



Candidate Number _____

Unit 1 Examination Paper

15 June 2018

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 circumstances when costs management will not apply.
(5 marks)
2. Explain what is meant by proportionality.
(5 marks)
3. Outline the role of the CLSB
(10 marks)
4. Explain the circumstances when summary assessment may take place, with reference to both the timing and procedure.
(10 marks)
5. Explain, with reference to the costs consequences of a successful application, the application that may be made to conclude a matter without trial where a defendant's defence is fabricated and the claimant does not believe there is any real prospect of success.
(10 marks)

Section B

6. You work as a costs lawyer for Bentley and Harrison LLP in Poole, Dorset. You have been instructed by Harriet Greenhall, an assistant solicitor at the firm, who is acting on behalf of Borrison's Ltd, the claimant in an intellectual property matter. The claimant successfully sued Magnolia Ltd for infringement of a patent. After succeeding on liability Borrison's Ltd elected to proceed into an enquiry as to damages, during that enquiry they accepted a sum for damages much below that which they had been claiming.

As a result of the settlement, Magnolia Ltd argued that Borrison's Ltd should only be entitled to 50% of their costs of the enquiry. It has been ordered that the costs of the enquiry are to be assessed on the standard basis if not agreed. The issue of proportionality is to be left to the costs judge on assessment.

The claimant would now like you to make an application for an interim payment on account of costs. Prepare a **summary** of the circumstances, timing and procedure of such an application in detailed assessment proceedings.

(10 marks)

7. You are a trainee costs lawyer working for Costs Experts Ltd. You have received instructions from a paying party, Hartland and Smith LLP, in a commercial litigation matter. The receiving party has obtained a default costs certificate. The paying party is unsure why the application was made and what the implications are.

Prepare a **summary** as to what a default costs certificate is, in what circumstances it may be obtained and the procedure for having a default costs certificate set aside.

(10 marks)

8. You are an experienced costs lawyer working in-house in the costs department of a firm of solicitors, BMW Solicitors. You have extensive experience working on behalf of both paying and receiving parties.

Mr Matthew Warrington, a senior solicitor at the firm, has contacted you having concluded a debt matter where his client successfully recovered £95,000. The matter settled after proceedings were issued, but without the need for a trial. You have been asked to draft the bill of costs in this matter and Mr Warrington has provided you with specific charging rates to use in the bill of costs.

Draft the **body** of an email to Mr Warrington setting out what further information you need in order to draft the bill of costs, the relevant procedure and next steps.

(20 marks)

9. You are a trainee costs lawyer working for a firm dealing with legal costs in Birmingham, Brum Costs Ltd. Your firm often receives instructions from a local firm, Coventry LLP. The head of costs has passed you the file of Mr Talbot who was the claimant in a clinical negligence matter that Coventry LLP had dealt with on his behalf. Brum Costs Ltd had been working on the file for some time but the costs lawyer with conduct, Sara Collis, has now gone on maternity leave.

You can see from the file that it is now listed for detailed assessment before a deputy district judge.

The receiving party has instructed a costs draftsman from Merriden. From the file notes it appears that Sara had been finding it difficult to deal with the costs draftsman. Upon perusal of the papers you consider that he has sent an unreasonable and unnecessary amount of correspondence with the majority of communications being protracted. On a number of occasions, he has also raised petty points and you are of the opinion that he is dealing with the matter in a way which you believe to be wrong. Yesterday, he sent an email (which was also sent by fax and received by hard copy this morning) threatening to apply for a wasted costs order if he does not receive a response by the end of the week.

Prepare a summary on what is meant by a wasted costs order and when the court may be minded to make such an order.

(20 marks)

END OF PAPER