal and speculative.
- 15.4 Thirdly, some of these concerns may be a result of different understanding about the education process. For example, it has been recommended in the Roper-Redmond Report that the institutions should adopt continuous assessment instead of the traditional end of term examination. Continuous assessment will necessarily involve different institutions having a different number of examinations/assessments for the same subject. If the concern is that different institutions use different methods of examination/assessments (including a different number of examinations/assessments), the answer is that what is important is whether the students at the end of the course achieve the same common outcomes, and not what and how many examinations/assessments they have gone through.
- 15.5 This takes us to the last point relating to different standards of entrants to the profession from different Universities. This can only be expected, and there is nothing wrong about it. If the LS's concern is that some graduates are not up to the minimum standard required for entry into traineeship, that is a different issue. On the other hand, this touches on the wider issues of what is expected of a PCLL graduate. While the LS has set down the benchmarks to be attained, we believe that these benchmarks could be further expanded so that all parties concerned can have a realistic expectation of what a PCLL graduate should be able to achieve.

The most fruitful way to address this issue is to hold further discussions among the stakeholders.

- 15.6 In short, we are pleased and willing to discuss and work with the LS on some of these concerns. Without examining these concerns, which may be real or perceived only, it would be premature to conclude that nothing can be done about them, and even more premature to propose the CEE as a purported solution, which may not be a solution at all.

## **16. Quality of Solicitors and the period of traineeship**

- 16.1 We agree that the LS has a legitimate concern over the quality of intending solicitors, and appreciate that the LS acknowledges that it respects the academic freedom of the three universities. As pointed out above, if there is a concern about the minimum quality expected of a PCLL graduate, there are many ways to address the issue. At the same time, it would be helpful to spell out more clearly what is expected of a PCLL graduate, as we have the experience of unrealistic expectations of what a PCLL graduate should be able to do. Our view is that a PCLL graduate should be a competent trainee. It would be unrealistic to expect a PCLL graduate to be a competent assistant solicitor.
- 16.2 We have pointed out above that an important stage of legal training is the traineeship period. At this stage, trainees learn a great deal in the real life context that they cannot be expected to learn in the academic environment of the Universities. To say the least, there is a wide variety and differences in the quality of training during traineeship, and we believe that this stage is as, if not more, important than the PCLL stage in ensuring the competence of a solicitor.
- 16.3 Given that the traineeship lasts for 2 years when compared with the 1 academic year period of PCLL training, it would be a dereliction of duty if the quality of training at this stage is not properly addressed or monitored. It is no answer to say that the quality issue will be addressed by the possible competition between providers in student recruitment. It is precisely because of such possible competition that it becomes more pertinent to ensure that all trainees receive the minimum quality of training irrespective of which law firms they join.

## **17. Increasing the number of PCLL providers and funding the PCLL if a CEE is introduced**

- 17.1 We do not see how the standard of entrants to traineeship can be maintained (or even more improved upon) by increasing the number of institutions providing the PCLL. This statement may be premised on the assumption that there will be a CEE so that it does not matter how many PCLL providers there are or what standards they achieve.
- 17.2 The LS keeps saying that there is no intention to replace the PCLL by the CEE. This could mean two things. The first is that the CEE is to provide an alternative route to entrance to the legal profession so that someone can just take the CEE to become a solicitor without the need for a PCLL. In such case, the LS would have to monitor both the CEE and the PCLL, and we do not see how realistic this would be. It also runs counter to the LS's claim of lack of resources to carry out effective monitoring. This option would also lead to the whole list of issues that we have raised under para 7 above.
- 17.3 On the other hand, if what the LS means is that the CEE will be introduced as an examination in addition to the PCLL so that all PCLL graduates will have to take the CEE before they can be admitted to traineeship, this will mean that the PCLL could become a preparatory course to prepare students for the CEE. With respect, this is wishful thinking and shows little understanding of the tertiary education system in Hong Kong. No university will run a preparatory course for a public examination, and the UGC would be unlikely to fund the university for conducting a mere preparatory course of this nature. It is appropriate that such courses be provided by commercial providers, and not by the universities. Thus, this option will effectively mean replacing the PCLL and the consequential withdrawal of Government funding support through the University Grants Committee. After all, there is no point of having a PCLL when the students will have to take another public examination immediately thereafter. It will also lead to a whole range of issues about funding, teaching resources, standards of other "PCLL" providers and so on.

**18. New admission criteria for PCLL: second time applicants with professional experience in law firms**

- 18.1 We have touched upon this subject above. As far as HKU is concerned, we have already implemented a scheme for those who apply to the PCLL for a second time. Under this scheme, we will take into account not only the academic standards of the applicants but also any practical legal experience that the applicants have attained, such as experience of working as a paralegal in a law firm.
- 18.2 It may also be convenient at this point to put in context some widespread speculations about the difficulty of getting admitted to the PCLL. The best way to do it may be to refer to two paragraphs in the Joint Submission of the Three Law Schools to the Legislative Council Panel on Administration of Justice and Legal Services dated 16 December 2013:

“19. We understand that there has been anecdotal evidence that it has been extremely difficult to get entry into the PCLL. The three law schools have earlier collated the admission data of the PCLL in the past three years, which was submitted to the Law Society in response to a letter from a JD student from Chinese University law school published in *The Lawyer*, the professional publication of the Law Society. The collated tables are now enclosed at **Annex I** for the reference of the Panel. The table shows that there were about 1,300 applicants to the PCLL in each of the last two years. In accordance with the admission standards laid down by the Law Society and the Bar Association, HKU alone has admitted about 320 each year, and the three law schools together have admitted a total of about 650 students to the PCLL each year, which represents about 50% admission rate. By any standard, an admission rate of 1 in 2 in any professional discipline could not be said to be unduly restrictive. In any event, the three law schools are receptive to expanding their admissions if necessary or justifiable. In this regard, we should emphasize that the minimum admission standard is indeed set by the profession, and not by the law schools, which only apply the standard set by the profession.

21. There were also isolated complaints that an otherwise good candidate is denied admission to the PCLL programme for no reason other than that there are insufficient places on the PCLL programme. Admissions to the PCLL are decided by merits. For applicants from overseas, it is necessary for the law school to make a judgment on the quality of the applicants. We are aware of serious grade inflation in some overseas jurisdictions, and the criteria for the award of an honour degree varies from university to university. For instance, some British universities do not count the first year results for the purpose of degree classification, yet the first year of law study usually includes some of the most important foundation subjects in law such as contract, tort or criminal law. All these have to be taken into account in assessing comparative merits. Suffice to point out that, as far as HKU is concerned, our own LLB students have to compete for admissions for PCLL places, and out of the 340 PCLL places that we offer, only about 50% of the places are taken up by our own LLB students.”

18.3 We may add that, as far as HKU is concerned, fewer than 10 applicants with 2(I) honours degrees have been declined admission each year, and they were declined admission for the reasons set out above: see para 15.2 above. These students could avail themselves of the benefit of our special scheme for second time applicants outlined in para 18.1 above.

**19. A CEE examination sets the maximum rather than the minimum knowledge that a student is expected to know**

19.1 This observation is a summation of experience in overseas jurisdictions, notably in Asia where a national bar examination was introduced. In Taiwan, South Korea and Japan, any subject offered by a law school that is not within the syllabus of the Bar Examination would have great difficulty in attracting students. Given the pragmatic examination-oriented approach of Hong Kong students, they will focus on nothing but those within the syllabus of the CEE examination. The syllabus will set the maximum knowledge that they would know depriving them of the benefit of an in-depth professional education and the advantage of studying elective subjects.

## **20. Diversity is a strength rather than a weakness**

- 20.1 See paras 5.4-5.6 above. The critical issue is that there should be a common set of outcomes that are to be achieved. Once these outcomes have been agreed upon, which can always be modified and improved upon with the passage of time, how best to achieve those outcomes should be best left to those who are experts in education.

## **21. Merging a CEE with OLQE**

- 21.1 Please see paras 2.3, 9.3 and 10.2 above. In summary, the CEE and OLQE are different examinations that serve different purposes and are targeted at different groups of people.

## **22. Resources required for monitoring the PCLL**

- 22.1 See paras 5.8 and 11.1 above. We have noted that a more intensive but less frequent review would be a possibility. At the moment, the LS relies on its own members to carry out the monitoring. There is no reason why the monitoring cannot be farmed out, or be carried out by non-members of the profession such as a retired judge/practitioner or a team of overseas academics.

## **23. Relationship between HKLS and the three PCLL providers**

- 23.1 We have already pointed out that it is a non-starter to treat the PCLL as a form of “mock” or “private” examination prior to the “public” form of the CEE. Such a system is unlikely to gain approval from the Universities or the UGC, which is the Government funding body. See paras 7.4-7.10 and 17.3 above.
- 23.2 There is a limited supply of academics teaching the PCLL in Hong Kong. If it is considered that the PCLL is inadequate, it seems ironic that the very same group of academics is considered adequate for the purpose of setting and examining the CEE. It is already common experience that it is difficult to recruit sufficient academics to set and mark the conversion examination or the OLQE examination. The difficulty will be compounded if all

PCLL graduates (about 650 each year) will have to take the CEE. The number of PCLL students each year is much larger than those sitting for the conversion examination and OLQE examination combined. The problem will be even more acute if the PCLL is effectively replaced by the CEE, which would mean that there would be about 1,300 applicants to sit for the CEE each year. If each student takes 5 papers, the CEE would have to supply sufficient manpower to mark 6,500 papers each year, let alone conduct a whole range of skills-related assessments.

