

Examination Report

Exam Session:	February 2024
Exam Paper:	Unit 3
<p>The purpose of the report is to provide feedback to tutors and candidates on the candidates' performance in the examination. This report contains recommendations and guidance as to the key points candidates should have included in their answers in the February 2024 examination.</p> <p>This report is intended to be a useful document that comments on overall performance by candidates in the February 2024 examination, advises on how performance might be improved and indicates what should be contained in successful answers to the questions in the examination paper.</p> <p>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 from a very good/excellent (Merit/Distinction) candidate would have provided. Candidates will have received credit, where applicable, for other points not addressed by the marker guidance.</p>	
Summary of Candidate Performance	
<p>This was the seventh sitting of the Unit 3 examination in this format and the final sitting of the exam for the old, 2020, iteration of the ACLT course.</p> <p>Within the examination the question paper assessed 100% of the learning outcomes that had not been assessed within assignments on the relevant modules.</p> <p>A total of 9 candidates sat this paper. Overall, performance was something of a mixture of fortunes, with some excellent marks of 70+ and some weaker submissions which just met the standard necessary to achieve a pass. There was a range of marks in between these extremes. The highest individual mark, post-moderation and external examination, was 86%; the lowest was 50%. It was very pleasing to see the very good scores, but disappointing to see some students returning borderline submissions.</p> <p>For the purposes of moderation, in view of the low number of submissions, all nine submitted papers and the marker feedback for each formed the moderation sample. This is in accordance with the ACLT Guidelines on internal examination 66.67% (6/9) of candidates passed on first marking. After initial moderation this remained the same, with some recommendations for the adjustment of marks but they made no difference to the overall outcome of the marking.</p> <p>Following external examiner review, additional changes were recommended to be made to marks of all students who had answered questions 5 and 6. No students had answered question 5 without answering question 6 and vice versa. Further detail is provided in question 6 below.</p>	

The breakdown of the number of fails, passes, merits, and distinctions is provided in the statistics below, along with a question-by-question breakdown of the whole paper.

The majority of students were able to demonstrate high levels of knowledge on the core subjects involved in regulation of the professional relationship between lawyers and their clients, and costs processes and assessment, including those in more specialist areas. Most students were able, at least, to identify the correct law that applied to the question and explain the correct legal principles that lay behind those areas of the law. Only the better candidates were able to support their knowledge by reference to appropriate legislative, CPR or case law authorities. Many students were able correctly to assert the relevant legal principle but were unable to link this to an appropriate authority. Where candidates scored low marks, this was often due to lack of content, or lack of detail in that content, and appeared, in many cases, to be due to poor time management in the exam room, rather than a lack of knowledge. In some instances, however, candidates had mis-read, misunderstood, or misinterpreted the question, as the submitted answers appeared to be tangential to the question posed or answering a different question altogether. This was particularly the case in relation to question 6.

Even where candidates were able to demonstrate suitable levels of knowledge, they were often not able to develop this knowledge by applying it to the question. This was particularly noticeable in relation to Section B questions, where the ability to apply the law to the factual scenario is crucial to gaining higher grades. Most candidates were able to explain the law well, but often the answer stopped at a descriptive outline of the legal principles involved, rather than a deeper analysis. Stronger candidates were able to gain higher marks by applying their knowledge to the facts of the scenario. Even in for these candidates, however, evidence of actual 'advice' being given to the client was quite limited. This was largely a result of poor examination technique, rather than an indication of lack of ability on the part of the candidates. There was little evidence of most candidates adopting an 'IRAC' or similar systematic approach to answering Section B questions.

The table below sets out the data on the paper and reflects the position post-moderation and external examining.

Number of Candidates	9
Total Fails	0
Total Pass	9
% Pass	100.00
% Fail	0
Classification of Marks Achieved	
% Total in Pass Band	33.33
% Total in Merit Band	22.22
% Total in Distinction Band	44.44 (including 22.22% in 'Advanced Distinction' (80%+) band

The first four questions on the paper were compulsory for all candidates and carried the lowest marks per question (10 marks). Overall, the performance on these questions was excellent with an overall average (mean) of 7.25 marks across all Section A questions. A fuller breakdown of the performance in each question is set out below, but very few students failed questions 1-4. Overall, the first four questions were very well answered. One candidate did not attempt question 4, even though it was a 'mandatory' question. Overall, marks ranged from 2 to 10 for Section A questions with 0 allocated for the non-attempt.

For the remaining three questions on the paper, in section B, candidates were required to select these from five optional questions. Overall, the performance on these questions was very good. Most students opted to answer questions 5, 6 and 7. A fuller breakdown of the performance in each question is set out below, but the pass rates for questions 5, 7 and 9 were excellent.

The initial pass rate for question 6 was disappointing, with 5/7 candidates who attempted this question failing at first marking and moderation. There was one outstanding answer to question 6, and one good answer, but, generally, candidates who attempted question 6 tended to do so as the last question. Marks were adjusted following external examination for question 6, with detail provided in question 6 below. All three candidates who attempted question 8 failed.

Final marks, following adjustment by the external examiner, ranged from 3 to 19 across the whole range of Section B questions.

Candidate Performance for Question 1

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to demonstrate knowledge of the rules surrounding conditional fee agreements and their use in practice.

Number of Candidates	9
Total Fails	2
Total Pass	7
% Pass	77.78
% Fail	22.22

Performance on this question was very good across the board with nearly all candidates being able to achieve at least a pass. The strongest candidates applied themselves to the question well. The weaker candidates tended to provide assertions of principle, but often lacked sufficient detail or reference to authority. Marks ranged from 2 to 9.

