

Examination Report

Exam Session:	December 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 December 2022 examination.

This is intended to be a useful document that comments on overall performance by candidates in the December 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 good. There were mixed performances on some questions on the paper but, generally, the pass rates were pleasing. 6 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 of 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 a minority of candidates were weaker in section A. Candidates should aim for consistency across all questions because this should lead to higher achievement overall. 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.

On the whole, the paper was completed pleasingly with 83% of candidates passing. The breakdown of the numbers of fails, passes, merits and distinctions are 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 67% 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	6
Total Fails	1
Total Pass	5
% Pass	83
% Fail	17
Classification of Marks Achieved	
% Total in Pass Band	33
% Total in Merit Band	33
% Total in Distinction Band	17

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

It is also worthy of note that the exam was interrupted by a fire alarm which meant the students had to be vacated for a period of 40 minutes. This interruption was in London only and therefore only impacted the London students. As part of the moderation and marking this interruption was taken into account, both overall and where any individual concerns were raised in order to ensure fairness and consistency. As a result I am content that the marks awarded after moderation are correct. There appeared to be no difference in performance between the students based in Manchester or London.

The first four questions on the paper were compulsory for all candidates and carried the lowest marks per question (10 marks). The performance on these questions was very good with an 83% pass rates on 3 of the 4 questions. 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. The pass rate was consistent on questions 1, 2 and 4. Question 3 had a much lower pass rate.

For the remaining 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 6, 7 and 8 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, 100% of candidates achieved a pass although the average mark was 75% (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. The question required that candidates distinguish an offer from an invitation to treat.

Number of Candidates	6
Total Fails	1
Total Pass	5
% Pass	83
% Fail	17

Candidates should have set out that for a valid contract the courts will look objectively to see if there is an agreement eg, what is required in order to be valid; agreement; acceptance and counter offer. Additional marks were available for exploration of what is meant by an acceptance; what is meant by a counter offer and the consequence on the original offer, together with citation of the relevant case authority. Performance on this question was good, marks ranged from 40% (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 distinguish between a representation and a term of a contract. Candidates may also have explained the different categories of terms and explain the factors the court will consider when differentiating between a representation and a term.

Number of Candidates	6
Total Fails	1
Total Pass	5
% Pass	83
% Fail	17

The pass rate on this question was pleasing with most candidates achieving the required standards. Marks ranged from 30% to 100% with the average mark being 80% (distinction).

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 identify what must be established in order to mount a successful claim in negligence. Successful candidates explained what must be established in order to mount a successful claim in negligence; discussion

on what it means to owe a duty of care; identification of how the courts will determine whether a defendant has breached their duty of care and discussion on causation.

Number of Candidates	6
Total Fails	2
Total Pass	4
% Pass	67
% Fail	33

This was the first tort question on the paper, with candidates generally performing well.

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 explain a breach of a duty of care with respect to negligence.

Number of Candidates	6
Total Fails	1
Total Pass	5
% Pass	83
% Fail	17

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 60% (merit). 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 breach of contract.

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

Candidates should have explored the issue of breach of contract 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 35% (fail) to 50% (pass).

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 regarding misrepresentation.

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

Candidates were required to explain whether a contract was formed and the remedies available with respect to misrepresentation. 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 good at 80%.

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 tort claims.

Number of Candidates	6
Total Fails	2
Total Pass	4
% Pass	67
% Fail	33

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 67%. Marks ranged from 20% (fail) to 70% (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	4
Total Fails	0
Total Pass	4
% Pass	100
% Fail	0

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 100%.

Mark Armstrong
Moderator