**24. CEE as an alternative to the PCLL?**

24.1 See paras 7.6-7.8 and 17.2-17.3 above.

**25. CEE after the PCLL?**

25.1 See paras 17.2-17.3 above. The proposal of introducing a CEE after the PCLL will effectively turn the PCLL into some kind of preparatory courses for the CEE. The University of Hong Kong, as a degree awarding institution, will not offer preparatory courses for examinations run by other organisations or professional bodies. The likely consequence will be the withdrawal of Government public funding for the PCLL (and thus professional legal education). If that is the case, and taking into account the fact that skills-based training is a resource and labour intensive enterprise, either professional legal education/training will become extremely expensive and exclude qualified candidates without the necessary financial means, or the present system of skills-based training cannot be sustained and will relapse into a paper/written examination. This result is most undesirable educationally and far from conducive to meeting the needs of the legal profession.

**26. A common examination on a common paper in the PCLL among three law schools**

26.1 This suggestion is rather vague at this stage. While we adopt an open mind, without knowing what the content of this common examination is expected to be, its relationship with other subjects in the PCLL, and its method of assessment etc, it is difficult to

make any meaningful comment. It should also be noted that if the common paper is within the PCLL, it will affect the Bar as well.



## **4. Written Responses to Interim Report (January-February 2018)**



# **RESPONSE TO THE COMPREHENSIVE REVIEW OF LEGAL EDUCATION AND TRAINING IN HONG KONG: DRAFT REPORT OF THE CONSULTANTS BY THE SCHOOL OF LAW, CITY UNIVERSITY OF HONG KONG**

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## 1 Introduction

The Report of the consultants, entitled *Comprehensive Review of Legal Education and Training in Hong Kong: Draft Report of the Consultants*, October 2017 (the **Report**), calls for responses from stakeholders. This is the response from the School of Law (**SLW**) at the City University of Hong Kong (**CityU**).

This response focuses mainly on the recommendations contained in the Report. In addition, at the conclusion of this response, there are listed a few places in the Report where we offer clarification or additional information.

## 2 Recommendation 2.1 – School of Professional Legal Studies

That consideration be given to the establishment for Hong Kong of a School of Professional Legal Studies, with a view to preparing candidates for entry to the legal profession and the practice of law.

CityU's understanding of this recommendation is that the proposed School would not be a separate institution outside the universities, but rather a joint venture by the three universities, albeit freed from a number of the requirements imposed by universities in regard to matters such as staffing.

CityU's view is that this proposal is not sufficiently detailed or argued in the Report, and therefore it would not be appropriate to move to implementation of this recommendation based solely on the arguments put forward in the Report. CityU also considers that there are further issues which should be considered and have not been explored, or sufficiently explored, in the Report such as, for example, the value of having teachers teaching in both the academic and practical programmes, the sharing of teaching staff across programmes, having the resources of the entire law school and the university available at the same location, the availability of library, administrative and logistical support, and so on. The proposal does not go into details on implementation and seems to have underestimated what it takes to build a stand-alone campus from scratch, not to mention the coordination and negotiation that would need to take place among the three universities.

CityU believes that the issues of concern which prompt this proposal can be adequately addressed by other means, which could include a PCLL co-ordinating body, possibly along the lines suggested by the University of Hong Kong in its submission, at paragraph 2.1.2.

### **3 Recommendation 2.2 – Secretariat for the Standing Committee on Legal Education and Training**

That a separate Secretariat for the Standing Committee on Legal Education and Training be established, linking the provision of professional services to the Committee to the offices of the Legislative Council.

CityU SLW supports this recommendation.

### **4 Recommendation 4.1 – Substantive law in the vocational stage**

That the Universities should each review their academic offerings annually, with a view to ensuring the PCLL courses are not required to learn (and be examined upon) significant amounts of substantive law in the vocational stage already studied in the academic stage. Procedures should be put in place by the universities to control curriculum drift and unnecessary duplication between the academic stage and PCLL. This might be achieved (eg) by periodic meetings between programme directors and/or cognate subject convenors of the relevant academic and PCLL subjects.

CityU SLW supports this recommendation and has in place informal processes to control curriculum drift and avoid duplication of teaching in the academic and PCLL programmes.

### **5 Recommendation 4.2 – Specific proposals for Conveyancing and Civil Procedure**

That consideration be given to moving Conveyancing entirely to the Vocational Stage, and that Civil Procedure should be re-named Dispute Resolution and (where necessary) broadened to include proper consideration of ADR and ODR processes.

The CityU SLW's two courses, *Land Law I* and *Land Law II* cover all that is normally included in an academic course on land law, including the topics specified for the conversion examination, but do not include conveyancing practice, as we do not see it as part of the academic teaching of land law. The syllabus for the Conversion Examination in Land Law appears to support this approach, as it does not include conveyancing practice.

The SLW's course entitled 'Civil Procedure' in its LLB or JD programmes does

include ADR processes in its syllabus.

## **6 Recommendation 4.3 – JD graduates’ employment experience**

That the Universities should further examine the employment experiences and performance of JD graduates to ascertain whether they are disadvantaged in recruitment, as has been suggested to the consultants, and to see whether there is any scope for ameliorating that situation.

CityU SLW’s JD graduates do not appear to be experiencing any disadvantage in recruitment and indeed many law firms have a preference for employing CityU JD graduates because they are seen as more mature. Each year, CityU has been able to take a high proportion of JD applicants into its PCLL. Most of our PCLL students, including JD graduates, have employment upon completion of their studies.

## **7 Recommendation 4.4 – Teaching of legal ethics and professionalism at the academic stage**

That principles of legal ethics and professionalism are introduced at the academic stage. We do not consider that this requires a full subject of professional legal ethics, but encourage the universities to consider how they might integrate ethics into programmes, as part of a subject or subjects, or pervasively across the core curriculum

The CityU SLW supports this recommendation and is willing to consider this recommendation further. Its initial preference would be to achieve this outcome by the pervasive teaching of legal ethics and professionalism throughout the programmes.

## **8 Recommendation 5.1 – Barriers to entry to the PCLL**

That the PCLL should not be constructed as an artificial barrier to entry, though we also retain concerns about the risks and costs of moving to a wholly marketised system. Any change on that scale should require high-level support from the universities and the profession. We welcome providers’ agreement to increase PCLL capacity in the short term, and we encourage providers to explore longer term solutions, including those

identified in Recommendation 2.1 or section 5.2.

The CityU SLW has, as mentioned in the Report, been able to increase its intake in recent years and indeed has steadily increased its intake throughout the past decade. PCLL enrollment numbers (with slight rounding up/down) have been:

2010-11	120
2011-12	140
2012-13	160
2013-14	160
2014-15	160 (+50 P/T)
2015-16	170 (+50 P/T)
2016-17	210 (double cohort year)
2017-18	200
2018-19 (est.)	210

We are willing to explore longer term solutions but the SLW would not support a wholly marketised system. A wholly marketised system for PCLL entry would be a disservice to applicants who may be better served pursuing other career opportunities instead of spending time and money for the PCLL only to find themselves unemployed after graduation.

Whilst we are not adverse to a moderate, measured increase in intake in the coming few years, we should emphasise that CityU has already done what the consultants suggest here.

At p. 69 of the Report there is a misconception that PCLL providers are averse to increasing their intake because of a lack of UGC funding. There are only 53 UGC funded places in the CityU PCLL programme, so most of the places are self-funded.

Compared to several years ago, CityU is now at an optimal point in terms of student intake (i.e. we are not turning away students whom we are confident will do well in the programme). Currently, all three providers report an extremely high passing rate (97%), perhaps partly attributable to the robust admissions process. If we are to increase intake substantially, the passing rate is likely to go down.

## 9 Recommendation 5.2 – Transparency of the admission process

That, unless moves are made rapidly to implement Recommendation 2.1, PCLL providers work together to increase the transparency of the admission process, and to develop consistent admission criteria across all three institutions. Revised admission criteria should reflect the factors identified

in section 5.3.2

CityU SLW recognises that the admission process needs to be as transparent and fair as possible. It also needs to be easily understood and used by prospective students. CityU SLW would be willing to work with the other universities to identify any more transparent and consistent admission processes.

One area in which the three universities might usefully work together is in regard to the comparing of law degrees obtained by prospective PCLL students from overseas universities. Consistency and predictability in this regard would aid students who are considering studying law overseas or who have studied at one of them and are seeking admission to a Hong Kong PCLL. This might be done through the co-ordinating body referred to in paragraph 2 above.

## **10 Recommendation 5.3 – Grading of the Conversion Examination**

That consideration be given to grading the Conversion Examination to facilitate the comparison of home and overseas students in the admission process.

Such a decision would need to be made by the Hong Kong Conversion Examination Board. The CityU SLW would support the use of gradings in the Conversion Examination.

The CityU SLW notes that the Redmond Roper Report did not recommend a Conversion Examination but rather a Conversion Course.<sup>1</sup> The sole focus of the Redmond Roper recommendation was “to make up deficits relative to training provided in Hong Kong universities” and there is no reference to examinations.<sup>2</sup> It is regrettable that what was intended as an educational initiative to improve the participation of foreign-trained law graduates in the PCLL has become, in effect, another hurdle to be jumped by candidates for admission to legal practice in Hong Kong, and has created another level of bureaucracy.

## **11 Recommendation 5.4 – A statement of outcomes and standards for the PCLL**

That the professional bodies work with the law schools to construct a

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<sup>1</sup> See recommendations 9.3 to 9.9 in the Redmond Roper Report, pp. 241-242.

<sup>2</sup> Redmond Roper Report, p. 239.

proper, uniform, statement of outcomes and written standards for the PCLL. These should include reference to the matters discussed in section 5.4.2

The CityU SLW would be willing to work with the professional bodies and the other universities, possibly in the proposed co-ordinating body referred to in paragraph 2 above, to develop such a statement and can see the benefit of having such a statement which is common to all three institutions.

The Law Society issued a revised set of benchmarks in November 2017, and has sought input on them. They might be a useful starting point for developing the proposed statement. However, CityU is conscious that some PCLL graduates go on to pupillage at the Bar which means that the PCLL must also be conscious of the Bar Association's expectations of PCLL graduates.

