

Examination Report

Exam Session:	September 2020
Exam Paper:	Unit 1
<p>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.</p> <p>This is intended to be a useful document that comments on overall performance by candidates in the September 2020 Unit 1 examination, advises on how performance might be improved and indicates what should be contained in successful answers to the questions in the examination paper.</p> <p>This report should be read in conjunction with the relevant examination paper and marker guidance.</p>	
Summary of Candidate Performance	
<p>This was the first sitting of the Unit 1 examination in this format. Within the examination the question paper assessed 100% of the learning outcomes that had not been assessed within assignments on the relevant modules. Overall, performance was very good. There were mixed performances on some questions on the paper but the pass rates were pleasing.</p> <p>The performance of some candidates was marred by weak general academic skills. A number of candidates did little more than write out revision notes and this is inappropriate at Level 6, where candidates are required to demonstrate an ability to think about the law both critically and analytically. Whilst the approach to revision meant that most candidates demonstrated an ability to recall appropriate authority in response to specific questions it also resulted in knowledge demonstrated appearing superficial and it was clear that on occasion some candidates did not fully understand what they were writing.</p> <p>The performance of other candidates was impacted upon because they did not answer all of the required questions on the paper. 11% of candidates failed to answer three questions in section B. The examination team were unsure whether those candidates had failed to read the instructions properly or whether candidates had simply not prepared well enough. The examiners were satisfied, however, that the instructions on the paper were clear and had been made known to candidates prior to the examination during their preparation for the exam.</p> <p>There were instances where candidates performed excellently on some questions achieving distinction level marks but they did not perform consistently throughout the paper. Candidates should consider how they</p>	

can ensure consistency across all questions because those candidates are clearly capable of performing to a high standard.

The other differences in performance levels were largely due to knowledge and application of relevant authority to the questions. The examination team commented on there being a lack of structure in answering some questions. Candidates should not simply rote learn and state relevant information, they should apply the law to the question asked. Problem questions, found in section B of the paper, provide an opportunity for candidates to demonstrate that they can use the law to solve problems. This is possibly the lawyer's most important skill. The weaker performing candidates who failed to answer the questions or relate the law to the facts of the scenario tended to perform better in section A of the paper than they did in section B.

Candidates are strongly advised to develop the skills of analysis and test their understanding of the subject matter. Candidates should develop the skills of diagnosis of legal problems. They should learn the skill of stating the rules of law succinctly whilst demonstrate an understanding of how that rule works or applies. If candidates do not understand a subject or topic area they are encouraged to ask questions during the course/revision sessions or research further. In the digital age, accessibility of information is no longer a barrier to gaining knowledge and much of the content of the examination can be found in various forms from different sources beyond the materials supplied as part of the course.

There was a total of 18 candidates that sat this paper. On the whole, the paper was completed well with 78% of candidates passing and 22% of candidates failing. 50% of those candidates that failed the exam failed to reach the required standard on all questions that they attempted. 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 39% of the total number of submissions which is in excess of the sample required by ACLT Guidelines. The selected papers were chosen to reflect a range of marks, from the lowest to the highest. Only two markers marked the scripts and this ensured consistency in marking. All borderline and fail papers were considered.

The table below sets out the data on the paper.

Number of Candidates	18
Total Fails	4
Total Pass	14
% Pass	78
% Fail	22
Classification of Marks Achieved	

% Total in Pass Band	22
% Total in Merit Band	28
% Total in Distinction Band	28

It appeared to the examination team that all candidates had sufficient time to complete the exam. The length and quality of responses did, however, vary significantly.

The first four questions on the paper were compulsory for all candidates and carried the lowest marks per question (10 marks). On the whole, the performance on these questions was good. The marks for these questions pre-moderation were in accordance with the marker guidance and only one recommendation was made for an adjustment. Only 1 of the 4 questions saw a pass rate below the paper pass rate with 39% of candidates failing to achieve the required standard (question 4). Candidates performed best in the section A question on counter offers (i.e question 1) where 83% of candidates passed and the average mark was 60% (a merit).

For the remaining three questions on the paper, candidates were required to select these from four optional questions. 94% of candidates chose to answer questions 5 and 8 which assisted with both marking and moderation in terms of ensuring consistency in marks awarded in section B. Questions 5 was where candidates performed best on section B in terms of pass rates and an impressive 47% of candidates achieved a distinction for that question.

All questions on the paper were deemed fair by the assessment team.

Candidate Performance For Question 1 – Contract Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to explain the nature and effect of a counter-offer.

Number of Candidates	18
Total Fails	3
Total Pass	15
% Pass	83
% Fail	17

Candidates were expected to make reference to the fact the courts will look objectively to see if there is an agreement for a valid contract to be found. Candidates should also have explained what is meant by a counter offer and the consequence on the original offer of a counter offer being made. Candidates would have been credited for a discussion on offers and acceptance and the concept of an agreement. Performance on this question was pleasing with a pass rate higher than the overall pass rate on the paper. Marks ranged from 20% (fail) to 100% (High Distinction). Where candidates failed to perform to the required standard it was clear that they had simply not prepared well enough.

