

## **Legal Profession Admission Board**

**March 2022**

### **Practice and Procedure**

#### **Examiner's Comments**

Candidates were expected to be conversant with commentary and lecture materials in relation to all topics covered in the Law Extension Committee's subject guide together with the decided cases, statutes, rules and practice directions. Overall, responses were satisfactory, however there was variation in the quality of responses.

The following are general comments on certain aspects of the approaches to the examination taken by candidates.

1. The provisions in the CPA and UCPR contain quite specific provisions which guide practitioners in conducting litigation. As an example, a specific provision which needs to be read and properly applied is when a plaintiff serves originating process on a defendant under legal incapacity, then UCPR r 7.17(1) provides that the plaintiff can take no further step until a tutor has entered an appearance.

Rule 7.17(2) clearly provides for a way for the Local Court (only) to overcome this restriction.

Some answers simply set out the procedure in r 7.17(2) as if it applied across all NSW Courts, which is simply not the case.

2. Another area for commentary is the "scattergun approach" which some students adopt and, as in previous years, again I caution against using this approach. This is an incorrect approach to answering a question and can have a negative impact on marks awarded for an answer to a question as it indicates that the student does not understand the issues raised by the question.

By scattergun I mean discussing every aspect of a particular topic, when the question requires an answer to a specific area within that topic.

This approach appears now to be more frequently utilized by a student, possibly because of the access to materials that are available in an open book examination format. It is reasonable for a student to prepare for the examination by, for example, organizing preparatory materials across a subject to enable easy access to relevant material to answer a specific question. However, it is not acceptable to simply

reproduce these prepared materials, irrespective of the fact that a substantial part is irrelevant to the issues raised by the question.

3. The final comment is related to the comment above. Some students simply copy and paste the full text of a range of provisions in the CPA or UCPR. This should not be done. What is required is for the student to summarize the effect of any relevant section or rule.
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