There might also be a case for a similar statement for the LLB/JD.

## 12 Recommendation 5.5 – Standard of competence for a pass grade

That further consideration be given to whether the PCLL currently pitches the standard of competence at an appropriate level, and whether that is properly reflected in the passing standard for the course (Section 5.4.1.4)

The CityU SLW's PCLL programme has a thorough set of standards and processes to ensure that all students who receive a pass grade or higher are indeed competent in the areas in which they were assessed, and thus ready to commence their training contract or pupillage.<sup>3</sup> This applies when assessments/examinations are set, when they are examined, and when students' results are reviewed and a final decision made.

The grade descriptor for a pass grade in the PCLL (50 – 64%) is:

- The work meets the client's main needs, evidenced by –
- an adequate grasp of the issues and subject matter
  - an ability to develop solutions to the client's problems
  - a basic use of lawyer skills.

The CityU SLW notes that the end point for the PCLL is admission to a training contract or pupillage, not to practice as a qualified lawyer. Any expectation of where the standard of competence should be pitched should take this into account.

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<sup>3</sup> They are recorded in the policies and procedures set out in the PCLL's *Assessment & Attendance Handbook*.

### **13 Recommendation 5.6 – Triennial review of the PCLL**

That the system of PCLL quality assurance be strengthened to include a triennial review of the course (Section 5.4.3); this recommendation applies equally to any sole provider introduced under Recommendation 2.1. New regulation should be introduced to enable de-accreditation of a provider, including an independent appeal process against a recommendation of de-accreditation.

The CityU SLW supports this recommendation in principle provided it is fairly and fully implemented and is not too heavy-handed. We suggest the review might preferably be every five years, which is the regularity of reviews within the university system and accords, for example, with the frequency of such reviews of practical training courses by admission boards in Australia.

The CityU SLW notes that there is already a quality assurance process in place, whereby the role of external academic advisors is to provide comments and suggestions for improvement every year, and there could be value in revitalising and improving the existing system rather than introducing a new system.

### **14 Recommendation 5.7 – Identifying and addressing future needs and priorities**

That (i) key stakeholders when devising the outcomes and written standards, and (ii) the PCLL providers more generally when developing electives, or considering the scope of the informal curriculum, or delivery of student support, identify and address a range of future needs/priorities. These include: education in professionalism; commercial awareness; understanding of new modes and technologies of legal practice; developing greater proficiency in Putonghua; developing lifelong learning/reflective practice capabilities; the need for enhanced careers advice and support.

The CityU SLW proposes that this recommendation might be implemented by means of a roundtable conference, in which representatives from the profession and the three institutions providing the PCLL would participate. The purpose of the conference would be to stimulate further thought on the matters listed in this recommendation, to obtain further information and insights in regard to them, and to give to the institutions ideas for further development in their respective curricula

for the PCLL.

The CityU SLW supports the pursuit of greater proficiency in Chinese (Putonghua mostly for transactional practices and Cantonese mostly for adversarial practices, and written Chinese for both). An elective subject, *Chinese for Legal Practice*, is offered in the CityU PCLL.

#### **15 Recommendation 6.1 – Moratorium on current CEE development**

That a moratorium be called on current CEE development while (i) a further Benchmarking exercise for PCLL is completed (see Recommendations 5.4 and 5.5), and (ii) a decision is made either to create a new School of Professional Legal Studies (Recommendation 2.1), or agreement is established between the Law Society, Bar and PCLL providers to progress any PCLL-associated CEE model (either as an interim or continuing solution).

CityU SLW supports this recommendation. It also notes that any system should not be put in place which affects students already undertaking their law studies.

#### **16 Recommendation 6.2 – Working group to oversee the development of an element of common assessment**

If the key stakeholders (Law Society, Bar and PCLL providers) agree that an element of common assessment is desirable, that a cross-stakeholder working group under the auspices of SCLET should be convened to oversee the development. Membership of the group should include equal representation from the Law Society, Bar and PCLL providers, and at least one educationalist from outside the PCLL, with experience of high stakes professional assessment design. The chair of the group should also be independent of the above key stakeholders.

Whilst CityU SLW supports this recommendation, it believes that the present assessment regime is satisfactory, particularly as it involves active participation by representatives from the legal professional bodies at various stages in the assessment process, principally as external academic advisors. The SLW also notes that the external academic advisors for each course in the PCLL are, in many cases, common to all three institutions. They are the best placed to identify whether there are differing standards as between the three institutions. CityU is

not aware of any of the external academic advisors raising this issue in the last few years in regard to any of the courses taught in the CityU PCLL.

CityU SLW believes that there are instances where this involvement from the practising profession could be more active and thorough than is presently the case, and that in some instances it might be opportune for the professional bodies to appoint some new persons where the existing holders have been in place for many years.

**17 Recommendation 6.3 – Working group to develop model/s for stakeholder consultation, revision and implementation.**

That any working group created under Recommendation 6.2 shall be charged with developing a model or models for the purposes of stakeholder consultation, revision and implementation. Without unduly constraining the terms of reference of the group, any model devised should include a basic risk analysis; worked arrangements for setting and review of common papers, examining arrangements and recommendations as to the structure and powers of any examining board. It will be for the working group to agree any revised implementation date for the scheme of common assessment.

CityU SLW supports this recommendation if recommendation 6.2 were to be implemented.

**18 Recommendation 6.4 – Involvement of PCLL providers in a system of common assessment**

That, subject to Recommendation 2.1, if any system of common assessment is adopted, PCLL providers are involved in paper setting, and examination arrangements. A joint examination board of all PCLL providers, together with Law Society and Bar Association external examiners, should be devised to oversee results and report on assessment processes.

CityU SLW supports this recommendation should a system of common assessment be adopted. The proposed examination board might be part of the co-ordinating body referred to in paragraph 2 above.

## **19 Recommendations in chapter 7 of the Report**

CityU SLW does not provide any responses on the recommendations contained in chapter 7 of the Report, but it is supportive of any changes which lead to a more seamless route from the PCLL into practical training in a training contract or pupillage.

## **20 Recommendation 8.1 – Standing Committee’s oversight function to be extended**

That the Standing Committee’s oversight function be extended to enable it to undertake a more substantive quality assurance role as identified in section 8.2 of this Report.

CityU SLW supports this recommendation.

## **21 Recommendation 8.2 – Review of Law Society’s methods of regulating and monitoring continuing professional development**

In the wake of developments in mature continuing professional development schemes in the UK, Canada and New Zealand, (per Section 8.3), that the Law Society be invited to initiate a review specifically into its methods of regulating and monitoring continuing professional development. (The work on benefits models of CPD is also commended to the Bar’s taskforce and Standing Committee on CPD).

CityU SLW has no comment on this recommendation.

## **22 Suggested changes and clarifications in the Report**

22.1 In the 6<sup>th</sup> bullet point under section 2.15, we suggest that a proposed solution of this magnitude must be based on a substantiated problem and not just to “potentially resolve some of the concerns that exist, rightly or wrongly, about the present system...”.

22.2 In the penultimate paragraph under section 5.1, it is stated that both the Bar Association and the Law Society acknowledge that “interference” with the PCLL might raise concerns regarding the universities’ academic freedom, though this argument has not been raised by the law schools themselves.

We believe that the issue of academic freedom was touched upon in our initial interview with the consultants in December 2015. In any event, CityU is concerned about academic autonomy over teaching content, student admissions, staff recruitment, resource allocation, and freedom to set research objectives.

- 22.3 At the end of the first paragraph under section 5.2, it is stated that just over 50% of first choice applicants are admitted to the PCLL. In the case of CityU, around 60% of all first choice applicants in the last two years received offers to the CityU PCLL.
- 22.4 In the last bullet point under 5.3.1, it is stated that each PCLL recruits predominately its own graduates. In the last two years, the CityU PCLL has given more offers to non-CityU students than CityU students.
- 22.5 In Table 5.2 under section 5.4.1.3, the number of contact hours for the CityU PCLL is shown to be significantly more than the other two providers. While we do not know enough about the other two PCLL programmes to know precisely what accounted for the difference, we think there are a couple of plausible explanations. We may have comparatively more in-class assignments, resulting in more class time and less homework/study time required outside of the classroom. Also, for courses such as Trial Advocacy and drafting where feedback is given to each student during small group sessions, the actual contact hour for each student may only be a fraction of the time allocated for the entire small group session. We also note that the reference to “a difference of over 100 contact hours” is based on comparing the low end of the range for the other two providers. If the high end of the range is used, the difference is around 50-80 hours, or roughly 2-3 hours per week (based on two 13-week semesters).
- 22.6 There is a small error in the Report as the section immediately following section 5.4.2 is numbered 4.5.3.

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Standing Committee on Legal Education and Training  
c/o 3/F Wing On House  
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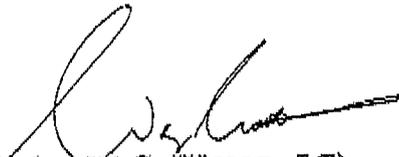
Dear Vivien,

**Comprehensive Review on Legal Education and Training**

The Department of Justice is grateful that the Consultants have held further rounds of consultation with stakeholders in January 2018, giving us an opportunity to express views about the provisional recommendations set out in the Consultants' interim report on their study of a comprehensive review on legal education and training which was published in November 2017.

With regard to provisional recommendation 2.2 in respect of which the Consultants at the meeting with our representatives on 24 January 2018 expressed their wish to have our written response thereon, please find attached our written submissions for your onward transmission to them.

Yours sincerely,

  
(Wesley W.C. WONG, SC)  
Solicitor General

Encl.

