

# 立法會 *Legislative Council*

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## **Panel on Administration of Justice and Legal Services**

### **Updated background brief on legal education and training in Hong Kong**

#### **Purpose**

This paper provides an account of past discussions of the Legislative Council ("LegCo"), in particular the Panel on Administration of Justice and Legal Services ("the Panel"), on legal education and training in Hong Kong.

#### **Background**

##### Present system of legal education and training in Hong Kong

2. In general, the present system of legal education and training in Hong Kong involves three stages, namely (i) an academic stage (i.e. Bachelor of Laws "LLB" or Juris Doctor "JD"); (ii) a vocational course (i.e. Postgraduate Certificate in Laws ("PCLL")) and (iii) a workplace apprenticeship (i.e. training contract or pupillage).

3. In Hong Kong, LLB and JD courses are currently offered by the law schools of the University of Hong Kong ("HKU"), the City University of Hong Kong ("CityU") and The Chinese University of Hong Kong ("CUHK") ("the three law schools"). PCLL is administered by these three law schools only. The definition of PCLL in the Legal Practitioners Ordinance (Cap. 159) refers to the PCLL programmes of HKU, CityU and CUHK, and the Trainee Solicitors Rules (Cap. 159J) provides that a person may only enter into a trainee solicitor contract if he or she passed PCLL. Thus, under the current legislative framework, it is not possible for any other institution to provide a PCLL programme which will enable its graduates to gain recognition and admission as solicitors under Cap. 159.

4. The three law schools enjoy self-accreditation status and that, empowered by statutes, they were established to run the PCLL programmes. According to the

Administration, the three law schools are the exclusive course providers, and played an important role as the gatekeepers to the legal profession at two points in the process: first, at the entry point into PCLL (i.e. between stages (i) and (ii) as described in paragraph 2 above) and second, at the exit point from PCLL which is the entry point to the legal profession (i.e. between stages (ii) and (iii) as described in paragraph 2 above).

### Common Entrance Examination, Law Society Examination and comprehensive review on legal education and training in Hong Kong

5. According to the submissions made by The Law Society of Hong Kong ("the Law Society") to the Panel in December 2013,<sup>1</sup> members of the legal profession expressed views that there was a lack of consistency in the PCLL examinations. Queries had also been raised as to why entrance to the profession was not administered by the profession itself since the Council of the Law Society had been given the statutory power to prescribe the admission requirements including the passing of examinations under Cap. 159. As a result, the Law Society resolved to undertake a consultation with the stakeholders (ran from 1 December 2013 to 14 February 2014) on the feasibility of implementing a common entrance examination ("CEE") as a means of admitting individuals to practice as solicitors in Hong Kong.

6. On the other hand, the Standing Committee on Legal Education and Training in Hong Kong ("SCLET")<sup>2</sup> resolved on 18 December 2013 to conduct a comprehensive review on legal education and training in Hong Kong ("the Comprehensive Review") with a view to enhancing the system to meet the challenges of legal practice and the needs of Hong Kong. The consultants appointed by SCLET to conduct the Comprehensive Review published a consultation paper in October 2015.<sup>3</sup> Amongst others, views were invited on whether CEE proposed by the Law Society might be considered as taking over PCLL as an entrance threshold into the legal profession, or whether CEE might be treated as an alternative or additional route to enter the legal profession.

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<sup>1</sup> LC Paper No. CB(4)225/13-14(03)

<sup>2</sup> SCLET is a statutory committee established in 2005 by section 74A of Cap. 159. Its main functions include keeping under review the system and provision of legal education and training in Hong Kong and to make recommendations on such matters. Amongst others, SCLET is empowered under Cap. 159 to keep under review, evaluate and assess the academic requirements and standards for PCLL admission. SCLET comprises 17 members representing the Judiciary, the Department of Justice, the Education Bureau, the Law Society, the Hong Kong Bar Association, the three universities, the Federation for Self-financing Tertiary Education, as well as members of the public.

<sup>3</sup> The consultation paper is available at <http://www.sclet.gov.hk/eng/pdf/cone.pdf> [Accessed August 2021]

7. On 6 January 2016, the Law Society announced that its Council had decided on a plan that, starting from 2021, a person might only enter into a trainee solicitor contract if that person had passed a CEE. 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 PCLL providers.

8. On 15 May 2018, SCLET released the final report of the consultants on the Comprehensive Review ("Final Report").<sup>4</sup> Prior to the release of the Final Report, SCLET issued a consultants' interim report in October 2017. SCLET received the Law Society's response to the interim report on 8 May 2018.<sup>5</sup> The Law Society stated that they were willing to put an immediate moratorium on the implementation of CEE, on the basis that the unified law school could in fact be established within three years. However, in the meantime, as an interim alternative entry path to those who either were not able to gain entry to PCLL or preferred to undertake some other qualified vocational training, the Law Society would "establish the 'Law Society Examination' ("LSE")" which was estimated to take effect as early as the academic year 2019-2020.

