

Examination Report

Exam Session:	August 2018
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 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 mixed with some reasonable performances and some very good performances. The difference in performance levels was due to knowledge and application of the authority to the questions. The paper was completed very well with 100% of candidates passing.

There was a total of 3 candidates that sat this paper. The breakdown of the numbers of fails, passes, merits and distinctions is 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 just over 33% of the total number of submissions in accordance with ACLT Guidelines.

The table below sets out the data on the paper.

Number of Candidates	3
Total Fails	0
Total Pass	3
% Pass	100
% Fail	0
Classification of Marks Achieved	
% Total in Pass Band	67
% Total in Merit Band	33
% Total in Distinction Band	0

It was evident that the candidates were prepared for the examination. The strengths in performance were being able to identify the appropriate procedure, identify the relevant authority and apply knowledge. The weaknesses were where candidates demonstrated somewhat superficial knowledge and as a result were unable to consistently identify the appropriate procedure, the relevant governing authority and demonstrate an ability to apply that knowledge, all of which are required at level 6. The weaker performing

candidates failed to answer the questions or relate the law to the facts of the scenario, this impacted upon marks significantly and was the main reason identified by the moderation team for there being no distinctions awarded in this exam sitting. Some students clearly ran out of time and would have benefitted from some further time management work. All students attempted the 9 questions required in Sections A and B.

Within the examination the question paper assessed 100% of the learning outcomes that had not been assessed within assignments on the relevant modules.

The questions on the indemnity principle and the costs lawyer's duty to the court were answered best by students with students averaging a distinction mark for these questions (70%). The question on proportionality was not answered as well with the average mark being a borderline fail. Questions 2, 3, 4, 6 and 9 had a 100% pass rate which was very pleasing. Question 9 was particularly pleasing; the question was worth 20 marks and the focus was ethics and professional conduct. This is a very important subject matter for those looking to enter a regulated profession. On the whole, the questions with the lower marks were answered reasonably well by most candidates and presented very few challenges for the markers and the marks pre-moderation were generally fair and in accordance with the marker guidance. Candidates performed well across both section A and B.

2. Candidate Performance for Each Question

Q1 – Costs Management

This was one of the shortest compulsory question on the paper, found within section A, the question only attracted up to 5 marks. Candidates were required to explain the circumstances in which a precedent H would not need to be completed.

The table below sets out the data on this question.

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

This question was well answered with some candidates achieving marks as high as 80%. The average mark on this question was 50% (borderline pass) and it is clear that although candidates had prepared well for the question they may have confused general costs management provisions with the need to file and exchange budgets. This question was deemed fair by the assessment team.

Q2 – Indemnity Principle

This was a compulsory question in section A of the paper, the question attracted up to 5 marks. Candidates were required to explain what is meant by the indemnity principle. To achieve above a pass candidates were required to consider case authority and how that has impacted upon the development of the principle.

The table below sets out the data on this question.

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

This question was answered well by 100% of candidates all achieving a pass or above (50%+). 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. The indemnity principle is an important principle both in terms of recoverability of costs and ethics/professional conduct. The average mark awarded for this question was 70% (distinction level) and all candidates were able to achieve a distinction for this question. One candidate was able to achieve full marks for this question.

The question was deemed fair by the assessment team.

Q3 – Duty To The Court

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to outline the costs lawyer's duty to the court.

The table below sets out the data on this question.

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

The performance on this question was excellent with all candidates passing. The average mark achieved for this question was 70% (distinction level). The candidates that performed well were able to explain the principles from the CLSB code of conduct giving examples of work based tasks to demonstrate their knowledge of how those principles relate to the work undertaken by costs lawyers. Candidates were able to achieve as high as 80% of the marks available for this question. The question was deemed fair by the assessment team.

Q4 – Default Costs Certificates

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain what a default costs certificate is, in what circumstances one may be obtained and the procedure for having a default costs certificate set aside.

The table below sets out the data on this question.

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

% Fail	0
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All candidates performed well on this question and 100% passed. The average mark for this question was 58% (pass level). The highest mark awarded on this question was 65% (merit level). The assessment team considered the question to be fair and, on the whole, were pleased with performance by candidates.

Q5 – Interim Payments

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain the circumstances, timing and procedure of an application for an interim payment on account of costs in detailed assessment proceedings. The better performing candidates were able to refer to the CPR and case authority where required to add depth to their response showing how the CPR operates in practice.

The table below sets out the data on this question.

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

33% of candidates failed this question which was disappointing. The range of marks was 35% - 70% and the average mark was 52% which was a borderline pass mark. It was clear that some candidates had not fully understood the procedure for making such an application or perhaps did not read the question properly. The candidates that did not perform as well simply appeared to not have enough to say or appeared confused by the difference between a CPR 23 application and an interim costs certificate. Those candidates therefore failed to demonstrate the level of depth to their knowledge that a response at level 6 would require. The question was deemed fair by the assessment team.

Q6 – Reserved Legal Activities

This was a compulsory question in section B of the paper and attracted up to 10 marks. Candidates were required to outline the reserved legal activities a costs lawyer can undertake and the relevant principles of the CLSB code of conduct.

The table below sets out the data on this question.

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

The range of marks was 50% - 70% and the average mark was 60% which is a merit. The question was deemed fair by the assessment team.

Q7 – Proportionality

This was a compulsory question in section B of the paper, again, this question attracted up to 10 marks. Candidates were required to prepare a summary as to what proportionality is and the nature of the test.

The table below sets out the data on this question.

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

Whilst the statistics suggest this question was answered well by the candidates, with only 1 fail, the average mark for this question was just 47% (a fail mark). This is surprising given the importance of the topic to candidates and despite materials having been included in their revision packs and similar questions appearing on past papers. The highest mark awarded on this question was 50%. It was clear to the assessment team that whilst candidates may have had an appreciation of the tests they were unable to demonstrate when those tests would be relevant. The question was deemed fair by the assessment team.

Q8 – Detailed Assessment

This was a compulsory question in section B of the paper and attracted up to 20 marks. Candidates were required to prepare the body of an email in response to their professional colleague which explained the detailed assessment procedure and next steps in the scenario presented to them. The better performing candidates were able to explain the procedure with reference to the CPR in great detail.

The table below sets out the data on this question.

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

Many candidates clearly had the requisite knowledge of the CPR to answer this question well. This is a major topic in costs and therefore it is not a surprise it was answered well with sufficient reference to the CPR where required. The highest mark achieved for this question was lower than expected at 65% but it was clear that candidates may be running out of time at this stage of the paper. The weaker responses missed some of the detail of the question and failed to adequately demonstrate the ability to apply the authority to the question posed because they simply stated the authority rather than use it to explain the relevance based on the facts provided.

The question was deemed fair by the assessment team.

Q9 – Professional Conduct Rules

This was a compulsory question in section B of the paper and attracted up to 20 marks. Candidates were required to prepare a summary on relevant professional conduct rules when drafting bills of costs and during negotiations. The question also required candidates to consider personal liability for costs, i.e wasted costs orders.

The table below sets out the data on this question.

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

Candidates performed well on this question with 100% achieving a pass or above. Good performing candidates were able to provide supporting case authority by way of reference in addition to making reference to the relevant provisions within the professional conduct rules.

This question was deemed fair by the assessment team.

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