

Examination Report

Exam Session:	June 2016
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

A total of 81 candidates sat the examination. 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. These statistics are confirmed following the assessment board which took place on Monday 18 July 2016.

For the purposes of internal moderation, a total of 38 sample papers were selected. This represents just under 47% of the total number of submissions and is in excess of the minimum required by ACL guidelines. The samples selected were divided between the two moderators and some papers were considered by both members of the team. For the purposes of sampling by the external examiner, a total of 9 sample papers were selected, representing just over 10% of the total number of submissions in accordance with ACL guidelines.

The performance on the question paper was mixed with some poor performances, some good performances (31% achieving a merit), and some very good performances (2.5% achieving a distinction). The difference in performance levels was due to knowledge and application of the authority to the questions. The paper was completed well with just over 72% of candidates passing.

The table below sets out the data on the paper.

Number of Candidates	81
Total Fails	23
Total Pass	58
% Pass	72
% Fail	28

It was evident that the candidates that passed 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 did not demonstrate they could identify the appropriate procedure, identify the relevant governing authority and/or demonstrate an ability to apply that knowledge, all of which are required at level 6. The weak performing candidates failed to answer the questions with sufficient depth of knowledge or authority. Some candidates clearly ran out of time in the exam and therefore rushed the last question only collecting minimal marks. The poor 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 B of the paper. Candidates did well in areas such as proportionality, methods of funding and the difference between summary and detailed assessment. All questions were mandatory and the best performing question was the difference between summary and detailed assessment. The questions on costs management, interim payments and costs lawyers' duties were not answered well.

A standardisation meeting took place on 7 July 2016 with the moderators and marking team. At this meeting it was identified what areas the moderation team needed to concentrate on. Question specific points are identified in section 2, below. A general point regarding the reading time given to Manchester candidates (counted within the total examination time of 3 hours) and not London candidates was discussed. At the meeting it was identified that the statistics did not demonstrate any significant differences and the moderation team did not identify any issues following their consideration of this point.

2. Candidate Performance for Each Question

Q1 – Costs Management and the Precedent H

This was a short compulsory question in section A of the paper, the question only attracting up to 5 marks. Candidates were required to explain the circumstances when a precedent H would not need to be completed. Weaker responses lacked any explanation as to what costs management was. Candidates therefore often failed to show any depth to their knowledge base.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	33
Total Pass	48
% Pass	59
% Fail	41

This question was not answered well and candidates failed to provide sufficient information on costs management powers within the CPR or failed to specifically mention the requirement for Precedent H.

It was identified at the standardisation meeting that there was discrepancy between the marker guidance and the examination paper. The moderation team therefore paid particular regard to this question when undertaking their role. As a result of the actions drawn at the standardisation meeting, this question was deemed fair by the assessment team. Unfortunately candidates just did not provide enough detail for the higher marks. The team felt that candidates may not have taken the view that the low marks available warranted much detail. Some papers only provided two or three sentences for this question.

Q2 - Proportionality

This was a short compulsory question in section A of the paper with the question only attracting up to 5 marks. Candidates were asked to explain the test on proportionality. For higher marks candidates needed to demonstrate an understanding of the old and new test given both are relevant to practice today. Candidates responded well to the demands of the question. The candidates performed well and were able to outline the new and old proportionality test. The low percentage of fails did not provide sufficient authority to warrant higher marks.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	18
Total Pass	63
% Pass	78
% Fail	22

This question was answered well by 63% of candidates. It was clear that candidates had prepared well for this question and were able to demonstrate their knowledge to the question set. Some candidates were able to achieve as high as 90% for this question. Candidates who did well provided a clear explanation of the pre and post LASPO tests.

The question was deemed fair by the assessment team.

Q3 – Interim Payments in DA Proceedings

This was a compulsory question in section A of the paper with the question attracting up to 10 marks. Candidates were required to explain applications for interim payments and when they may be made in detailed assessment proceedings. The question required candidates to outline the procedure.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	33
Total Pass	48
% Pass	59
% Fail	41

The performance on this question was not very good overall. Candidates who performed well were able to outline the procedure, showed good depth of knowledge and demonstrated the interim payment was in respect of detailed assessment proceedings. Marks were lower where there was a failure of the candidate to show sufficient knowledge of the procedural framework, those candidates citing some of the relevant CPR, but missing integral parts. A small minority of the candidates mis-interpreted the question and discussed interim payments in respect of damages.

