Examination Report

Exam Session:	June 2021
Exam Paper:	Unit 1

The purpose of the report is to provide feedback to tutors and candidates on the candidates' performance in the examination with recommendations and guidance as to the key points candidates should have included in their answers to the June 2021 examination.

This is intended to be a useful document that comments on overall performance by candidates in the June 2021 Unit 1 examination, advises on how performance might be improved and indicates what should be contained in successful answers to the questions in the examination paper. This report should be read in conjunction with the relevant examination paper and marker guidance. The suggested points for responses contained in the marker guidance are points that a response that a good (merit/distinction) candidate would have provided. Candidates will have received credit, where applicable, for other points not addressed by the marking guidance.

Summary of Candidate Performance

This was the second sitting of the Unit 1 examination in this format. This is the postponed exam sitting that was due to be taken in September 2020 but was postponed as a result of government restrictions linked with COVID19. Within the examination the question paper assessed 100% of the learning outcomes that had not been assessed within assignments on the relevant modules. Overall, performance was poor. There were mixed performances on some questions on the paper but, generally, the pass rates were disappointing considering the extra time students had to prepare for the same and the guidance provided which included past papers.

The performance of some candidates was marred by weak general academic skills. At Level 6, candidates are required to demonstrate an ability to think about the law both critically and analytically. As in the previous sitting, candidates appeared to focus on knowledge outcomes, and obtained the majority of their marks for demonstrating knowledge rather than those marks available for analytical ability. Whilst candidates may take a 'rote' approach to preparing for exams they need to remember to focus on answering the questions on the paper in order to ensure they maximise the marks awarded. Recalling the key points and case law becomes the priority but this led to students not appling the knowledge to the actual scenario presented to them. The examination team felt that there was a lack of structure in answering some questions. It was clear students were not undertaking any planning to the answers provided and the structure to be applied. Candidates should not simply state authority and relevant information, they should apply the law to the question asked.

Where there are areas of uncertainty candidates should make it clear that they recognise this.

Problem questions, found in section B of the paper, provide an opportunity for candidates to demonstrate that they can use the law to solve problems. This is possibly the lawyer's most important skill. The weaker performing candidates who failed to answer the questions, or relate the law to the facts of the scenario, tended to perform better in section A of the paper than they did in section B.

One candidate failed to answer two of the compulsory questions in section A. Another candidate failed to attempt one of the optional questions in section B. This means 40% of candidates did not attempt to answer the required number of questions on the paper which was a significant dis-advantage and led to the poor performance overall. It would be wrong to speculate why this was the case but for future sittings candidates must ensure they read the instructions properly and attempt all 4 questions in section A and 3 optional questions in section B. The examiners were satisfied that the instructions on the paper were clear and had been made known to candidates prior to the examination during their preparation for the exam. Candidates should remember that that it is unwise to focus their studies in a way where they plan to miss questions out during the examination, the end of Unit examination equates to 60% of the unit grade and if a candidate took such a tactical approach to focus on a few questions there is no certainty they would pass and they certainly would not be able to realise their potential. Such an approach would likely have a negative impact on the overall unit grade if it did not result in a fail.

There were instances where candidates performed very well on some questions achieving merit level marks but they did not perform consistently throughout the paper. Candidates should consider how they can ensure consistency across all questions because those candidates are clearly capable of performing to a higher standard than the overall examination mark suggests.

There was a total of 5 candidates that sat this paper. On the whole, the paper was completed disappointingly with 40% of candidates passing and 60% of candidates failing. None of the candidates that failed the exam failed to reach the required standard on all questions that they attempted which indicates that, with the right preparation, all candidates were capable of passing. The breakdown of the numbers of fails, passes, merits and distinctions is provided in the statistics below, along with a question by question breakdown of the whole paper.

For the purposes of moderation, a sample of papers were selected, representing 80% of the total number of submissions which is in excess of the sample required by ACLT Guidelines. The selected papers were chosen to reflect a range of marks, from the lowest to the highest. Only one marker marked the scripts which made the moderation process easier and ensured consistency in marking. All borderline and fail papers were considered.

The table below sets out the data on the paper.

Number of Candidates	5
Total Fails	3
Total Pass	2
% Pass	40
% Fail	60
Classification of Marks Achieved	
% Total in Pass Band	20
% Total in Merit Band	20
% Total in Distinction Band	0

The length and quality of responses varied significantly but the examination team felt that there was sufficient time to complete the exam. 20% of candidates performed extremely well and consistently across all questions.

The first four questions on the paper were compulsory for all candidates and carried the lowest marks per question (10 marks). On the whole, the performance on these questions was reasonable. The marks for these questions pre-moderation were in accordance with the marker guidance and no recommendation was made for an adjustment. Only 1 of the 4 questions saw a pass rate below the paper pass rate with 80% of candidates failing to achieve the required standard (question 3). Candidates performed best in the section A question on contract law and the postal rule (i.e question 1) where 100% of candidates passed and the average mark was 70% (a distinction).

For the remaining three questions on the paper, in section B, candidates were required to select these from four optional questions. 80% of candidates chose to answer question 5 and 100% of candidates chose to answer question 6 which assisted with both marking and moderation in terms of ensuring consistency in marks awarded in section B. Question 6 and 8 were where candidates performed best on section B in terms or pass rates. On question 8 100% of candidates achieved a pass although only 40% of candidates attempted this question. On question 6 80% of candidates achieved the required standard with 40% of students achieving a distinction.

All questions on the paper were deemed fair by the assessment team.

Candidate Performance For Question 1 – Contract Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to explain how the Postal Rule is an exception to the principle that acceptance must be communicated.