#466365v2b

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20 March 2018

By fax & by post

# Comprehensive Review on Legal Education and Training in Hong Kong

## Draft Report of the Consultants

### Comments from the Department of Justice (DoJ) on the provisional Recommendation 2.2

In the draft report, Recommendation 2.2 recommends “*That consideration be given to establishing a separate Secretariat for the Standing Committee on Legal Education and Training [“SCLET”], linking the provision of professional services of the offices of the Legislative Council rather than, as appears to be case at present, to the Law Society.*” The DoJ’s comments on this recommendation are as per set out below for the Consultants’ consideration:

- a. It is noted that The Law Society of Hong Kong has been undertaking the provision of secretarial service for SCLET but since indicated its intention to cease doing so.
- b. In pursuing the suggestion of establishing a separate Secretariat for SCLET, consideration may be given to having it housed under and operationally supported by the DoJ as the relevant “house-keeping bureau” instead of being “linked” in some way to the offices of Legislative Council, given that SCLET is a statutory body independent from the Legislative Council, and also that the Legislative Council and its secretariat operate independently from the Government being the executive authorities of the HKSAR.
- c. The above proposal is in line with the current practice of the Government on matters concerning statutory bodies in that their administration or operation would generally be serviced by the house-keeping bureaux with relevant policy responsibilities which, in this case, is the DoJ.

Department of Justice  
March 2018  
#466363-v4

## **Submissions of the Bar to the Consultants**

**appointed by the Standing Committee on Legal Education and Training (SCLET)**

**to conduct Comprehensive Review of Legal Education and Training**

**in Hong Kong**

1. More than a decade after the Redmond-Roper Report was published in 2001, the Standing Committee on Legal Education and Training has resolved in 2013 that it was time to undertake a further review of legal education.
2. As a result, two consultants of international renown, namely Professor Tony Smith and Professor Julien Webb, under the chairmanship of Mr. Woo Kwok-Hing GBS, QC, were appointed in July 2015 to undertake the task. Mr. Woo later resigned in October 2016 and his role has since been taken up by Mr. Anthony Rogers GBS, QC.
3. The consultants have since produced a draft report in the form of an interim report (“the Report”) which was published in October 2017. Following the publication of the Report, the Bar was invited to comment on its contents and this is the Bar’s response.
4. The Bar wishes to begin by making a number of general observations as follows:
  - (a) On the subject of the proposed new institute of legal education and training, the view of the Bar is that on the whole there is nothing to show that the PCLL graduates from the PCLL providers are not up to standard. From the Bar’s experience, there is no discernible inconsistency in the standards of students depending on where they have obtained their PCLL qualification (i.e., the standards of the products from the 3 course providers (HKU, CU & CityU) are roughly the same). Whilst from time to time there are complaints against individual barristers, there is no discernible pattern to show that they are more likely to have obtained their PCLL qualification from one

course provider as opposed to another course provider. Hence, the Bar fails to see any real necessity for a consolidated institute for vocational legal education and training to replace the current system of having 3 separate course providers each running its own PCLL programme, even though the current system may not be the most logical design if one were to start with a clean slate.

- (b) Apart from that, it is also important to bear in mind the potential implications on funding of the PCLL course (and hence its accessibility to those from less privileged backgrounds) if it were to be transferred away from the universities to a new institute. Owing to historical reasons, the legal profession currently enjoys a unique position amongst the professions in that the PCLL is the only vocational training course which has UGC funding. Any change to the current arrangement is likely to unleash questions over whether UGC funding should continue to be available to the PCLL course, with the likely result that public funding would be withdrawn. Moreover, to the Bar's knowledge at least 2 of the universities currently utilise a not insignificant amount of their private resources to subsidise PCLL students who do not qualify for UGC funded places in the form of scholarships and bursaries and if the PCLL course were to be removed from the universities, equivalent subsidies would have to be found elsewhere in order to maintain the same level of access to the course.
- (c) The Bar would also caution against jumping to the conclusion that PCLL is being used as an "artificial barrier" to entry to the profession just because the point of admission to the PCLL course is something of a "bottleneck" in the sense that those aspiring to become practising lawyers would not be able to attain their goal if they fail to secure a place on the PCLL course and the number of available places is vastly exceeded by the number of graduates with a law degree which meets the minimum requirements of attending PCLL. There is bound to be a "bottleneck" somewhere along the line and if it is not at the point of entry to the PCLL course then it would have to be further down the line such as at the point of obtaining pupillage or tenancy. Having the

“bottleneck” at the point of entry to the PCLL course is not *per se* a bad thing and may arguably be more logical in that it is the point of transition from the academic to the vocational stage of legal education. There is nothing wrong with the “bottleneck” if it is the result of applicants failing to meet the stringent admission criteria set by the course providers for admission to their PCLL programme and not the result of a restriction on numbers by design or due to lack of resources. The Bar does not subscribe to the view that just because someone meets the minimum academic requirements for entry to the PCLL course he has a legitimate expectation to be given a place on the course, and from a societal prospectively it would be economically wasteful to put through the PCLL course those who do not have the aptitude to succeed in practice regardless of whether that is publicly or privately funded. The Bar has been informed by the universities that in fact they have the necessary resources to increase the number of PCLL places if need be and the fact that they have not done so is because the number of places currently available is more or less sufficient to enable all those whom the course providers consider as possessing the ability and right aptitude to succeed in practice to obtain a place on the course. On that basis, the Bar does not see any justification for saying that the restricted number of places on the PCLL course is an “artificial barrier” to entry to the profession. Instead of increasing the number of PCLL places, more should be done to dispel the misconception that those who meet the minimum academic requirements for entry to the PCLL course have a legitimate expectation to be given a place on the course and to emphasise that a law degree is not necessarily the foundation for a legal career and that it may be valuable in other professional disciplines as well as general commerce. In this connexion, it might be pointed out that the current minimum requirement for PCLL of a 2:2 degree in law which was set more than forty years ago may now be too low having regard to the grade inflation which has since taken place, even though it might be politically difficult to push for an upward revision as it will likely be perceived by the public as yet another attempt at artificial restriction on entry to the legal profession.

(d) With regard to the proposals for reform of pupillage set out in the Report, the general impression given to the Bar is that in drafting their recommendations the Consultants had in mind a much more developed chambers system such as that obtains in England and insufficient regard has been paid to local conditions in Hong Kong where there are still a large number of sole practitioners and small sets of chambers with only a few members. Once the local conditions are taken into consideration, it will be seen that the recommendations will not work unless the provision of pupillages is to be restricted to the few large sets which is unlikely to be well-received by either the general membership of the Bar or the general public at large.

(e) On the subject of BQE, the Bar wishes to refer to the historical background and the decision not to continue to recognise English and Commonwealth qualifications shortly after 1997 due to increasing divergence between the law and practice in different jurisdictions and to specify PCLL as the exclusive route for those newly qualified to enter the profession. BQE was introduced only to facilitate cross-border transfer of practitioners already established in their home jurisdictions. Moreover, the reality is that those who succeed in gaining admission to the Hong Kong Bar via the BQE route invariably hold themselves out as established practitioners rather than newly qualified, and that is also the expectation of those who engage their services. Hence, the Bar takes the view that it would not be right to revise the standard of BQE to that of a day-one practitioner.

5. Apart from the above general observations, the Bar would like to respond to some of the individual recommendations as set out in Section 8.4 (pp.147 to 152) of the Report (insofar as they have not already been adequately covered) as follows:

#### Recommendation 2.1

For the reasons set out in paragraphs 4(b) and (c) above, the Bar does not favour this recommendation.

#### Recommendation 2.2

The Bar does not express any strong views on the recommendation, except that it appears to have been based on a mistaken view of the status of SCLET – the statement in paragraph 2.13 (p.24) of the Report that SCLET is a Standing Committee of the Legislative Council is wrong.

#### Recommendation 4.2

The Bar would like to point out that Conveyancing is a subject where it is particularly difficult to draw a line between what is substantive law which should be taught at the academic stage and what is skilled-based training which should be taught at the vocational stage. Also there may be implications on the time available for teaching in that if all substantive law currently taught as part of Conveyancing were to be taught as part of land law at the academic stage, then the time allotted to the teaching of land law would have to be substantially increased, and conversely if Conveyancing taught at the vocational stage were to be confined to the mechanics only, then there may not be enough to fill up the time allotted for one subject. While on the subject of transferring courses between PCLL and LLB, the Bar would support uplifting civil and criminal procedures to be taught at the PCLL stage.

#### Recommendation 4.3

From the Bar's experience there is no real disadvantage on those who completed the JD programme instead of the full LLB programme, though there is evidence to show that those who took the CPE tend to be weaker in terms of analysis of case law and JD students are somewhere in between.

#### Recommendation 4.4

The Bar agrees that ethics should be taught pervasively.

#### Recommendation 5.1

See the observations already been set out on paragraph 4(d) above.

#### Recommendation 5.6

The Bar takes the view that a triennial review would pose too much a burden on manpower resources. A review once every decade should be sufficient.

#### Recommendation 6.1

The Bar takes the view that the proposal for CEE should be dropped and that the power of the Law Society to impose CEE should be abolished by statutory intervention. The Bar is given to understand that Mr. Justice Rogers has raised the question as to whether section 7 of the Trainee Solicitors Rules (the rule relied upon by the Law Society for the implementation of the CEE scheme) is in conflict with section 73(2) of the Legal Practitioners Ordinance and hence ultra vires. The Bar would not like to express any firm view on this issue but would agree that it is certainly arguable that it is.

#### Recommendation 7.4

See the observations already set out in paragraph 4(e) above. The Bar is of the view that the current rules are appropriate.

6. In principle the Bar is not supportive of the idea of having any more PCLL providers mainly for resources reasons.
7. The Bar is of the view that the SCLET should not change its current role as being an advisory body to a body having executive role of overseeing the PCLL courses. The Bar is given to understand that it was not the Consultants' idea that the SCLET should be asked even to oversee the running of the PCLL course, and their idea was simply that the SCLET should take up a more proactive role but certainly not to the extent of "overseeing" the running of the PCLL, and they would set out the role of the SCLET as envisaged by them in greater clarity and details in their final report.

