

# Examination Report

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<b>Exam Session:</b>	August 2017
<b>Exam Paper:</b>	Unit 1

The purpose of the report is to provide feedback to tutors and candidates on the candidates' performance in the examination with recommendations about how any issues identified may be addressed.

This report should be read in conjunction with the relevant examination paper.

## 1. Summary of Candidate Performance

The performance on the question paper was good overall, with some good performances and some very good performances. The difference in performance levels was due to knowledge and application of the authority to the questions. Only three students opted to sit the August examination. The paper was completed reasonably well with 66% of candidates passing.

The table below sets out the data on the paper.

<b>Number of Candidates</b>	<b>3</b>
<b>Total Fails</b>	<b>1</b>
<b>Total Pass</b>	<b>2</b>
<b>% Pass</b>	<b>67</b>
<b>% Fail</b>	<b>33</b>
<b>Classification of Marks Achieved</b>	
<b>% Total in Pass Band (50-60%)</b>	<b>67</b>
<b>% Total in Merit Band (60-70%)</b>	<b>0</b>
<b>% Total in Distinction Band (70%+)</b>	<b>0</b>

It was evident that most candidates were prepared for the examination as indicated by the pass rate. The strengths in performance were being able to identify the appropriate procedure, identify the relevant authority and apply knowledge. The weaknesses were where candidates did not demonstrate they could identify the appropriate procedure, identify the relevant governing authority and demonstrate an ability to apply that knowledge, all of which are required at level 6. At times it appeared students simply ran out of time on a particular question but this was not very often. It was also apparent that at times students had just failed to prepare for the question set which is somewhat of a surprise because similar questions had appeared on past papers. The weaker performing candidates may have cited the correct law but

they failed to address the question posed and relate the law back to the question.

Within the examination the question paper assessed 100% of the learning outcomes.

Candidates performed particularly well in Section A of the paper with marks as high as 80% on one of the four questions in that section of the examination. This question concerned the indemnity principle. In section B Students did well in areas such as duty to the court and Detailed Assessment procedure.

## 2. Candidate Performance for Each Question

### Q1 – Indemnity Principle

This was a short compulsory question in section A of the paper, the question only attracted up to 5 marks. Candidates were asked to explain what was meant by the indemnity principle. For higher marks candidates needed to provide some analysis of the principle rather than just an explanation. Overall candidates responded extremely well to the demands of the question and 100% of candidates achieved a pass mark.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	0
<b>Total Pass</b>	3
<b>% Pass</b>	100
<b>% Fail</b>	0

This question was answered well by all candidates. It was clear that candidates had prepared well for this question and they were able to demonstrate their knowledge and apply it to the question set. All candidates were able to achieve as high as 80% for this question. The question was deemed fair by the assessment team.

### Q2 – Default Costs Certificates

This was a compulsory question in section A of the paper, this question was one of the smaller questions and attracted up to 5 marks. The question required candidates to consider when it would be appropriate to apply for a default costs certificate and candidates were required to explain what a default costs certificate is to achieve a pass mark. Candidates may also have explored the procedure for applying for a default costs certificate, in what circumstances it may be set aside and the steps required to have one set it aside.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	0
<b>Total Pass</b>	3
<b>% Pass</b>	100
<b>% Fail</b>	0

This question was answered well by all candidates. It was clear that candidates had prepared well for this question and they were able to demonstrate their knowledge and apply it to the question set. Some candidates were able to achieve as high as 80% for this question. The question was deemed fair by the assessment team.

### Q3 – Summary Assessment.

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain when a summary assessment of costs may take place and outline the procedure. In order to achieve a pass candidates should have identified the court's jurisdiction to summarily assess costs and in what circumstances it should take place.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	2
<b>Total Pass</b>	1
<b>% Pass</b>	33
<b>% Fail</b>	67

The performance on this question was poor overall. The candidate who performed well was able to outline the jurisdiction and showed good depth of knowledge referring to the contents of the N260 and what the court would consider when undertaking the assessment. It was evident that candidates had just failed to prepare for this question, candidates are reminded of the importance of referring to past papers, mark schemes and examination reports. The question was deemed fair by the assessment team.

### Q4 – Basis of Assessment

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain what is meant by basis of assessment. Candidates were required to identify that there are two ways in which the court will assess a claim for costs, the standard basis and the indemnity basis.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	2
<b>Total Pass</b>	1
<b>% Pass</b>	33
<b>% Fail</b>	67

There was a clear lack of knowledge, understanding and preparation for this question by some candidates although one candidate was able to achieve 75% of the marks available for the question. One candidate did not receive any marks for this question at all. This was one of the questions candidates clearly failed to consider when revising despite similar questions appearing on past papers. This question was deemed fair by the assessment team.

