

## **Legal Profession Admission Board**

**March 2021**

### **Practice and Procedure**

#### **Examiner's comments**

Overall the answers were satisfactory. The exam comprised seven questions in an open book format. Candidates were required to answer only four questions of their choice.

Based on the answers as a whole, two areas required further comment.

- A. The first area relates to the exercise of discretion. This is a subject in which most aspects of procedure and the orders made by the court are dependent on the exercise of discretion.

During lectures there was discussion, with reference to specific authority, about the relevant factors to be considered by the court when exercising its discretion. It is then up to the court ( and the student in the exam) to determine the appropriate weight to be given to any one factor and balance the various factors. If this is done in a proper manner, the ultimate conclusion as to the exercise of discretion may be different as between the student and the examiner, and this is acceptable.

- B. A second area that deserves comment is the “scattergun” approach which some students appeared to adopt when answering a question. Students adopting this approach discussed all aspects of procedure in a particular area, irrespective of the specific issues raised by the question. This approach can lead to inadequate discussion of the relevant issues raised by the question and which needed to be considered to properly answer the question. It is important that students are able to identify the specific issues raised by the question and discuss those specific issues.