Examination Report

Exam Session:	October 2022
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 October 2022 examination.

This is intended to be a useful document that comments on overall performance by candidates in the October 2022 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

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 reasonable. There were mixed performances on some questions on the paper but, generally, the pass rates were pleasing. 19 candidates took this examination.

At times, the performance of candidates was impacted by weaker general academic skills. As in previous sessions, the stronger answers contained clear and accurate answers to the questions posed and detailed analysis and references to statute and case law as relevant. The candidates that produced the stronger answers should be commended because they had clearly demonstrated that they had paid careful attention to the information given and the actual questions asked. Weaker responses did not include any application, i.e they did not answer the questions, and simply stated what the relevant law was thus only demonstrating knowledge of the subject. It is vital for candidates to read the questions carefully and think about what is being asked. It is not sufficient, as is often the case with the poorer answers, to merely regurgitate what has been learned about a particular topic without thought to how the question is worded and what it is actually looking for in terms or a response. Where candidates appeared to focus on knowledge outcomes, i.e attempted to obtain the majority of their marks for demonstrating knowledge rather than those marks available for analytical ability, they missed valuable opportunity to gain marks for application and analysis. During revision, recalling the key points and case law may become the priority but candidates need to be conscious that this may lead to them not applying the knowledge to the actual scenario presented to them, i.e not actually answering the questions posed.

Problem questions, found in section B of the paper, required careful and accurate application to the facts in the part B scenarios. If candidates use the knowledge

outcomes as a focus in how they structure their answers this will lead them not to make the most of the opportunity for them to demonstrate that they can use the law to solve problems, the main purpose of these questions.

Most candidates performed fairly consistently across the paper whilst the other candidates were weaker in section A. Candidates should aim for consistency because this should lead to higher achievement. 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. Such an approach would likely have a negative impact on the overall unit grade if it did not result in a fail.

On the whole, the paper was completed pleasingly with 74% of candidates passing. Candidates achieved fails, passes and merits for the individual questions but no candidates achieved a distinction on any of the questions. 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 47% of the total number of submissions which is in excess of the sample required by ACLT Guidelines. Only one marker marked the scripts which made the moderation process easier and ensured consistency in marking.

The table below sets out the data on the paper.

Number of Candidates	19
Total Fails	5
Total Pass	14
% Pass	74
% Fail	26
Classification of Marks Achieved	
% Total in Pass Band	15
% Total in Merit Band	32
% Total in Distinction Band	21

The length and quality of responses varied significantly but the examination team felt that there was sufficient time to complete the exam. This was endorsed by the external examiner.

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. However, all 4 questions saw a pass rate below 100% where some candidates did not achieve the required standard for a pass. Candidates performed best in the section A question on contract law and the distinction between terms and representations (i.e question 2).

For the remaining three questions on the paper, in section B, candidates were required to select these from four optional questions. Most of the candidates chose to answer

questions 5, 6 and 7 which assisted with both marking and moderation in terms of ensuring consistency in marks awarded in section B. Question 8 was where candidates performed best on section B in terms of pass rates. On question 8, 82% of candidates achieved a pass although the average mark was only 60% (a merit).

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 the exceptions to the principle that acceptance must be communicated.

Number of Candidates	19
Total Fails	3
Total Pass	16
% Pass	84
% Fail	16

Candidates should have set out that for a valid contract the courts will look objectively to see if there is an agreement. Candidates should have explored in some depth what is meant by an acceptance, including the postal rule and conduct as an exception to communication. Candidates would also have been credited for an explanation of what is meant by a counter offer and the consequence on the original offer. Performance on this question was good, marks ranged from 20% (fail) to 90% (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 explain how terms were incorporated into a contract.