Dated the 26<sup>th</sup> day of February, 2018.

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WRITTEN RESPONSE TO  
THE DRAFT REPORT OF THE CONSULTANTS

Comprehensive Review of Legal Education and Training in Hong Kong  
Standing Committee on Legal Education and Training

ALASDAIR CHI-CHEUNG KAN

Postgraduate student representative, Board of the Faculty of Law  
The University of Hong Kong

**February 2018**

## 1. Introduction

I am pleased to submit this response as an elected student representative of the Faculty of Law, the University of Hong Kong.

I reached out to the Consultants for several reasons. HKU Faculty of Law's draft response to the Consultants' Interim Report was considered at its Faculty Board meeting on 10 January 2018, which I took part in. During the meeting, it became apparent that in several respects, the views of students diverged from the Faculty. I decided to develop those views into my oral submissions in my meeting with the Consultants.

I was further heartened to see that the Consultants value contributions from students and are actively seeking more responses from us, as evidenced by the Interim Report itself and a letter from Mr Rogers QC to the Dean.<sup>1</sup>

The student views presented in this response are compiled from feedback personally received, written comments to various HKU surveys in the past two years, and my own personal observations as a graduate of the HKU LLB and a current PCLL student.

The purpose of this written response is to supplement the oral submissions on points not made at the interview. Points already made will only be briefly summarized here.

The structure of this response is as follows: it begins by addressing the education offered by the universities, namely the academic stage of legal education (Section 4 of the Interim Report) and the PCLL (Section 5 of the Interim Report), with a focus on HKU. It then turns to comment on the solutions recommended by the Consultants on the regulatory framework (Sections 2, 8 of the Interim Report).

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<sup>1</sup> I was informed that, in response to the letter, the Faculty circulated the Interim Report to all LLB and JD students via email on 12 December 2017. Unfortunately, the Faculty left out PCLL students due to an administrative oversight. They only received the report on 11 January 2018.

## **2. Brief note on student participation in the review exercise**

It was noted in the Interim Report that few responses were obtained from students. This is not to say students did not participate in other ways. For instance, student associations and representatives (such as myself) attended interviews with the Consultants. But my own personal observation is that law students as a whole have not actively participated in the review exercise. Here are some thoughts as to why.

One issue might be how long this review has taken. It is now four years since SCLET resolved to conduct this review, and two years since the original team of Consultants issued the Consultation Paper. Most students who were informed of the review at its beginning would have graduated by now. There has been no news about the review in the public domain for a while, so younger students are probably not aware of the review (until they received the 155-paged Interim Report through email, and decided to read it).

A more fundamental reason might simply be that it is quite difficult to form a view on the entire system of legal education and training when one is in the earliest stages of that system. I trust that the undergraduate students from HKU have relayed their thoughts on the review through the Law Association HKUSU on two issues they care most about: PCLL admissions and the CEE. Understandably, they would not be in a position to comment on the PCLL program itself, and beyond. Conversely, those past the PCLL bottleneck may have less personal concerns with the system, and consequently less motivation to participate in the review.

I might add that students are, to a large extent, not informed of the complex structure of bureaucracy that form the current governance model of the PCLL. It is difficult to form an educated opinion about what one does not know.

Lastly, my own observation is that students do not have a clear demand as to structural reforms on legal education and training. Students view the current system as one of jumping through hoops – of various sizes set by law schools, professional bodies, and employers. As expanded on below, students cannot meaningfully participate at decision-making bodies at all levels of the current system. In other words, students lack agency in shaping the system that arguably affects them the most.

### **3. The academic stage of legal education**

Apart from the first issue addressed below, all other subheadings in this section relate to the issues raised in the Interim Report.

#### No room for complacency

HKU has enjoyed a reputational advantage among the three law schools in Hong Kong but it must guard against complacency. The reality is that the main competitors of HKU Law are prestigious UK schools such as Oxford, Cambridge, and the top London schools. This is true when secondary school graduates (of means) choose where to go for university, but equally true when HKU graduates compete for traineeships at top law firms and pupillage at the top chambers. There is a perception, held by students and employers alike, that the UK law schools are more superior.

The Faculty needs to honestly reflect on the quality of teaching it provides. It needs to choose appropriate comparators and strive for excellence if it is to deserve to call itself "Asia's top law school." While the Faculty has centered its efforts in improving its research activities following the 2014 RAE, it must not forget its core mission of producing the best law graduates in Hong Kong. Rankings are not necessarily a good reflection of teaching.

It would not be tendentious to argue that our top graduates from HKU are, broadly speaking, comparable with the best returnees from the UK law schools. But the reality is that HKU may be devoting less to its students than its UK counterparts. When HKU students meet overseas returnees, or go on exchange, they find the HKU experience lacking: there is relatively little feedback given in classes; small group teaching is mainly carried out by junior practitioners as part-time tutors; class sizes can be huge; and most students do not form a close connection with faculty members. HKU Law needs to invest more in teaching, set more ambitious measurable goals, and make concrete plans to achieve them.

#### On the PCLL prerequisites

The Consultants' observation that there is a risk in having an over-prescription of compulsory courses is apposite. At HKU, most undergraduate law students take all the core subjects required for PCLL admission even though some are classified as law electives. Students would welcome lowering the number of compulsory subjects. In general, students prefer a more flexible curriculum structure that can cater to their own academic interests.

Less compulsory subjects would also entail more opportunities for going on exchange without risking a deferral in graduation.

Overseas returnees would also welcome a reduction in the prerequisites so as to reduce the number of conversion exams they need to sit.

On the recommended changes to Civil Procedure, students generally find the current course at HKU quite demanding. The course currently covers the whole gamut of the Rules of the High Court from service to enforcement of judgments. Although some ADR mechanisms are briefly mentioned, injecting further ADR content will require taking out existing content. Law schools will also need to reconsider the teaching method of the course. In its current form, the Civil Procedure course is a lecture-only course (with no tutorials) and a class size of 200+, with the sole assessment being a 3-hour in-hall exam. This may not be the best way to compare and contrast various dispute resolution mechanisms.

The Conveyancing course was included in the LLB syllabus since the intake cohort of 2004-2005 when the LLB was extended from three to four years.<sup>2</sup> It was made part of the PCLL admission requirements since 2008-2009. In its HKU form, the course title of "Land Law III (Conveyancing)" is somewhat of a misnomer as the actual law and procedure in a conveyancing transaction (such as what constitutes a good title; sale and purchase agreements; requisitions; completion etc.) is still left to the PCLL.

The Land Law III syllabus is more concerned with a wide variety of matters broadly related to land ownership in Hong Kong. In terms of knowledge, the main topics students need to demonstrate their familiarity with in the in-hall exam include: the system of land holding, government leases, building management issues, New Territories land, planning law, and priority. In terms of skill, students will be required to extract information from a full copy of an actual government lease in the in-hall exam.

At its genesis, the Land III course was created by taking out content from the PCLL and frontloading the content in the LLB stage.<sup>3</sup> The intention was to make room for revamping the PCLL Conveyancing course and turning it into a more hands-on, skills-based course. It is doubtful whether this goal has materialized. In comparison with other PCLL core courses, the HKU PCLL Property Transactions I course today remains heavy on legal content.

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<sup>2</sup> See Degree Regulations and Course Descriptions, the University of Hong Kong.

<https://www4.hku.hk/pubunit/drcd/archives>.

<sup>3</sup> The Land III (Conveyancing) course has always been taught by staff from the Department of Professional Legal Education (the PCLL department) rather than the Department of Law.

The original intention behind the Land III course was further frustrated by another reason. It became apparent that overseas returnees who had sat the Hong Kong Land Law conversion examination were, generally speaking, not on par with the local graduates who took Land III. As a result, there is a recap of Land III material at beginning of the Property Transactions I course, resulting in a definite overlap between Land III and Property Transactions I in the PCLL.

Given the above, it would make sense to reconsider where to locate the content of Land III. Undergraduate students would support the removal of Conveyancing from the list of prescribed courses. Within the PCLL, the content in Land III may well be redistributed between the Property Transactions I compulsory course, and other property electives.

#### Part time and full time study

Contrary to the suggestion made by the Interim Report, the HKU undergraduate/ JD law degrees do not allow part time study. Students are required to take not fewer than 24 credits (4 courses) in a semester (compared to a full load of 30 credits, or 5 courses).<sup>4</sup> For the LLB, the Regulations do permit students to extend their studies to up to six years, but this is frowned upon by the Department. Students defer their graduation for various reasons (e.g. joining exchange/ visiting programs, or health reasons) but part time study is not one of them.

I understand that students who wishes to undertake part time study for a law qualification generally do so via preparation courses for the University of London International LLB, or the CPE/ GDL route.

#### Admissions

The admissions standard for all of the HKU programs is high, but one wonders if the current JUPAS admissions system, which looks solely at the HKDSE grades of the candidates, is a holistic assessment of the ability to excel as a law student. No interviews are conducted for JUPAS candidates, and personal statements are not a factor for consideration.

My own observation is that the current law student population does not reflect the socio-economic diversity in Hong Kong society. The average HKU law student probably comes from a family more affluent than the average Hong Kong household. This has far-reaching

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<sup>4</sup> LL11 (a), Regulations for the Degree of Bachelor of Laws (LLB).  
[http://www.law.hku.hk/syllabuses/LLB\\_2017-18.pdf](http://www.law.hku.hk/syllabuses/LLB_2017-18.pdf).

implications for classroom interaction and beyond. The fact that English, a second language for most locals, is a key prerequisite for law school in Hong Kong does make a difference, but law schools themselves can also do more.