## Q5 – Costs Lawyer’s Duty to the Court

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were asked to outline a costs lawyer’s duty to the court. Candidate’s were required to comment on principle 2 of the CLSBs Code of Conduct and the CL’s duty to the court in the administration of justice. Reference may also be made to situations where there is a conflict between the duty to the court and duty to the client (PRINCIPLE 3: Act in the best interests of the client).

The table below sets out the data on this question.

<b>Number of Candidates</b>	<b>3</b>
<b>Total Fails</b>	<b>1</b>
<b>Total Pass</b>	<b>1</b>
<b>% Pass</b>	<b>67</b>
<b>% Fail</b>	<b>33</b>

The range of marks was 40% - 60% and the average mark was 5.5 (55% of the marks available). The candidates that did not perform as well did not cite much applicable authority and were unable to illustrate adequately the knowledge of the relevant provisions. The question was deemed fair by the assessment team.

## Q6 – CLSB Code of Conduct

This was a compulsory question in section B of the paper, this question was one of the smaller questions in this section and attracted up to 10 marks. Candidates were required to outline the principles of the code of conduct and give examples of when those principles may be applicable within the role as a costs draftsman. To achieve a pass candidates were expected to consider, for example, the regulatory framework of costs lawyers, the CLSB code of conduct and the 7 principles, the framework provided under the Legal Services Act 2007 and what it means to be an authorised person.

The table below sets out the data on this question.

<b>Number of Candidates</b>	<b>3</b>
<b>Total Fails</b>	<b>2</b>
<b>Total Pass</b>	<b>1</b>
<b>% Pass</b>	<b>33</b>
<b>% Fail</b>	<b>67</b>

The range of marks was 0% - 50% and the average mark was 45%. This question answered poorly and the pass rate is evidence that students had not prepared well which is surprising considering the content of the revision day and materials supplied. Those students that performed less well simply did not demonstrate an understanding of how the CLSB code of conduct applied when undertaking (reserved) legal activities as defined by the Legal Services Act 2007, or the tasks a costs lawyer would be asked to undertake. This question was deemed fair by the assessment team and 82% of the papers showed a good performance by the candidates.

## Q7 – Wasted Costs

This was a compulsory question in section B of the paper, this question was one of the smaller questions and attracted up to 10 marks. The question required candidates to prepare a summary on what is meant by a wasted costs order and when the court may be minded to make such an order. Candidates were expected to explain the court's discretion as to costs, the issue of conduct, when an application for a wasted costs order can be made and the court's power to make an order for costs against a legal representative.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	0
<b>Total Pass</b>	3
<b>% Pass</b>	100
<b>% Fail</b>	0

This was the strongest performing question on section B of the paper with all candidates achieving 50% or more. The question was answered reasonably well with candidates achieving marks between 50-60%. The question was deemed fair by the assessment team.

## Q8 – Detailed Assessment

This was a compulsory question in section B of the paper, this question was one of the larger questions and attracted up to 20 marks. Candidates were required to prepare the body of an email regarding the detailed assessment procedure. Candidates were expected to consider how it is commenced, next procedural steps and the request for the hearing.

The table below sets out the data on this question.

<b>Number of Candidates</b>	3
<b>Total Fails</b>	1
<b>Total Pass</b>	2
<b>% Pass</b>	67
<b>% Fail</b>	33

The question was deemed fair by the assessment team. Most candidates clearly had the requisite knowledge of the detailed assessment procedure. The question was answered well with 67% of candidates achieving the required standard. Some candidates achieved high marks scoring up to 70% for this question. The weaker response did not provide the depth or breadth as required for the higher end marks. Students performed very well.

## Q9 – Ethics and Professional Standards

This was a compulsory question in section B of the paper, this question was one of the larger questions and attracted up to 20 marks. Candidates were required to consider the position where rates in a letter of instruction are significantly higher than those contained in the client care letter. Candidates may have considered the duties of a costs lawyer, effects of regulation versus no regulation, wasted costs orders and the indemnity principle.

The table below sets out the data on this question.

<b>Number of Candidates</b>	<b>3</b>
<b>Total Fails</b>	<b>2</b>
<b>Total Pass</b>	<b>1</b>
<b>% Pass</b>	<b>33</b>
<b>% Fail</b>	<b>67</b>

Marks ranged from 30% – 50% with the average mark being a fail at 40%. Where candidates passed they were able to apply the issues to the question and deal with ethics sufficiently relying on relevant authorities. This question was deemed fair by the assessment team, although 67% of the papers showed poor performance by the candidates. This may be attributable to the fact the question was the last on the paper and therefore time management may have impacted upon performance. Candidates are reminded that time management is a key skill in examination performance and more work may need to be undertaken on this skill.

**Mark Armstrong**  
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