Number of Candidates	19
Total Fails	3
Total Pass	16
% Pass	84
% Fail	16

Candidates should have explained what a term is and the doctrine of notice. Candidates were also likely to explain the factors the court will consider when considering implied terms and implications of the same. The pass rate on this question was pleasing with most candidates achieving the required standards. Marks ranged from 10% to 100% with the average mark being 80% (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 for causation in fact and law and whether an intervening act can break the chain.

Number of Candidates	19
Total Fails	6
Total Pass	13
% Pass	68
% Fail	32

Candidates were required to explain the tests of causation. Candidates would have been credited for a discussion on causation in fact, intervening acts, causation in law and foreseeability. This was the first tort question on the paper and it appeared that the candidates that performed well in the contract law questions were not as well prepared for this question. Marks ranged from 0% (fail) to 100% (Distinction).

Candidate Performance For Question 4 – 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 describe what must be established in order to mount a successful claim for negligence.

Number of Candidates	19
Total Fails	3
Total Pass	16
% Pass	84
% Fail	16

Candidates were required to identify the relevance of the standard of care and how courts will determine whether a defendant has breached their duty of care. Candidates would have been credited for any attempt to explain the general standard of care in more depth with reference to authority. Candidates would have been credited for any attempt to explain the general standard of care with reference to situations where the defendant was exercising a special skill. Candidates would also have been credited for any attempt to describe the factual standard with reference to the factors that will be considered. Performance on this question was, again, mixed. Marks ranged from 0% (fail) to 100% (distinction) with the average mark being 70% (distinction). 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

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 on the issue of misrepresentation and potential remedies.

Number of Candidates	14
Total Fails	3
Total Pass	11
% Pass	79
% Fail	21

Candidates should have explored the issue of misrepresentation and all the potential remedies with supporting authority. To pass, candidates will have needed to demonstrate a good depth of knowledge of the subject (i.e. a good understanding of the law and impact of the law on the scenario) with good application and some analysis having regard to the facts, although candidates may demonstrate some areas of weakness. All candidates chose to answer this question and performance was mixed. Marks ranged from 30% (fail) to 90% (distinction).

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 on whether a contract had been formed and the potential remedies for breach.

Number of Candidates	15
Total Fails	8
Total Pass	7
% Pass	47
% Fail	53

Candidates were required to explain whether a contract was formed and the remedies available for breaches. Candidates will need to have demonstrated a good depth of knowledge of the subject (i.e. a good understanding of the law and impact of the law on the scenario) with good application and some analysis having regard to the facts, although candidates may have demonstrated some areas of weakness. The pass rate was disappointing with only 47% of students passing. The external examiner was, however, satisfied that exam question was fair and that this was down to the lack of preparation by candidates or as a result of some candidates leaving this question until last to answer.

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 prepare a summary of advice on whether a duty of care was owed and with respect to the primary and secondary victims.

Number of Candidates	17
Total Fails	6
Total Pass	11
% Pass	65
% Fail	35

Candidates were required to provide an explanation of what must be established for a claim in negligence to include a duty of care, they should have identified the relevant law on reasonable foresight and on reasonable proximity. Candidates were likely to go on to explain the difficulties with the third strand of the Caparo test and distinguish between primary and secondary victims. Candidates should have referred to the developments in the common law. The pass rate was reasonable at 65%. Marks ranged from 20% (fail) to 85% (distinction).

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 the body of a letter of advice setting out whether there may be liability for the injuries within the scenario. The advice should have covered what causation is and when the act of a third party may break the chain of causation.

Number of Candidates	11
Total Fails	2
Total Pass	9
% Pass	82
% Fail	18

Candidates were required to provide an outline of what is meant by causation in fact, an outline of legal causation and a discussion of problems the courts have faced with causation. Candidates will have been credited for including a discussion of when the act of a third party may break the chain of causation and a discussion of when the act of the claimant may break the chain of causation. Candidates should also have identified the relevant issues in the case and deal with the circumstances in their advice. The pass rate for this question was pleasing at 82%.

Mark Armstrong
Moderator