

Legal Profession Admission Board

March 2024

Foundations of Law

Examiner's comments

Characteristics of better responses:

1. Critically engages with the questions asked of students and addresses each component of multi-pronged questions with appropriate supporting materials.
2. Demonstrates a thorough knowledge of concepts introduced in lectures and course materials combined with individual reflection on those topics.
3. Contains striking originality of approach or analysis.
4. Demonstrates independent thinking and expresses responses in an individual style based on information introduced in the course but transformed and processed in student's individual legal reasoning exercise conducted prior to and during exam.
5. Completely answers each question attempted by managing time effectively and by allocating sufficient attention to each question attempted.
6. Advances a clear thesis/point of view ('position') in response to the issues put in the exam questions and offers arguments in support of that position that are well structured and introduced with clarity at the beginning of each paragraph/section.
7. Capable of discerning relevant and irrelevant parts ('red herrings') of each topic to address the question with precision and clarity. Offers brief introductory outlines, where appropriate, and address relevant aspects of the issues raised by the question.
8. Capable of rejecting the proposition presented in the question and provides a substantiated counter argument.
9. Demonstrates sophisticated intellectual engagement with judicial statements (e.g., by The Hon Stephen Gageler) and issues raised therein and uses appropriate course materials (readings, lectures etc) to advance and defend the position taken.
10. Critically assesses more complex propositions and applies them to the specific context of the question.
11. Exceptionally well written, structured and expressed.

Common problems and mistakes:

1. Does not answer the questions. Answers contain irrelevant or inappropriate material.
2. Relies too heavily on the open-book format of the exam to produce responses that are not tailored to the questions asked of students. Answers here appear to be copied uncritically word-for-word from notes or online materials, sometimes without acknowledging such sources.
3. Lack of analysis. Answers in a mechanical, descriptive way without carefully reading the question and evaluating critically, e.g., rather than discussing specificities of the Australian legal system, discusses general characteristics of common law systems.
4. Few or no identifiable arguments. Does not recognise that there are alternative ways of answering some questions and that some assertions in exam questions are deliberately provocative; instead accepts the proposition put in the question without questioning it.
5. Answers contain significant or numerous errors and/or omissions reflecting a demonstrable lack of in-depth study of relevant topics.
6. Does not manage the definition question well; fails to synthesise concepts and focus on one key difference as indicated in the question; instead, recites definitions from notes and/or legal dictionaries and leaves it to the examiner to draw conclusions.
7. Poor time-management; runs out of time; leaves questions or parts unanswered or answers one or two questions comprehensively with no time to address remaining questions. Fails to follow instructions and attempts all five questions.
8. Provides responses that are off topic or rehearsed generic essays vaguely related to issues presented in the exam question, e.g., recounts everything relating to statutory interpretation, instead of addressing specific aspects of it indicated in the question.

Exam self-evaluation - Take-aways for students:

Students are encouraged to consider the following points:

- Did I approach the open-book format in an honest and appropriate way?
- Are the responses my own work?
- Did I manage my time well?
- Did I answer all required questions?
- Did I address, where appropriate, each component in each question?
- Did I acquire enough knowledge in the course and reflect on this sufficiently prior to exam to facilitate critical thinking on each issue while responding to exam questions?

- Did I where appropriate, focus on analysis, synthesis, and evaluation rather than mere restatement of facts and information presented in the lectures and course materials?
- Did I identify and apply the right legal principles and authorities (eg case law and legislation)?
- Did I offer sufficient support to each argument and cite correct authorities?
- Did I reach a conclusion on each issue identified and at the end of each response?
- Where was my knowledge of this subject deficient?
- Where can I improve?
- What strategies can I adopt to improve my exam performance?