The question was deemed fair by the assessment team.

Q4 – Summary Judgments

This was a compulsory question in section A of the paper with the question attracting up to 10 marks. Candidates were required to identify the appropriate application that could be made to conclude a matter without trial where a defendant's defence was fabricated and the claimant did not believe there was any real prospect of success.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	25
Total Pass	75
% Pass	69
% Fail	31

Where candidates performed badly there was a clear lack of knowledge, understanding and preparation for this question. Some candidates failed to adequately apply the authority to identify the relevant application and others confused the type of application that should be made.

This question was deemed fair by the assessment team, but 31% of the papers showed poor performance by the candidates.

Q5 – Costs Lawyer’s Duty to the Court.

This was a compulsory question in section A of the paper with the question attracting up to 10 marks. Candidates were asked to refer to the area of professional ethics and explain the costs lawyer’s duty to the court.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	33
Total Pass	48
% Pass	59
% Fail	41

The range of marks was 10% - 80% and the average mark was quite low at 50%. The candidates that performed well not only referred to the relevant professional conduct rules but were also able to refer to other authority beyond showing how the conduct rules operated in practice. The candidates that did not perform as well did not cite much applicable authority and were unable to illustrate adequately the evolving nature of the cost lawyer’s duty to the court.

The question was deemed fair by the assessment team.

Q6 – Funding

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. Candidates were required to prepare a summary of the methods of funding that should be considered by a solicitor advising her client in relation to a claim for damages for personal injury.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	12
Total Pass	69
% Pass	85
% Fail	15

The range of marks was 30% - 80% and the average mark was 60% - quite high at merit level. This question was well answered and it was clear that candidates had prepared well.

This question was deemed fair by the assessment team and 85% of the papers showed a good performance by the candidates.

Q7 – Default Costs Certificates

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 as to what a default costs certificate (DCC) is. Candidates were also required to consider in what circumstances a DCC may be obtained, when it may be set aside and the steps needed to be taken in order to have it set aside.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	19
Total Pass	62
% Pass	76
% Fail	24

The question was answered reasonably well with 76% of candidates achieving the required standard.

The question was deemed fair by the assessment team.

Q8 – Professional Ethics

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 a memo requested by a senior partner at a solicitors' firm. Candidates needed to have particular regard to the principles of ethics and professional standards which apply when preparing bills of costs and during negotiations. Candidates needed to explain why it may be that staff within the costs department may not be able to act in accordance with instructions provided to them and why it is not in the instructing fee earner's best interests for these instructions to be followed.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	25
Total Pass	56
% Pass	69
% Fail	31

Some candidates clearly had the requisite knowledge of the applicable professional conduct rules but seemed to struggle to apply it to the specific tasks of negotiation and bill drafting. The question was, however, answered quite well with 69% of candidates achieving the required standard. Some candidates achieved high marks

of up to 70% for this question. The weaker responses missed some of the detail of the question and failed to adequately demonstrate the required knowledge. This was quite surprising given that this topic is a main area of the course and all candidates would have completed assignments on the same topic.

The question was deemed fair by the assessment team.

Q9 – Summary Assessment and 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 a handout, suitable to accompany a training session. The handout was required to set out the difference(s) between a summary and detailed assessment, the time when each may be carried out and the procedure for each. Candidates were also specifically asked to detail any forms and paperwork required in both forms of assessment. This question was answered strongly with 91% of candidates achieving the required standard.

The table below sets out the data on this question.

Number of Candidates	81
Total Fails	7
Total Pass	74
% Pass	91
% Fail	9

Marks ranged from 5% – 80% with the average mark being 60%, which is a merit. Where candidates passed they were able to apply the issues to the question and deal with ethics sufficiently and with relevant authorities. The strong performance is not a surprise as it is a main costs topic.

This question was deemed fair by the assessment team with only 9% of the papers showing poor performance by the candidates.

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