9. Subsequently, the consultants of the Comprehensive Review made observations on the Law Society's response of 8 May 2018 to their interim report, which were also uploaded to SCLET's website. The Final Report issued on 15 May 2018 comprises 38 recommendations in total, covering various aspects of Hong Kong's system and provision of legal education and training. According to SCLET, it would carefully study the Final Report before it tendered its comments and recommendations on the way forward to the Administration for consideration. The Administration introduced and briefed members on the related development of the Final Report at the Panel meeting in June 2018 and in June 2019 respectively.

10. In June 2019, the Law Society advised that its proposals on centralized examination were only at a conceptual stage. As it was in the process of assessing the feasibility of the proposals internally, it was not yet in a position to share any concrete details publicly. Nonetheless, it assured relevant stakeholders that it would consult SCLET and other stakeholders on the proposals when in a position to do so. On 25 May 2020, the Law Society issued a press statement which stated that the target implementation date of the proposals would not be earlier than the academic year 2022/23.

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<sup>4</sup> <http://www.sclet.gov.hk/eng/pub.htm> [Accessed August 2021]

<sup>5</sup> [http://www.sclet.gov.hk/eng/pdf/lawsociety\\_20180508.pdf](http://www.sclet.gov.hk/eng/pdf/lawsociety_20180508.pdf) [Accessed August 2021]

## **Major views and concerns of Members and relevant stakeholders**

11. The Panel discussed the issues relating to legal education and training in Hong Kong at its meetings held on 16 December 2013, 27 April 2015 and 25 April 2016, 26 June 2017, 25 June 2018 and 24 June 2019. The Hong Kong Bar Association ("the Bar Association"), the Law Society, the Administration and deputations (including representatives from Faculty of Law of HKU ("HKU representatives"), representatives from Faculty of Law of CUHK ("CUHK representatives") and representatives from School of Law of CityU ("CityU representatives")) also attended the meetings to give views on the subject. In addition, the Panel also discussed, among others, the above issues at its meeting held on 26 March 2018 under the item on "Future development of the legal profession under the trend of globalization, its impacts on the legal profession and legal services to the public in Hong Kong". The major areas of deliberations on the subject are set out in the ensuing paragraphs.

### The Common Entrance Examination

12. Noting from the three local law schools in Hong Kong that their PCLL programmes had all along been operating smoothly, members raised concerns about the reasons for the Law Society to propose a CEE for admission as solicitors in Hong Kong.

13. The Law Society explained at the Panel meeting on 16 December 2013 that entrants to the solicitors' profession comprised law graduates who had been examined by different examinations and tested by different standards. Although the three law schools in Hong Kong had been running their self-accredited PCLL programmes subject to the benchmarks issued by the Law Society and the Bar Association, the three law schools had the autonomy to admit students and conduct their own PCLL examinations. The Law Society considered that, in view of the changes that had taken place in the decade prior to 2013,<sup>6</sup> it was increasingly important to ensure that solicitors possessed the necessary professional knowledge and skills, as well as to maintain consistency in the assessments and standards of entrants to the solicitors' profession. The proposed CEE would enable students from different universities to compete fairly in a single examination.

14. At the meeting, some members queried whether there was concrete evidence showing that there was inconsistency in the standards of the entrants to the legal profession. The Law Society responded that the employers in different law firms had reflected their views about the inconsistent standards of law graduates from

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<sup>6</sup> For instance, increase in the number of providers of the PCLL programmes, possession of more diversified qualifications by PCLL applicants, widening of scope of services provided by solicitors and growing presence of foreign lawyers in Hong Kong.

different law schools. Among others, employers had pointed out that the passing rates of the three law schools were different.

15. The three law schools did not subscribe to the justifications for introducing a CEE which would bring major change to the existing system. They considered that the PCLL programmes had been running for years and the law schools were not aware of any major criticism on the quality of the programmes. To address the concern about the inconsistent criteria adopted by the three law schools, CityU representatives suggested that consideration could be given to requiring PCLL applicants to pass a common test set by the three law schools.

16. The Bar Association was of the view that CEE could only test the theoretical knowledge of the candidates and could not replace the training of PCLL which also covered some very practical aspects in preparation for the students to enter into the profession. The Law Society stressed that it was not the intention of CEE to abolish or replace the existing PCLL programmes, nor to create an additional hurdle for entry to the legal profession.

