Examination Report

Exam Session:	August 2016
Exam Paper:	Unit 2

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 poor performances, some 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 9 submissions for 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. These statistics are confirmed. For the purposes of moderation, a sample of papers were selected, representing just over 44% of the total number of submissions in accordance with ACLT Guidelines. Although this sample is significantly in excess of the normal guideline sample, it was felt that, for the sake of fairness and consistency between the markers, a comparable sample should be selected from each marker as a reasonable representative sample for moderation purposes. The selected papers were chosen to reflect a range of marks, from the lowest to the highest for each marker.

The table below sets out the data on the paper.

Number of Candidates	9
Total Fails	0
Total Pass	9
% Pass	100
% Fail	0

It was evident that the candidates that passed the examination paper 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 demonstrate an ability to apply that knowledge, all of which are required at level 6. The weaker performing candidates failed to answer the questions. Whilst those candidates may have cited the correct law they failed to address the question posed.

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

The first four questions on the paper were compulsory for all candidates, and carried the lowest marks per question. On the whole, these were answered reasonably well by most candidates and presented very few challenges for the markers and the marks were generally fair and in accordance with the marking rubrics and marker guidance. Candidates performed particularly well in the section A questions in the areas of legal accounts, lawyer and client and litigation funding. The question on tribunals in section A was not answered well with only 33% of candidates achieving half marks for that question.

For the remaining three questions on the paper, students were required to select these from five optional questions. The vast majority of students answered questions 5, 6 and 8, with only one candidate answering question 9 and none attempting question 7. This made the task of marking and moderating the work easier, as it was possible to compare the work with other submissions to achieve consistency. The paper from the candidate who answered question 9 was selected as one sample as a check on consistency of marking with different questions, but this was rather artificial as there was nothing with which to compare the work or the marking. The question in section B on lawyer and client was the most popular on the paper with 100% of candidates answering the question although only 56% of those candidates passed the question by achieving over half marks.

2. Candidate Performance for Each Question

Q1 – Legal Accounts

This was the shortest compulsory question on the paper, found within section A, the question only attracted up to 5 marks. Candidates were required to explain why the Costs Lawyer Code of Conduct prohibits costs lawyers handling client money.

The table below sets out the data on this question.

Number of Candidates	9
Total Fails	1
Total Pass	8
% Pass	89

% Fail	11

This question was well answered with some candidates achieving marks as 90%. This question was deemed fair by the assessment team.

Q2 – Lawyer and Client

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to write a summary, on the termination of retainers, specifically the consequence of wrongful termination. Candidates needed to explain the nature of retainer and make reference to the general rules on contract law.

The table below sets out the data on this question.

Number of Candidates	9
Total Fails	2
Total Pass	7
% Pass	78
% Fail	22

This question was answered well by 77% of 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. 33% of candidates were able to achieve as high as 70% for this question. Candidates who did well provided a clear explanation of the definition of a retainer including reference to the SRA code of conduct.

The question was deemed fair by the assessment team.

Q3 – Litigation Funding

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain the differences between novation and assignment with specific reference to the common law developments.

The table below sets out the data on this question.

Number of Candidates	9
Total Fails	2
Total Pass	7
% Pass	78
% Fail	22

The performance on this question was very good with some candidates achieving 80% of the marks available for the question. The candidates that performed well

were able to distinguish and made clear references to up to date authority. This is a topical area of the law and it was pleasing to see that so many of the candidates were familiar with the concepts. Marks were lower where there was a failure of the candidate to show sufficient knowledge of the contractual principles.

The question was deemed fair by the assessment team.

Q4 – Costs in Special Courts

This was the largest compulsory question in section A of the paper, the question attracted up to 15 marks. Candidates were required to describe the jurisdiction of the first tier tribunals to award costs.

The table below sets out the data on this question.

Number of Candidates	9
Total Fails	6
Total Pass	3
% Pass	33
% Fail	67

Where candidates performed badly there was a clear lack of knowledge, understanding and preparation for this question. Some candidates failed to identify the relevant first tier tribunals and others did not deal adequately with the jurisdiction of first tier tribunals and candidates knowledge of some authority appeared somewhat superficial. The candidates that performed better were able to set out fully the mechanics of the Tribunals, Courts and Enforcement Act 2007 and showed a wider understanding of the jurisdiction by making reference to specific rules governing individual tribunals.

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

Q5 – Lawyer and Client

This was an optional question in section B of the paper, like all other questions in this section, the question attracted up to 20 marks. Candidates to prepare the body of a letter of advice to a fee earner and were therefore required to use appropriate business language and show an ability to apply their knowledge. Candidates needed to set out the circumstances when a lawyer may have a lien over a client's property.

The table below sets out the data on this question.

Number of Candidates	9
Total Fails	4
Total Pass	5

% Pass	56
% Fail	44

The range of marks was 25% - 75% and the average mark was quite low at 50% and a borderline pass. The candidates that performed well not only referred to the relevant authority but were also able to set out some of the relevant procedure and therefore showed better application and proffer better advice. The candidates that did not perform as well simply appeared to not have enough to say and 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 – Special Courts

This was an optional question in section B of the paper, and attracted up to 20 marks. Candidates were required to explain the advantages and disadvantages of arbitration and to set out the details of the costs assessment process under th relevant legislation.

The table below sets out the data on this question.

Number of Candidates	8
Total Fails	2
Total Pass	6
% Pass	75
% Fail	25

The range of marks was 25% - 75% and the average mark was again quite low at 50%. However, this question was reasonably well answered with the majority of candidates passing and it was clear that students had prepared well.

This question was deemed fair by the assessment team, and 75% of the papers showed a good performance by the candidates.

Q7 – Litigation Funding

This was a compulsory question in section B of the paper, again, this question was one of the optional questions and attracted up to 20 marks. This question was not attempted by any candidates.

The table below sets out the data on this question.

Number of Candidates	0
Total Fails	0
Total Pass	0

% Pass	0
% Fail	0

The question was deemed fair by the assessment team.

Q8 – Litigation Funding

This was an optional question in section B of the paper, like all other questions in this section, the question attracted up to 20 marks. Candidates were required to prepare the body of a memo requested by a senior partner at a solicitor's firm. Candidates needed advise on the appropriate methods of funding for commercial cases which required consideration of third party funding.

The table below sets out the data on this question.

Number of Candidates	8
Total Fails	3
Total Pass	5
% Pass	63
% Fail	37

Some candidates clearly had the requisite knowledge of the applicable law on funding arrangements and most were able to discuss champerty and maintenance and the historical developments of third party funding but some seemed to struggle to apply it to the specific scenario. The question was, however, answered quite well with 63% of candidates achieving the required standard. Some candidates achieved high marks of up to 70% for this question but the average mark was a borderline pass. The weaker responses missed some of the detail of the question and failed to adequately demonstrate the required knowledge. It was also noted that time may have been an issue for some candidates and that the responses seemed rushed in parts.

The question was deemed fair by the assessment team.

Q9 – Solicitors' Accounts

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 training notes, suitable to be used across a firm of solicitors.

The table below sets out the data on this question.

Number of Candidates	2
Total Fails	0
Total Pass	2
% Pass	100

% Fail	0

This was not a popular question with only 22% of candidates selecting it. Marks awarded were low and ranged from 50% – 55% but all candidates achieved a pass. It was evident that candidates struggled with time when answering this question

This question was deemed fair by the assessment team, with 100% of the papers passing.

AW Noble
Moderator

Kirsty Allison
Head of Education