#### Exchange and other international opportunities

Compared to the other two law schools, and other faculties at HKU, the HKU Law Faculty sends quite a large proportion of its students on exchange every year. Students study at a partner institution for one semester or a year, and many (but not all) do get their credits transferred back. The Law Faculty must be applauded on this. Many students cite their exchange experience as the high point of their undergraduate years.

I would encourage the Faculty to further explore other forms of international experience. Some students arrange their own international opportunities, such as interning at UN agencies or international human rights organizations. Some institutional support for these valuable engagements would be welcomed.

#### Conversion exams

Some local students perceive that overseas returnees “have it easy” by only needing to pass conversion exams (achieving a score of 50%). Even if one fails a conversion exam, one can simply take it again with no penalty. Meanwhile, local students need to study a more extensive course with a more difficult exam, and are graded on a scale. A grade of bare pass (D) would have a huge adverse impact on the GPA and consequently PCLL admissions.

Of course, this is an argument that cuts both ways. If a local student does well in the PCLL prerequisites, he enjoys a boost in his GPA, an opportunity that is not available for those taking the conversion exam.

It seems to me that a fairer way would be to grade the conversion exams, and for PCLL providers to take those grades into account in the same manner as they do for local students.

## 4. The PCLL

### The numbers problem

As mentioned in the interview, students would welcome more PCLL places, and it appears that law schools will (with some reluctance) provide them if asked to do so. It is high time the law schools started to rethink whether its current teaching model, especially reliance on large lectures, is still effective and appropriate when student numbers further increase.

There is reason to suspect, however, that PCLL providers will simply continue its current mode of operation rather than carry out a large-scale curriculum reform. There is little real competition between the three providers especially for local applicants. Opening up the market for more training providers is likely to do more good than harm by introducing some health competition.

If law schools plan to recruit even more part-timers to cater for the increase in student numbers, it needs to establish robust quality assurance processes for part-time staff.

### Admissions

The issue of transparency has been well vented in the interviews. More could and should be done by the law schools to counter rumors and speculation, and to establish public confidence in the admissions system.

To begin with, HKU has a clear formula for ranking its applicants when they apply for the PCLL (by way of numerical average grades of all Law grades), and another formula for determining who gets a UGC-funded place. But this is not mentioned on its own website.<sup>5</sup> Neither is their commendable scheme of selecting some part-time students based on their work experience. They should make this information easily accessible.

At the same time, having heard the admissions process explained to me in detail, I have every confidence that HKU is acting in good faith. I appreciate why they might find it inconvenient to make available data on, say, the proportion of spaces allocated to UK vs HKU students, or the minimum marks required listed separately by law school. There may be no scientific way of establishing equivalency between grades from HKU vs UK vs Australian universities, and wherever the line is drawn, applicants will wish to complain. A completely transparent system may not be in the best interests of applicants.

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<sup>5</sup> <http://www.ple.hku.hk/pcll/index.html>

Still, it appears to me that more can be done without compromising the integrity of the admissions process. For instance, providers should be able to make available more statistics (e.g. the first, second, and third quartile of grades from HKU applicants, and the average marks of major sources of UK graduates) without disclosing the minimum score. A breakdown of students admitted sorted by where they obtained their undergraduates degrees should similarly be uncontroversial. SCLET should establish a common template for use by all three providers.

### Standards

The Law Society released its revised PCLL benchmark in November 2017. As the Consultants have pointed out, this has never been a public document and I am in no position to compare the new with the old one. As a whole, the benchmark appears to be reasonable, but one wonders whether the providers were adequately consulted before the benchmark was revised. It is also unclear whether and how the benchmark will be internalized by the providers. For instance, small group teaching at the HKU PCLL generally happens in a group of 12, while that prescribed by the Law Society has always been 1:8.

There needs to be a better communication channel between the providers and the professional bodies.

### Contact hours

The contact hours, defined as the scheduled time of face-to-face classes with an instructor, of the HKU PCLL are listed here for reference:<sup>6</sup>

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<sup>6</sup> As manually counted by my colleague Tony Lau and myself from the 2017-18 PCLL timetables.

Course	Large group (LG) hours	Small group (SG) hours	Total hours
<i>Core</i>			
Corporate and commercial transactions	28	26.5	54.5
Civil litigation	32	16.5	48.5
Civil advocacy	13.5	7	20.5
Property transactions I	40	8	48
Criminal litigation	12.5	10	22.5
Criminal advocacy	22.5	15	37.5
Professional practice and management	20.5	10	30.5
<b>Total (A)</b>	<b>169</b>	<b>93</b>	<b>262</b>
<i>Electives</i>			
Personal injuries	22	16	38
Matrimonial practice and procedure	20	20	40
Wills, trusts and estate planning	17	23	40
Drafting commercial agreements	9	28.5	37.5
Employment law and practice#	10	20	30
China practice	27.5	0	27.5
Listed companies*	17	20	37
Use of Chinese in legal practice	26	15	41
Commercial dispute resolution	20	23	43
Property transactions II@	22	24	46
Property litigation	20	24	44
Trial advocacy^	38.75	23	61.75
<b>Total for the three electives with the least contact hours (B)</b>	<b>54.5</b>	<b>40</b>	<b>94.5</b>
<b>Total for the three electives with the most contact hours (C)</b>	<b>78.75</b>	<b>70</b>	<b>151.75</b>
<b>Total contact hours in the entire PCLL program (ranging from A+B to A+C)</b>	<b>223.5-247.75</b>	<b>133-163</b>	<b>356.5-413.75</b>

# Lectures mostly delivered via recorded lectures of previous semester. Apparently this was necessitated by the unexpected departure of the original course coordinator.

\* Course delivered via a "flipped classroom" format with online tailor-made videos and interactive learning tasks.

@ Due to limited number of enrolment, there is only one SG group for this course. The lectures and tutorials have the same teacher-student ratio.

^ The "bar course".

As the table indicates, the aggregate hours are generally in line with the numbers HKU provided to the Consultants (352-384 contact hours), except that the maximum possible number of contact hours is actually higher. However, only 1/3 of that time is small group teaching (with a teacher-student ratio of around 1:12). There also exists a large variation in terms of contact hours, and the proportion of LG vs SG, among individual courses.

While complete uniformity is unnecessary, it is suggested that there should be a norm as to a minimum number of hours dedicated to small group teaching.

### Assessment

Continuous assessment is not the norm for the HKU PCLL. As shown in the table below, most courses adopt in-hall exams as the sole method of assessment.<sup>7</sup>

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<sup>7</sup> See 'Course Descriptions,' in 'Syllabuses for the Postgraduate Certificate in Laws.'  
[http://www.law.hku.hk/syllabuses/PCLL\\_2017-18.pdf](http://www.law.hku.hk/syllabuses/PCLL_2017-18.pdf).

<b>Course</b>	<b>Assessment</b>
<i>Core</i>	
Corporate and commercial transactions	100% in-hall examination
Civil litigation	95% in-hall examination, 5% client interview
Civil advocacy	100% final advocacy assessment
Property transactions I	20% mid-term in-hall exam, 80% final in-hall exam
Criminal litigation	25% in-hall examination, 25% coursework
Criminal advocacy	30% client interview, 60% oral submission, 10% group court report
Professional practice and management	12% mid-term accounts exam, 88% final in-hall exam
<i>Electives</i>	
Personal injuries	25% mid-term exam, 75% final in-hall exam
Matrimonial practice and procedure	50% oral assessment, 50% final in-hall exam
Wills, trusts and estate planning	10% client interviewing, 20% wills drafting assessment, 5% fact-finding exercise, 30% group written advice summary & presentation, 35% final examination
Drafting commercial agreements	100% final in-hall exam
Employment law and practice	30% interviewing and conference skills, 70% final examination
China practice	5% mid-term legal research exercise, 20% mid-term drafting exercise, 75% final examination
Listed companies	10% class participation and coursework, 40% online quizzes, 50% final examination
Use of Chinese in legal practice	30% written assignments, 20% client interviewing, 50% Final examination
Commercial dispute resolution	70% in-hall exam, 20% mediation skills, 10% mediation report, advocacy exercise
Property transactions II	20% mid-term in-hall exam, 80% final in-hall exam
Property litigation	100% final take-home assignment
Trial advocacy	25% opening, 25% examination-in-chief, 25% cross-examination, 25% closing

Especially for the core component, the PCLL is still heavy on in-hall examinations. The advantage of in-hall examinations is that they are less costly and easier to arrange, but this may not be the most appropriate assessment for a program that is supposed to focus on the training of skills, not knowledge.

I understand that teachers have made proposals to move towards continuous assessment, but professional bodies have had reservations due to the large class size of the HKU PCLL. The likely increase in PCLL places following the Consultants' recommendation may further hamper HKU's ability to reform its assessment regimes. It is hoped that professional bodies

can acknowledge the pedagogical benefits in adopting more diverse forms of assessment.

Pass rates is a sensitive topic in the PCLL. Any informed discussion must be based on disaggregated data, which is not generally available. According to information available to me, two courses consistently yield particularly high failures in HKU (Corporate and commercial transactions (CCT), Professional practice and management (PPM)). In 2016-17, the failure rates of CCT was around 14% while that of PPM was around 8%. Only a handful of students fail other courses, and many electives had no failures. The overall first-time pass rate was accordingly around 80%.

It can be seen that the pass rates are not at all uniform across all courses. I am not aware of any systemic analysis on why students fail CCT and PPM in particular, but it is notable that both courses are only assessed by way of exams.

Students typically find the PCLL quite demanding. Most courses require a lot of work even for a bare pass, and a high pass rate may simply indicate that the course was well-designed and students achieved the intended learning outcomes. It is hoped that the Consultants will have access to similar data from the other two providers.