Number of Candidates	5
Total Fails	0

Total Pass	5
% Pass	100
% Fail	0

Candidates were expected to explain that acceptance is one of the elements of an agreement and may have explored the relationship between offer and acceptance. Candidates should have explored the general rule relating to acceptance and have identified exceptions to the rule. Performance on this question was pleasing with a pass rate higher than the overall past rate on the paper. Marks ranged from 60% (merit) to 85% (High Distinction).

Candidate Performance For Question 2 – Contract Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to distinguish between a representation and a term of a contract.

Number of Candidates	5
Total Fails	1
Total Pass	4
% Pass	80
% Fail	20

Candidates should have explained the distinction between a representation and term and also have explained the different categories of terms. Better responses would have explained the factors that would have been considered by the court when distinguishing between a representation and a term and the ways a term may be incorporated into an agreement. The pass rate on this question was higher than the pass rate across the paper. Marks ranged from 35% to 75% with the average mark being 60% (merit).

Candidate Performance For Question 3 – Tort Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to explain the tests used to establish causation in negligence.

Number of Candidates	4
Total Fails	1
Total Pass	3
% Pass	75
% Fail	25

Candidates were required to explain the relevance of causation, i.e it's significance in establishing a successful claim in negligence. Candidates will have been credited for a discussion on causation in fact, the multiple approaches the courts have taken and intervening acts. Candidates will have also been credited for a discussion on causation in law. Candidates performed well on this question with a 75% pass rate however one candidate did not attempt this question despite it being a compulsory question on the paper. Marks ranged from 30% (fail) to 85% (High

Distinction). The average mark was 70% (distinction) with an impressive 75% achieving distinctions (70%+).

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to explain the approach the court will take when assessing the standard of care expected of somebody that owes a duty of care.

Number of Candidates	4
Total Fails	3
Total Pass	1
% Pass	25
% Fail	75

Candidates needed to Identify how the courts will determine whether a defendant has breached their duty of care which should have involved them discussing the general and factual standard. Performance on this question was the poorest in section A of the paper with one candidate not achieving any marks for this question because they had not attempted it and another achieving no marks despite having attempted it. This is disappointing, this question was similar in terms of demand to question 4 on the September 2020 paper so candidates would have had marker guidance and an examination report available to them when they revised. Marks ranged from 20% (fail) to 60% (merit) with the average mark being 30% (pass). Those candidates that did not achieve the required standard had either not prepared well enough or appeared to have left the question to the end and run out of time.

Candidate Performance For Question 5 – Contract Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write the body of a letter advising what misrepresentation is. The letter should also have explained the types of misrepresentation and the remedies that may be available where a successful claims is made.

Number of Candidates	4
Total Fails	1
Total Pass	3
% Pass	75
% Fail	25

Candidates should have explored the elements of misrepresentation, i.e that there must be a statement of fact, that silence will not usually amount to misrepresentation, the statement must have been relied upon and induced a party into the agreement. Candidates should also have explored the three types of misrepresentation and advised that the type of misrepresentation will determine the remedies available. This was one of the most popular optional questions on the paper with 80% of candidates choosing to answer this question. This question also had some of the best pass rates on section B and candidates had obviously prepared very well for

this question with the average mark being 60% (merit). Marks ranged from 45% to 70%.

Candidate Performance For Question 6 – Contract Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write the body of a letter advising what terms of a contract are and how they may be incorporated into a contract. The letter should have explained whether a statement was an express term of the contract, how terms may be implied by the courts and whether a term was likely to be implied in this way into the contract.

Number of Candidates	5
Total Fails	1
Total Pass	4
% Pass	80
% Fail	20

This was the most popular optional question on the paper with 100% of candidates choosing to answer this question. This was surprising since in the September 2020 sitting candidates appeared to avoid answering a similar question. Candidates were required to explain what a term is and how they may be incorporated into a contract which may have included a discussion on the difference between a term and representation. Candidates should have discussed the various approaches the courts have taken on implied terms, candidates may also have discussed the consequence of a breach of different categories of term. The pass rates were pleasing with 80% reaching the required standard. The average mark on this question was a pass standard at 55% and marks ranged from 10% (fail) to 75% (distinction).

Candidate Performance For Question 7 – Tort Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write a letter setting out whether a duty of care was owed and, if so, whether that duty was breached. They also needed to consider whether factual causation could be established, what is meant by causation in law.

Number of Candidates	3
Total Fails	2
Total Pass	1
% Pass	33
% Fail	67

Candidates were required to explain when a duty is owed and what the courts will consider to determine a breach of duty and what causation. Candidates would have been credited for discussion on breaks in the chain of causation. 60% of candidates attempted this question. The pass rate was poor at 33%. Marks ranged from 20% (fail) to 75% (distinction). Candidates should have provided an outline of causation in fact, an outline of legal causation. Responses may have included a discussion of the problems the courts have faced with causation. Candidates should have explored when

the act of a third party may break the chain of causation and when the act of the claimant may break the chain of causation.

Candidate Performance For Question 8 – Tort Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to prepare a summary of advice on what must be demonstrated for a Claimant to be owed a duty of care as a primary or secondary victim in the context of psychiatric injury.

Number of Candidates	2
Total Fails	0
Total Pass	2
% Pass	100
% Fail	0

Candidates were required to explain what must be established in order to mount a successful claim in negligence. Candidates should have identified the relevant law on reasonable foresight and identified the relevant law on reasonable proximity. Candidates should then have explained the difficulties with the third strand of the Caparo test and distinguish between primary and secondary victims. 40% of candidates attempted this question. The pass rate was pleasing at 100%. Marks ranged from 50% (pass) to 70% (distinction). Candidates may have done more in terms of their responses, for example they may have provided commentary on any reforms that had been suggested in order to alleviate criticisms of the restrictions on bringing claims.

Mark Armstrong
Moderator

Kirsty Allison
Head of Education