



Candidate Number _____

Unit 1 Examination Paper

16 June 2017

Time allowed: 3 hours

To pass this examination candidates must obtain a mark of 50% or above. You must answer ALL of the questions.

Write in full sentences – a yes or no answer will not earn any marks. The mark allocation for each question and part question is given and you are advised to take this into account in planning your work. Write in blue or black ink or ballpoint pen.

Please put your candidate identification number at the top right corner of each sheet of paper (NOT your name) and number the pages. At the end of the examination, attach your answers to the examination papers and put your paper in proper order in the envelope. Please hand the envelope to the invigilator and sign the registration form to confirm that you have handed in the paper.

Please write legibly, on one side of the paper only: Marks may be lost if the examiners cannot read your answers.

Do not turn over this page until instructed by the Invigilator.

Section A

1. Outline the formalities of a part 36 offer for settlement.

(5 marks)

2. Explain what is meant by the indemnity principle.

(5 marks)

3. What are the phases included in a precedent H? Briefly set out what items are likely to be claimed within each phase.

(10 marks)

4. Explain the circumstances and timing when an application for an interim payment may be made in detailed assessment proceedings, with reference to the procedure.

(10 marks)

5. Discuss when an application for a default judgment may be appropriate, with reference to the costs consequences of a successful application where the claim is for a sum of money or goods.

(10 marks)

Section B

6. You work as a costs lawyer for Top Costs Claims Ltd in Poole, Dorset. You have been instructed by the paying party on a matter which has been listed for a detailed assessment hearing before a deputy district judge. The receiving party has instructed a costs draftsman from Newquay, Cornwall. Throughout the detailed assessment proceedings you have encountered numerous issues as a result of having to deal with this draftsman. For example, he has sent a very large number of letters and emails about petty points and disputes which are de minimis. You are of the opinion that the manner in which he is proceeding is wrong. He has very recently threatened you with a wasted costs order if you do not respond to his communication by return. In your professional view, there is nothing of substance for you to respond to.

Prepare a summary on what is meant by a wasted costs order, when the court may be minded to make such an order and how you would proceed in such a situation.

(10 marks)

7. You are a costs lawyer working in-house for a firm of solicitors, Wyatt LLP. You have been handed a personal injury file from one of the solicitors in the firm who acts for the paying party. The receiving party has successfully applied for and obtained a default costs certificate. The solicitor is unsure why the default costs certificate has been granted and what the implications are. He would like to apply to have the default costs certificate set aside as his client has fully complied with everything.

Prepare a summary explaining the following:

- a) What a default costs certificate is;
- b) In what circumstances it may be obtained;
- c) In what circumstances it may be set aside; and
- d) What steps need to be taken to successfully set it aside.

(10 marks)

8. You are an experienced costs lawyer working in-house in the costs department of a firm of solicitors, City of London Solicitors. The firm occasionally takes on instructions from other firms of solicitors. You have recently been handed a file from Mr Aaron Butcher, a sole practitioner working in rural Lincolnshire. Mr Butcher has received a bill of costs totalling £115,000 from an opponent who successfully defended a contract dispute valued at £100,000. Mr Butcher usually only deals with low value personal injury and conveyancing matters and has no prior

experience of detailed assessment.

Mr Butcher has asked you to write him a letter setting out the procedure and explaining the next steps.

Prepare the body of a letter in response to Mr Butcher's request.

(20 marks)

9. You are a trainee costs lawyer working for a firm dealing with legal costs in Newcastle, New Costs Ltd. Your firm has been instructed by a local firm, Castle LLP. The head of costs has passed you the file of Mr Singh who was the claimant in a clinical negligence matter. Mr Singh instructed Mr Castle of Castle LLP who successfully settled the claim for damages for him after proceedings were issued, but without the need for a trial. The head of costs believes this is a very good matter for you to deal with having regard to the letter of instructions which gives you specific charging rates to use in the bill of costs which you have been instructed to draft. You have been asked by the head of costs to pay particular attention to this letter of instructions, but also to ensure that you consider the rates included in the client care letter and CFA.

Upon considering those documents, you become aware that the rates given to you in the letter of instructions are significantly higher than those contained in the client care letter and CFA.

Draft the body of an email to the head of costs setting out what you think you should advise Mr Castle. Provide justifications for your views.

(20 marks)

END OF PAPER