17. Some members considered that the proposed CEE was worth pursuing, as it might provide an additional route for young people to pursue a career in the legal profession in Hong Kong. Some members considered that the law schools should not be the "gatekeeper" to select new entrants to the legal profession but instead the legal profession itself should have the final say on whether to accept a person as a member of the profession or not.

18. Some law students' and alumni associations considered that apart from increasing PCLL places, similar to other professions, a CEE should be introduced to provide as an alternative route for law graduates to qualify as lawyers in Hong Kong and no ceiling should be set on the number of times a law graduate could sit for CEE until he/she passed CEE.

19. The Law Society advised that under the original design of CEE, trainee solicitors would still have to go through PCLL or pass relevant examinations and complete relevant courses as might be prescribed by the Law Society.

20. At the Panel meeting on 25 April 2016, members noted that the Law Society was proposing a CEE in the format of a centralized assessment so that PCLL students of the three universities did not have to take two sets of examinations. The Law Society advised that it would consult the three universities as well as the Bar Association after it had come up with the details on implementing CEE. In the course of considering all matters relating to CEE, the Law Society would also consider the model of "Commonly Recognized Assessments" proposed by the three law schools and the findings and recommendations of the Comprehensive Review.

21. Members were concerned about the implications of the proposed CEE on the barrister branch of the profession. Expressing great reservation on the introduction of CEE, the Bar Association advised that its greatest concern was that if the examination papers of all core PCLL subjects were set and marked by the Law Society, students intending to become barristers would also have to sit for examinations which were set and marked by the Law Society.

22. The Law Society advised that, as it was not proposed to abolish PCLL qualification, CEE would not affect the entry to the barrister branch of the profession.

23. At the Panel meeting on 25 June 2018, some members supported CEE but considered that the Law Society should address the worries of law students about the finalized format and requirements, and there was no need for a rush to implement the examination.

#### The Law Society Examination

24. At the Panel meeting on 25 June 2018, some members and deputations were very concerned about the new LSE proposed by the Law Society in May 2018. The Law Society explained that the proposed LSE was intended to provide an additional pathway for entering the solicitors' profession for qualified law graduates, including some intending solicitors who got good academic degrees from overseas universities but failed to secure a PCLL place in the three universities. It also provided those who failed in previous PCLL examinations a second opportunity for entering the profession. However, the Law Society stressed that the standard required for passing LSE would be on par with that for PCLL.

25. Some deputations expressed the concern that entry to the solicitors' profession might be monopolized if CEE or LSE was to be implemented. Representatives of the three universities considered that neither CEE nor LSE was necessary as efforts had been made to increase the PCLL places, system had been in place to ensure the quality standards of respective PCLL programmes, and there would be possible confusion which might cause to law graduates in deciding which routes to take for entering the legal profession.

26. Some members considered that the Law Society had not provided basic facts and information regarding the proposed LSE, such as the estimated demand for LSE places, admission requirements, etc. so that stakeholders could not assess its impact on the current legal education system and the legal profession as a whole.

27. Some members, however, supported the idea of LSE and considered that it would benefit those law graduates who had failed to gain admission into the PCLL programmes due to their limited places. It would also provide a chance to those

law graduates who were working in the legal field but without the required professional qualification.

28. Members had all along been concerned about the adequacy of PCLL places in Hong Kong, and enquired about the measures taken by the three law schools to address the general call for more PCLL places. The Administration advised that the current provision of government funding for the PCLL programmes was already an exception to the Government's general policy of only funding the undergraduate programmes. On the other hand, there was no restriction on the number of PCLL places to be offered each year since the law schools could admit self-financed students. The relevant consideration was the availability of facilities, accommodation and experienced teaching staff.

29. However, representatives from the three law schools advised that the quality of the students admitted into the PCLL programmes would be lowered should the PCLL places be significantly increased. Also, there were constraints on the number of PCLL students which the law schools could admit since the PCLL programme, being a hands-on and skill-based programme, was labour-intensive.

30. At the Panel meeting on 25 June 2018, HKU and CityU representatives respectively reported that their law school had increased the PCLL places for the double cohort arising from the implementation of the new academic structure in previous years. Although there would no longer be two separate cohorts of students studying at the same time in the coming academic years, the universities would maintain the current number of PCLL places. CUHK representatives said that its law school had increased the PCLL places from 150 from the start to the present number of 170. The faculty had put forward a proposal to the CUHK's authority to further increase the number of places by 30. Representative of the Bar Association considered that an increase in the PCLL places would not change the ratio of PCLL graduates who could successfully get a trainee solicitor contract because those who failed to enter into a trainee solicitor contract would shift to the barrister stream. As a result, the quality and quantity of entrants to the Bar might be compromised.