Candidate Performance for Question 2

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to demonstrate knowledge of the regulation of the solicitor/client relationship through the retainer.

Number of Candidates	9
Total Fails	1

Total Pass	8
% Pass	88.89
% Fail	11.11

Performance on this question was generally good across the board, with all but one student achieving at least a pass. The strongest candidates applied themselves to the question well. The weaker candidates tended to provide assertions of principle, but often lacked sufficient detail or reference to authority. Marks ranged from 3 to 10.

Candidate Performance for Question 3

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to demonstrate knowledge of the circumstances in which a retainer can lawfully be terminated.

Number of Candidates	9
Total Fails	1
Total Pass	8
% Pass	88.89
% Fail	11.11

Performance on this question was generally very good, with all but one student achieving at least a pass. The strongest candidates applied themselves to the question well and stuck to the point. Weaker candidates tended to provide only brief detail, often unsupported by authority or provided tangential answers. Marks ranged from 4 to 10.

Candidate Performance for Question 4

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to demonstrate knowledge of the rules on transfer of post-LASPO CFAs.

Number of Candidates	8
Total Fails	0
Total Pass	8
% Pass	100
% Fail	0

Performance on this question was generally excellent across the board. It was the best answered question in Section A, both in terms of pass rates and the individual marks achieved. All candidates who attempted the question achieved a distinction, with three achieving maximum marks. One candidate did not attempt the question. Marks awarded ranged from 7 to 10.

Candidate Performance for Question 5

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to provide advice on the detailed assessment process, with particular focus on timescales and the consequences of non-compliance.

Number of Candidates	7
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Total Fails	1
Total Pass	6
% Pass	85.71
% Fail	14.29

Performance on this question was generally very good, with the majority of candidates who attempted the question achieving, at least, a pass, and with many achieving much higher grades. The one candidate who failed this question only did so by one mark. The strongest candidates applied themselves well to the question and not only provided evidence of detailed knowledge of the subject, but also applied their knowledge to the facts of the scenario to provide advice to the client. Weaker candidates tended to demonstrate only limited knowledge or omitted important aspects of the question, provided only a descriptive outline of the legal provisions (with/without authority), and did not translate that knowledge into firm advice in answer to the question. Marks ranged from 9 to 19.

Candidate Performance for Question 6

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to provide advice on the consequences of an adverse costs order on detailed assessment and the basis for that assessment/order.

Number of Candidates	7
Total Fails	0
Total Pass	7
% Pass	100
% Fail	0

Performance on this question was generally very poor following first marking and moderation, with most candidates who attempted the question not achieving a pass. One candidate achieved an outstanding mark for his/her answer with one other candidate achieving a pass, but the others were generally weak. Some answers were clearly rushed at the end of the exam due to time pressure, and so the answers were often very brief. However, during and following the exam sitting, several candidates raised concerns regarding question 6 in terms of its subject matter content and clarity of the question wording, including its similarity to question 5. As a result, the marker, moderator and external examiner were asked to consider these concerns when marking and moderating the question.

Following completion of post assessment processes, it was determined that the wording of question 6 could give rise to confusion, particularly under exam conditions. It was also determined that question 5 and 6, whilst intentionally different, were sufficiently similar in terms of the knowledge and analysis required as outlined in the marker guidance.

Given the significance of this exam as the final sitting of unit 3 and the confusion arising from the question wording and similarity to question 5, various approaches to remedy the inequity faced because of the construction of the question were considered. It was determined that it would be unfair to disregard the question entirely when calculating the pass marks, i.e. to calculate the marks of the affected candidates out of 80 because other candidates that did not choose this question would be marked out of 100.

As all of the candidates that answered question 6 also answered question 5, and as the marker guidance was similar for both questions, and the candidates had demonstrated knowledge of the intended subject matter in their answers to question 5, all students that attempted question 6 were awarded the same marks for question 6 as they were awarded for question 5. Marks following the above adjustment ranged from 9 to 19

Candidate Performance for Question 7

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to provide advice on the costs' jurisdiction of arbitrators.

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

Performance on this question was generally excellent and was the best answered question in Section B. Only one candidate failed the question; the others who attempted the question were awarded at least a merit. Candidates who scored well on this question scored very highly, and they applied themselves well to the question, not only to provide evidence of detailed knowledge of the topic, but also by applying their knowledge to the facts of the scenario to provide firm advice to the client. The weaker candidate provided only a brief answer and demonstrated only limited knowledge of the subject. Marks ranged from 7 to 19.

Candidate Performance for Question 8

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were asked to provide advice on the power to award costs in relation to injunction applications.

Number of Candidates	3
Total Fails	3
Total Pass	0
% Pass	0
% Fail	100

Performance on this question was very poor, with all three candidates who attempted the question failing, and only one candidate coming within 1 mark of achieving a pass. All three candidates provided only brief answers, which failed to demonstrate detailed knowledge of the topic and there was only limited (if any) attempt to apply that knowledge to the facts of this scenario. Marks ranged from 3 to 9.

Candidate Performance for Question 9

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were asked to provide advice on the award of costs in Family Law related matters.

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

% Fail	25
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Performance on this question was generally excellent, with three out of the four candidates who attempted the question achieving at least a merit. The successful candidates all demonstrated sufficient knowledge of the topic and the ability to apply that knowledge to the factual situation presented. There were also some attempts to offer specific advice to the clients. The unsuccessful candidate made only a token attempt at an answer, no doubt as a result of time pressure at the end of the exam. Marks ranged from 4 to 16.

Andy Noble , Moderator

Madeleine Jenness, Head of Education