It is true that almost everyone passes the PCLL after the supplementary examinations in August.<sup>8</sup> However, it must be noted that some teachers provide extensive support to students who failed in the summer holidays. Given the relatively stringent entry standards, it is reasonable that the learning outcomes of PCLL can be accomplished by the vast majority of students.

#### Quality assurance (QA) processes and student participation

My thoughts on this has been discussed at the interview. In gist, the current QA processes suffer from two flaws: (1) the QA system is not fit for purpose, and (2) the lack of student participation.

##### (1) The QA system

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<sup>8</sup> If a student fails the supplementary examination, she will be required to repeat the entire curriculum. If she fails again after repeating the curriculum, she is allowed to sit a further supplementary examination. If she fails yet again, she will be required discontinue her studies. In other words, in theory students have four tries to pass the PCLL. See PCLL5, Regulations for the Postgraduate Certificate in Laws (PCLL) 2017/18. [http://www.law.hku.hk/syllabuses/PCLL\\_2017-18.pdf](http://www.law.hku.hk/syllabuses/PCLL_2017-18.pdf).

For reasons addressed in the Interim Report, SCLET has failed to exercise any substantive QA role over the providers. The main QA process is the External Examiner (EE system). Each course has two EEs, one from Law Society and another from the Bar. While they have extensive powers (e.g. to approve question papers and suggested answers, decide on scores of marginal cases, sit in classes), they do not participate in curriculum development. A legal practice course would benefit from industry participation in curriculum development to ensure the course content remains up-to-date and relevant.

Meanwhile, oversight of the overall quality of the program is left in the hands of the Chief EE, a judge. For reasons discussed in the interview, this is not a desirable arrangement as this appears to be a perfunctory exercise. The PCLL would benefit from having a substantive QA process as outlined in Section 4.5.3 of the Interim Report.

## (2) Student participation

Currently students provide feedback on course and program quality through university-level processes, namely the Student Evaluation of Teaching and Learning (SETL) system for course evaluation, and the Student Learning Experience Surveys (SLEQ) for program evaluation. The Department is responsible for following up on the survey results on its own initiative, but this process is not subjected to any real oversight. The EE system and the SETL/SLEQ system do not interact with each other. As a result, students have no access to the comments of the EEs, and cannot pressure the Department to follow up on EE recommendations. Meanwhile, EEs do not have a channel to communicate with students and monitor whether the Department has responded to student concerns.

Any proposed QA system must ensure that student participation is a core element. For instance, students should be involved at all stages of the accreditation exercise. This is especially important at the implementation stage when the Department is expected to make changes in response to the monitoring visits. Ideally, students should have a seat on the Departmental committee in charge of implementing those recommendations.

## 5. Other issues

### Common entrance examination (CEE)

I am in complete agreement with the Interim Report's statement that "the Law Society has fallen short of meeting the normal process and transparency standards reasonably expected of a public interest regulator."

The Law Society appears to be working behind closed doors for the past few years regarding the CEE. Students and PCLL providers have had almost no opportunity to comment on proposals before they were approved, the recently released CEE syllabi being one example. The syllabi are much wider than the current scope of content taught and assessed in the PCLL. It is pitched at an unrealistically broad level, and demonstrates the dangers of a top-down model of curriculum control mentioned in the Interim Report.

I agree with all recommendations made in Chapter 6 of the Interim Report.

### A single School of Professional Legal Studies

I agree with the potential benefits this proposal can bring. Realistically, any reform that may result from this review is likely to be small adjustments based on the current model. Establishing a new entity would free the PCLL from institutional inertia, and allow room for a fundamental rethink in the way it should be carried out. In principle, I agree with this recommendation.

The difficulty with this recommendation is that there is no political will to make turn this into the reality. None of the major stakeholders are especially invested in this idea.

### SCLET

The proposals on reforming SCLET are uncontroversial. At present, the major stakeholder absent from SCLET is the student population. There should be seats for students on SCLET. Given the size of the committee, it may make sense for SCLET to reduce the seats allocated to each law school from two to one. I also support the recommendation for SCLET to establish an executive committee (preferably with one student seat).

Following this review, it is likely that SCLET will establish a committee to deliberate on the next steps. It is hoped that the committee will have student members.

## **A Short Paper on the Law Society's Power to set further qualification examination**

1. The Law Society proposed to introduce a Common Entrance Examination purportedly on the basis of section 4 of the Legal Practitioners Ordinance and Rule 7 of the Trainee Solicitors Rules. It is argued in this paper that on a careful reading of Rule 7, it does not confer on the Law Society a power to introduce a general qualifying examination in the same nature as the PCLL. Any attempt to introduce such a new general qualifying examination will require an amendment to Rule 7, which requires the approval of the Chief Justice, failing which it would be ultra vires.

### **Historical Evolution of Rule 7**

2. The introduction of a legal profession in Hong Kong could be traced to 1856. The creation of Hong Kong as a British colony was marked by the wholesale incorporation of English law in Hong Kong. Not being a settlement colony, there were few people in Hong Kong who were familiar with English law. Therefore, soon after the establishment of the Supreme Court in 1843, legislation was introduced to provide for the admission of legal practitioners to the Supreme Court. The qualification for admission was rather loose. Apart from attorney, solicitors, and proctors who were admitted in any of Her Majesty's colonies, any person who had served as a Registrar, Deputy Registrar, clerk of the Supreme Court or a Judge, interpreter of the Court, clerk of the Attorney General, a clerk of the peace or an articled clerk would be eligible for admission, subject to an examination of their fitness to be admitted: sections 1 and 2, Ord No 13 of 1856. The power of admission, as well as the power to remove and strike off from the roll of any attorney, solicitor, proctor or interpreter, was vested in the Supreme Court.
3. Over the years, the qualification for admission was tightened and followed closely that in the United Kingdom. The qualification was set out in regulations made by the Chief Justice. Thus, for example, under the Legal Practitioners Ordinance 1948, "the Chief Justice may make regulations, subject to the approval of the Legislative Council, for the preliminary examination of persons intending to become bound under articles of clerkship to solicitors in order to ascertain the fitness of such persons.": s 3.
4. The first major change was made in 1964 when the power of regulating the practice of solicitors was partially transferred from the Chief Justice to the Committee of the Law Society (later renamed as the Council of the Law

Society]. Under Part VII of the Legal Practitioners Bill 1964, three different rule-making bodies were created. First, the Chief Justice was empowered to make rules regarding the admission of solicitors and barristers and the registration of notaries public, practicing certificates, fees and documents, and in addition rules relating to disciplinary proceedings against barristers. Secondly, the Law Society was empowered to make rules regarding a variety of matters concerning solicitors, their qualification and practice, but these rules were subject to the approval of the Chief Justice. Thirdly, a Costs Committee was established to make rules prescribing the remuneration payable to a solicitor in respect of his non-contentious practice as defined.

5. Rule 14 of the Students Rule 1964, which was made pursuant to section 73 of the Legal Practitioners Ordinance and with the approval of the Chief Justice, set out the qualifications required for admission, namely, (a) he has served the requisite articulated clerkship; and (b) he has either passed or been exempted from Part 1 of the overseas qualifying examination set by the English Law Society and has passed Part II of the same examination.
6. In 1969, the first law school in Hong Kong was established in the University of Hong Kong, offering a three-year LLB degree. This marked the beginning of local legal education in Hong Kong. It was at that time unclear whether and how the LLB degree would be recognized for admission to the legal profession. The position was clarified only in or about 1971, when the Department of Law introduced a one-year Postgraduate Certificate after the completion of the LLB degree. Rule 14(b) of the Students Rules was amended in 1972 to provide for two routes of entry to the solicitors' branch, namely:

“(i) he has either passed or been exempted from each part of the qualifying examination; [referring to Part 1 and Part II of the English Law Society Examination]; or

(ii) he has obtained the Post Graduate Certificate [referring to the PCLL] and passed an examination in accounts set by the English Law Society.”
7. The PCLL was intended to be a common qualification for both solicitors and barristers. The Bar Association did not require passing an examination in Accounts, which was required for admission to become a solicitor. The requisite paper in Accounts was not offered in the then PCLL curriculum. Therefore, in order to be admitted as a solicitor, a student has to pass in addition to the PCLL, an examination in Accounts set by the English Law Society.

8. In 1975, Rule 14(b)(ii) was further amended to read:

“(ii) he has obtained the Post Graduate Certificate and passed an examination in Accounts set by the English Law Society and passed such further examinations (if any) as the Society may prescribe from time to time in any particular case.”
9. Two observations could be made here. First, by this time there were two alternative routes of admission to become a solicitor in Hong Kong. The first was to take and pass Part I and Part II of the English Law Society overseas qualifying examination. This route was provided primarily to those who were non-law graduates, including mature students in full-time employment who were not able to take time off to go to University or to England, to qualify as solicitors in Hong Kong. The second route was to obtain the PCLL and passed other examinations as required. By this time, the University of Hong Kong was actively considering the introduction of Accounts, whether as part of or outside the PCLL curriculum.
10. The second observation is that “further examinations (if any)” in Rule 14(b)(ii) is to be prescribed, not as a general qualification, but only “from time to time in any particular case”. This phrase has to be read in light of the PCLL being the general qualification. Thus, these further examinations (if any) have to be different from the PCLL and should not operate as another general qualifying examination. They are in a nature similar to the Accounts paper, that is, something that is not offered in the PCLL and is intended to supplement the PCLL or to provide further advanced training, and are to be required as an exception on a case-by-case basis.
11. The next major amendments took place in 1981. The amendments were prompted by a decision of the English Law Society not to offer Part I and Part II overseas examinations after the end of 1980. Some concessions were made to allow those who had passed Part I to have another two years till 1982 to pass Part II of the examination, which would be administered by the Hong Kong Law Society. This would mean that the route of admission for non-law graduates and more particularly, mature students in full-time employment who would not be able to go to university, would be closed.
12. The Advisory Committee on Legal Education was asked by the Governor in Council to consider the matter urgently. In its Report in 1979, the Committee recommended, as a stop-gap measure, an expansion of the

intake of LLB students from 55 to 80, and up to 15 of the additional places be offered to persons engaged in full-time legal or law-related employment.