31. As the PCLL programme was the only route for law graduates to become lawyers, some members urged the three law schools to consider admitting those law graduates who failed to gain admission into the PCLL programme in the past but had subsequently attained certain number of years of legal work experience or, alternatively, requiring these law graduates to pass an open examination administered by the law schools. The Bar Association was also in favour of widening the pool of students for admission to PCLL. Some members considered it worthy of studying the feasibility of setting up a mechanism to recognize the experience of those experienced legal executives who might not have legal qualifications and providing them with opportunities to become a lawyer.

32. At the Panel meeting on 24 June 2019, HKU representatives considered that whether the market could absorb all PCLL graduates should be taken into account. It was advised that according to the rough figure on the number of trainee solicitors, it seemed that the law firms in Hong Kong could not absorb all PCLL graduates.

33. At the same meeting, some members also expressed concern that some PCLL graduates had not chosen legal profession as their career. As a result, the legal knowledge learnt might get lost and the legal sector might not be able to bring in talented law graduates. As PCLL programme places were limited and under keen competition, they considered that law schools should identify through interviews those applicants who had aspiration to be a lawyer and offer places only to them. Some members enquired whether those who aspired to be a lawyer but did not fully meet the academic requirement for admission to the PCLL programme would be given opportunities to study in the programme, and also enquired about the selection criteria for admission to the programme.

34. HKU representatives advised that in the screening of candidates for interview and admission to the PCLL programme, apart from academic performance, HKU also offered discretionary places based on a balanced consideration of candidates' legal knowledge and their full-time working experience, in particular those who had no less than two-years' relevant legal experience. CityU representatives also said that CityU would grant interview opportunities to those applicants who were not competent in academic performance but with relevant working experience in the legal sector, and one of the criteria of assessing suitable candidates was whether they could demonstrate their determination to become a lawyer. CUHK representatives advised that CUHK was actively considering a new mechanism by setting aside 10 places for granting interview opportunities to those applicants who could not demonstrate an academic merit but had practical working experience in the legal sector.

35. In response to members' enquiry about the numbers of law graduates applying for and admitted to the PCLL programmes run by the three universities and the success rates, HKU representatives advised that the respective figures on the applications for and admission to the PCLL programmes run by the three universities had been included in the respective PCLL annual reports which were attached to the annual report of SCLET and the number of those who were successfully admitted had gradually increased to about two third of applications. CUHK representatives advised that it received 216 applications which indicated CUHK's PCLL programme as first choice in the academic year 2018-2019 and had made 167 offers, of which 156 were accepted by candidates.



### Career prospect for law graduates and measures to attract aspiring lawyers to study law programmes

36. At the Panel meeting on 24 June 2019, some members expressed concern about the career prospect of junior lawyers whose competitive edge was far lagged behind the experienced lawyers so that the majority of job opportunities went to the latter. In response, HKU representatives said that it had not received feedback from its law graduates about their difficulties in finding job after graduation. However, the career paths taken by them were quite diverse. While some PCLL graduates chose further studies after graduation, some would work as trainee solicitors in the legal department of large enterprises, and some who could not get a trainee solicitor contract shifted to enter the barrister stream, etc.

37. Some members also expressed concern that graduates from double degree programmes which included a law degree were less determined to enter the legal profession than graduates who only took LLB programme. In reply, HKU representatives said that graduates from the double degree programmes with law might not apply for the PCLL programme, hence they would not deprive the opportunities of other applicants for the programme who wanted to enter the legal profession. As far as it was aware, about half of the graduates from the double degree programmes offered by the Faculty of Law of HKU had enrolled in the PCLL programme and would like to enter the legal profession. CityU representatives said that it did not offer double degree undergraduate programmes at the moment but was planning to offer such programmes. The Administration considered that the knowledge acquired from LLB studies was useful for general purposes and could be applied in a wide range of careers apart from the legal profession.

### Curriculum of law programmes

38. At the Panel meeting on 26 March 2018, some members suggested that, in view of the impacts of the development of advanced technology on the legal profession in Hong Kong in future, the Administration, universities and law students, as well as relevant stakeholders should be well-equipped with knowledge about the application of technology to legal profession with a view to addressing new challenges and capitalizing on the opportunities.

39. When the Panel discussed the item on opportunities for Hong Kong's legal and dispute resolution services in the Greater Bay Area ("GBA") on 25 March 2019, some members suggested that law schools should consider including education on the legal services and laws applicable in GBA to respective curricula and arranging more exchange activities with the relevant parties on the Mainland to better equip students with necessary knowledge.

