

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 6th 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.

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