13. The Report also deals with the PCLL of the University. It considered that the PCLL “must remain the final qualification for entry into the profession in Hong Kong”, and recommended an increase in the number of PCLL places from 55 to 65: see (1980-81) *Hansard*, p 250, 3 December 1980 (Legal Practitioners (Amendment)(No 2) Bill 1980).
14. As to the more general question of admission of non-law graduates/mature students, the Law Draftsman, in moving the Legal Practitioners (Amendment)(No 2) Bill 1980, stated:

“But that is not to say that the door is being permanently shut on the means to qualify locally as a solicitor outside the university system. As part of the revision of the ways of entering the profession, the Hong Kong Law Society proposes, if the Bill is enacted, to amend the Students Rules to enable professional examinations to be prescribed. So that if the means, particularly facilities and staff, are found to provide suitable courses and examinations, non-graduate entry into the profession can again be provided for.” (ibid, at pp 250-251)

15. Accordingly, Rule 14(b)(ii) of the Students Rules were amended in 1981 to read:

“(b) he has passed or obtained or been granted total exemption from –

- (i) the qualifying examination; or
- (ii) the English qualifying examination and such further examination (if any) as may from time to time be required and set or approved by the Society; or
- (iii) the Post Graduate Certificate and such further examination (if any) as may from time to time be required and set or approved by the Society; or
- (iv) such other examination or examinations (if any) as may from time to time be required and set or approved by the Society.”

16. Upon the abolition of Part 1 and Part II of the overseas qualifying examinations by the English Law Society, it would no longer be possible to enter into articled clerkship without having the necessary qualification for admission to solicitors. Thus, a new Rule 6A was introduced to set out the same qualification requirements for entry into articled clerkship:

“6A. No person may apply to the Society to enter into articles unless he has passed or obtained or been granted total exemption from –

- (i) the qualifying examination; or
- (ii) the English qualifying examination and such further examination (if any) as may from time to time be required and set or approved by the Society; or
- (iii) the Post Graduate Certificate and such further examination (if any) as may from time to time be required and set or approved by the Society; or
- (iv) such other examination or examinations (if any) as may from time to time be required and set or approved by the Society.”

17. The Explanatory Memorandum to the Students (Amendment) Bill 1981 was particularly enlightening as to the intent of the legislature. It is worth quoting it *in extenso*. It reads:

“These rules make extensive revisions to the principal rules consequent upon enactment of the Legal Practitioners (Amendment) Ordinance 1981 which abolishes the status of enrolled student. Prospective articulated clerks will now have to complete all their examinations prior to entering into articles of clerkship. The changes have become necessary because of the phasing out of the present Part I and Part II qualifying examinations of the English Law Society and their replacement by a new system of examinations and training. As the Law Society of Hong Kong will continue to conduct Part II examinations for a limited period ending in November 1982 the changes to the principal rules include provision for both the existing methods of qualifying as a solicitor and the new system as introduced by the English Law Society. The Law Society of Hong Kong is also empowered to set or approve its own examinations as an additional means of qualifying in Hong Kong but the implementation of such a scheme will have to await the introduction of adequate educational facilities which presently are not available.” (L.N. 44/81, LS No 2 to Gazette No 7/1981, B151-B152)

18. Therefore, regarding the new qualifications as set out in Rule 6A and Rule 14, para (i) referred to the existing Part I and Part II of the English overseas qualifying examination. Para (ii) referred to those who have completed (or been exempted from) Part I of the English overseas qualifying examination and will have to take Part II of the English qualifying examination that would be conducted by the Hong Kong Law Society until November 1982.

Para (iii) referred to the local route of admission, that is, PCLL. As the University by then offered Accounts in its PCLL curriculum, the previous reference to the Accounts paper was deleted, and the further examination, as submitted above, had to intend to mean any specific requirement that had not been included in the general qualification of PCLL, such as continuing legal education. Para (iv) referred to an examination that may be held in future for non-graduates who would have the English route of admission closed to them after 1982, but no such examination would be introduced as no facilities were then available.

19. The next important development took place in 1993-1995. The principal object of the amendments to the Legal Practitioners Ordinance at this stage was to provide a statutory framework for the admission and regulation of foreign lawyers and foreign law firms in Hong Kong. At the same time, the Law Society of England and Wales has introduced a Legal Practice Course as an alternative route of admission to solicitors for non-law graduates. Rule 6A of the Students Rules, which had been retitled the Trainee Solicitors Rules, was replaced by a new Rule 7 in 1994, provided:

“(1) A person may only enter into a trainee solicitor contract if he has passed or obtained or been granted total exemption from –

- (a) the Part II examination set by the Law Society of England and Wales or the equivalent examination required and set or approved by the Society;
- (b) the Solicitors’ Final Examination set by the Law Society of England and Wales and such further examination, if any, as may from time to time be required and set or approved by the Society;
- (c) the Postgraduate Certificate in Laws and such further examination, if any, as may from time to time be required and set or approved by the Society;
- (d) a Legal Practice Course recognized by the Law Society of England and Wales for the purpose of entering into a trainee solicitor contract, and such further examination, if any, as may from time to time be required and set or approved by the Society; or
- (e) such other examination, if any, as may from time to time be approved by the Society.”

20. It could be seen that paras (a) and (b) are just tightening up of the previous paras (i) and (ii). Para (c) and (e) are the same as the previous paras (iii) and (iv), and para (d) is the only new paragraph. There is no reason to believe that there was any intention to change or enlarge the meaning of the previous paras (iii) and (iv) in the new paras (c) and (e).

21. Rule 7 of the Trainee Solicitors Rules was further amended and simplified in 1995, which is the current version and reads:

“A person may only enter into a trainee solicitor contract if he –

- (a) has passed or received a certificate of completion or certificate of satisfactory completion as the case may be in –
  - (i) the Postgraduate Certificate in Laws and such other examination or course as the Society may require and set or approve; or
  - (ii) such other examination or course as the Society may require and set or approve; or
- (b) has been granted total exemption by the Society from the requirements in paragraph (a).”

22. There was no indication whatsoever that the 1995 amendments intended to make any major change to the previous regime. The Part II examination and the Solicitors Final Examination had gone by then. Legal Practice Course had become prevalent and had been offered in Hong Kong. Overseas Lawyers Examination was introduced by the 1993 amendments to the Legal Practitioners Ordinance. The historical evolution of Rule 7 shows that para (i) is about local qualification and para (ii) is about other qualifications. It may also be noted that, with the imminent change of sovereignty in 1997, it may not be appropriate to refer to English qualification in the statute. Thus, Rule 7(a)(ii) was drafted in language that was wide enough to embody all relevant English qualifications that have hitherto been accepted. As far as “such other examination” in para (i) is concerned, it has remained unchanged, and as argued above, such other examination could only mean an examination other than a general qualifying examination and could not be of the same or similar nature as the PCLL. They have to be something over and above the PCLL.

### **The Current Provisions**

23. Section 4 of the Legal Practitioners Ordinance provides:

(1)The [Court](#) may, in such manner as may be prescribed by the Chief Justice, admit as a [solicitor](#) of the High [Court](#) a person who the [Court](#) considers is a fit and proper person to be a [solicitor](#) and who—  
(Amended 25 of 1998 s. 2)

(a) has complied with requirements prescribed by the [Council](#) with respect to employment as a trainee [solicitor](#), the passing of examinations and the completion of courses; or

(b) in the case of a person who seeks admission on the basis of qualifications acquired outside Hong Kong, qualifies for admission under requirements prescribed by the [Council](#). (Replaced 60 of 1994 s. 4)

24. The requirements for employment “as a trainee solicitor, the passing of examinations and the completion of courses” have to be prescribed in the Trainee Solicitors Rules, which have to be approved by the Chief Justice under section 73(2) of the Legal Practitioners Ordinance. This would take us back to Rule 7, which has already been referred to above.
25. The above drafting history shows clearly that para (i) and (ii) of Rule 7 could be traced back to 1981 and have since remained unchanged. Insofar as it is argued that the 1994/1995 amendments conferred the power on the Law Society to set a general qualifying examination such as the Common Entrance Examination, this argument is clearly not supported by a careful reading of the drafting history. The provision existed in identical term in 1980 already. The PCLL has all along been recognized as the only general local qualifying examination. The power under Rule 7(a)(ii) is to deal with non-local route of admission and/or admission for non-graduates. The power to set further examination under Rule 7(a)(i) is to supplement and not to replace the PCLL. Such further examination could not be of the same nature as the PCLL, as it would defeat the purpose of the PCLL as a local statutory qualification. Historically it is about the Accounts paper, and it now covers continuing legal education.
26. This construction is further buttressed by the fact that, in the last 150 years, any general qualifying examination, be it PCLL or Part I and Part II of the English Law Society Examination, is always expressly stated in the Rules. The power of the Law Society to set any general qualifying examination is circumscribed by the Rules, and such general qualifying examination has to be expressly set out in the Rules and is always subject to the approval of the Chief Justice. An argument to infer a wide and *carte blanc* power to set whatever examination the Law Society sees fit to set without going through the Chief Justice would defeat the purpose of the requirement to set out the examination in the Rules in the first place. It follows that if the Law Society is to introduce another general qualifying examination in the same or similar nature as the PCLL, such examination will have to be expressly set out in the Rules and will require the approval of the Chief Justice. Rule 7 could not have conferred on the Law Society a power to set a general qualifying examination such as the Common

Entrance Examination, and any attempt to do so without amending Rule 7 and the approval of the Chief Justice would be ultra vires sections 4 and 73(2) of the Legal Practitioners Ordinance.

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