40. At the Panel meeting on 24 June 2019, referring to Recommendation 4.4 of the Final Report which stated that "the Universities should each review their academic offerings annually, with a view to ensuring that students undertaking the PCLL courses are not required to learn (and be examined upon) significant amounts of substantive law in the vocational stage already studied at the academic stage.", members asked whether the three law schools had considered the above suggestion and what measures had been or would be taken, including whether the mandatory course requirements in LLB or JD for admission to the PCLL programme would change.

41. In response, HKU representatives said that during its discussion of the Final Report with other stakeholders, the Bar Association had made some suggestions on the two courses on Civil Procedure and Criminal Procedure ("the two courses"). At present, the two courses were electives in LLB and JD programmes and were pre-requisite courses for admission to the PCLL programme, and its Faculty of Law had been reviewing the curricula of its programmes for improvement. Among other improvement measures, the Law Faculty was exploring including the two courses in the PCLL programme but removing them as pre-requisite courses for admission to the programme, while retaining them as elective courses in LLB and JD programmes. Since many applicants for the PCLL programme were law graduates from overseas universities who might not have knowledge about Hong Kong's civil and criminal procedures, the above measures would help them gain the relevant knowledge in the PCLL programme. CUHK representatives said that the case in CUHK was more or less the same as that of HKU.

42. CityU representatives explained that it was conducting a similar review. Given the importance of the two courses, they would be included in the future PCLL programme. CityU would review how its PCLL programme could be further enhanced to make it even more practical. Also, the three law schools would coordinate their enhancement measures to respective programmes, in particular on how the two courses in LLB and JD could better interface with the PCLL programmes such that students could learn both legal principles and practice during the vocational stage.

43. At the Panel meeting on 24 June 2019, some members expressed the wish that apart from teaching Hong Kong laws, the PCLL programme would widen the horizon of students to facilitate them to grasp the opportunities arising from the latest legal development, such as that in GBA. The Administration said that it had been exploring expanded opportunities for the Hong Kong legal profession under various initiatives such as the Mainland and Hong Kong Closer Economic Partnership Arrangement and GBA Development. Besides, the Administration had been working closely with the Hong Kong legal professional bodies and the dispute resolution sector to enhance the promotional efforts in GBA and the other areas of the Mainland.

## Education on the Constitution, Basic Law and the National Security Law

44. At the Panel informal meeting for policy briefing<sup>7</sup> on 4 January 2021, members considered that there were insufficient initiatives under Vision 2030 for the promotion of the Constitution, Basic Law and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("NSL"), and urged the Administration to strengthen its initiatives in those areas.

45. The Administration provided a number of past and future related initiatives in its response, and stressed that the Administration was well aware of its responsibilities under Articles 9 and 10 of NSL to take necessary measures to strengthen public communication, guidance, supervision and regulation over matters concerning national security, and to promote national security education in schools and universities and through social organizations, the media, the internet and other means to raise the awareness of Hong Kong residents of national security and of the obligation to abide by the law.

### **Latest position**

46. At the Panel meeting on 23 November 2020, some members suggested that education and training on the constitutional order of Hong Kong as provided in the Basic Law and on NSL should also be covered in the discussion topic "Legal education and training in Hong Kong".

47. The Administration proposes to discuss the latest development of "Legal education and training in Hong Kong" at the Panel meeting to be held on 31 August 2021, since the last meeting in June 2018 where the Administration briefed the Panel the contents of the Final Report released by SCLET.

### **Relevant papers**

48. A list of the relevant papers is in **Appendix**.

Council Business Division 4  
Legislative Council Secretariat  
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<sup>7</sup> In view of the COVID-19 pandemic situation in Hong Kong, an informal Panel meeting was conducted by videoconferencing.

## Appendix

### Updated background brief on legal education and training in Hong Kong

#### List of relevant papers

Meeting	Date	References
Panel on Administration of Justice and Legal Services	16 December 2013 (Item III)	<u>Agenda</u> <u>Minutes</u>
	27 April 2015 (Item III)	<u>Agenda</u> <u>Minutes</u>
	25 April 2016 (Item III)	<u>Agenda</u> <u>Minutes</u>
	26 June 2017 (Item III)	<u>Agenda</u> <u>Minutes</u>
	26 March 2018 (Item III)	<u>Agenda</u> <u>Minutes</u>
	25 June 2018 (Item III)	<u>Agenda</u> <u>Minutes</u>
	24 June 2019 (Item III)	<u>Agenda</u> <u>Minutes</u>
	4 January 2021	<u>Minutes</u>

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