Candidate Performance For Question 2 – Contract Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to explain how terms are incorporated into contracts.

Number of Candidates	18
Total Fails	4
Total Pass	14
% Pass	78
% Fail	22

Candidates should have explained the distinction between a representation and term and also have explained the different categories of terms. Better responses would have explained the factors that would have been considered by the court when distinguishing between a representation and a term and the ways a term may be incorporated into an agreement. The pass rate on this question was consistent with the pass rate across the paper. Marks ranged from 20% to 90% with the average mark being 60% (merit).

Candidate Performance For Question 3 – Tort Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to identify what must be established in order to mount a successful claim in negligence.

Number of Candidates	18
Total Fails	4
Total Pass	14
% Pass	78
% Fail	22

Candidates were required to explain what must be established in order to mount a successful claim in negligence, i.e that there was a duty owed, that the duty was breached and that the breach caused loss and damage. Candidates performed well on this question with a 78% pass rate. Marks ranged from 20% (fail) to 90% (High Distinction). The average mark was 60% (Merit) but an impressive 44% achieved distinctions (70%+).

Candidate Performance For Question 4 – Tort Law

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to identify the standard of duty owed by a defendant who is a professional.

Number of Candidates	18
Total Fails	7
Total Pass	11
% Pass	61
% Fail	39

Candidates needed to identify how the courts will determine whether a defendant has breached their duty of care which should have involved

them discussing the general and factual standard. Performance on this question was the poorest in section A of the paper with the lowest pass rate (61%). Marks ranged from 10% (fail) to 75% (distinction) with the average mark being 50% (pass). Those candidates that did not achieve the required standard had either not prepared well enough or appeared to have left the question to the end and run out of time.

Candidate Performance For Question 5 – Contract Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write the body of a letter advising what misrepresentation is, the types of misrepresentation and whether the statement made amounted to misrepresentation.

Number of Candidates	17
Total Fails	2
Total Pass	15
% Pass	88
% Fail	12

Candidates should have explored the elements of misrepresentation, i.e that there must be a statement of fact, that silence will not usually amount to misrepresentation, the statement must have been relied upon and induced a party into the agreement. Candidates should also have explored the three types of misrepresentation and advised that the type of misrepresentation will determine the remedies available. This was one of the most popular optional questions on the paper with 94% of candidates choosing to answer this question. This question also had the best pass rates on the paper and candidates had obviously prepared very well for this question with the average mark being 65% (merit). Marks ranged from 35% to 90%.

Candidate Performance For Question 6 – Contract Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write the body of a letter to Patricia advising what the consequence of a breach of contract is and the remedies that may be available.

Number of Candidates	8
Total Fails	3
Total Pass	5
% Pass	62
% Fail	38

This was the least popular optional question on the paper with only 44% of candidates choosing to answer this question. Candidates should have identified that the scenario involved a breach of contract, they should have identified whether the statements form part of the agreement (are terms) or whether they are representations. Candidates were likely to distinguish between express and implied terms and discuss how terms may be incorporated. Candidates are also likely to have explored the types of damages. The pass rates were disappointing with only 61% reaching the required standard and this is somewhat surprising given some of the content

required in the response was also tested in section A. The average mark on this question was below a pass standard at 40%. However, 75% of those candidates that did not pass the paper overall opted to answer this question and all of the candidates that chose this question performed fairly consistently across the paper and are advised to reconsider their approach to their revision and should focus on examination technique.

Candidate Performance For Question 7 – Tort Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to write the body of a letter advising on the issue of causation in negligence.

Number of Candidates	11
Total Fails	3
Total Pass	8
% Pass	73
% Fail	27

61% of candidates attempted this question and the pass rate was pleasing at 72%. Marks ranged from 5% (fail) to 90% (higher distinction). Candidates should have provided an outline of causation in fact, an outline of legal causation. Responses may have included a discussion of the problems the courts have faced with causation. Candidates should have explored when the act of a third party may break the chain of causation and when the act of the claimant may break the chain of causation.

Candidate Performance For Question 8 – Tort Law

This was an optional question in section B of the paper and this question attracted up to 20 marks. Candidates were required to prepare a summary of advice on what must be demonstrated for a claimant to be owed a duty of care as a primary or secondary victim in the context of psychiatric injury.

Number of Candidates	17
Total Fails	3
Total Pass	14
% Pass	82
% Fail	18

This was one of the most popular optional questions on the paper with 94% of candidates choosing to answer this question. Performance on this question was excellent with very pleasing pass rates (82%). That being said, the examination team observed that it is clear this was the last question attempted by some candidates and time management may have been an issue. Despite this, marks ranged from 30% (fail) to 78% (distinction) and an impressive 35% of candidates were able to achieve a distinction (70%+) indicating that candidates had sufficient time to complete the question.

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