

# Examination Report

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<b>Exam Session:</b>	August 2017
<b>Exam Paper:</b>	Unit 3

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 and some good performances. The difference in performance levels was due to knowledge and application of the authority to the questions. The paper was completed well with 67% of candidates passing.

There was a total of 9 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. These statistics are confirmed.

For the purposes of moderation, a sample of papers were selected, representing just over 78% 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, a comparable sample should be selected 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.

<b>Number of Candidates</b>	9
<b>Total Fails</b>	3
<b>Total Pass</b>	6
<b>% Pass</b>	67
<b>% Fail</b>	33
<b>Classification of Marks Achieved</b>	
<b>% Total in Pass Band</b>	67
<b>% Total in Merit Band</b>	0
<b>% Total in Distinction Band</b>	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 set despite demonstrating they may have some knowledge of the law. 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 within assignments in accordance with the ACLT Module Descriptors. Section A tested learning outcomes from the Business Management module and section B tested learning outcomes from the Advanced Civil Litigation module.

The first four questions on the paper were compulsory for all candidates and carried the lowest marks per question. Overall, these were answered well by most candidates and presented very few challenges for the markers. The marks awarded prior to moderation were generally fair and in accordance with the marker guidance. Candidates performed particularly well in the section A question on performance management. The question on entity regulation in section A was answered least well however with only 11% of candidates achieving over 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 4 candidates answering question 7 and 1 attempting question 9. This made the task of marking and moderating the scripts easier, as it was possible to compare the work with other submissions to achieve consistency. The questions in section B on case and costs management and Civil Procedures and Protocols to Professional Negligence and Clinical Negligence Claims were the most popular optional question on the paper with 89% of candidates answering those questions. 63% and 88% of those candidates passed those questions by achieving over half marks.

## 2. Candidate Performance for Each Question

### Q1 – Business Models

The question attracted up to 10 marks. Candidates were required to use academic principles and examples to explain how an organisation may be structured.

The table below sets out the data on this question.

<b>Number of Candidates</b>	9
<b>Total Fails</b>	5
<b>Total Pass</b>	4
<b>% Pass</b>	56
<b>% Fail</b>	44

This question was poorly answered with many candidates failing to provide an explanation of what is meant by a business model. Some candidates were able to achieve marks as high as 67%. This question was deemed fair by the assessment team.

## Q2 – Functional Areas of Business Management

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to describe how a licensing authority should carry out its function under the Legal Services Act 2007. In order to achieve a pass candidates were required to demonstrate consideration of the relevant sections of the Legal Services Act 2007 and to provide consideration of Heads of Compliance.

The table below sets out the data on this question.

<b>Number of Candidates</b>	9
<b>Total Fails</b>	8
<b>Total Pass</b>	1
<b>% Pass</b>	11
<b>% Fail</b>	89

It was clear that most candidates were ill prepared for this question. Many candidates were able to outline the provisions of the Legal Services Act 2007 but many failed to make the link between the licensing authority to ensure compliance with the terms of the license through Heads of Compliance. The range of marks was 30%-50% and it was felt that the performance on this question illustrated the importance of candidates ensuring they read the question set and ensure they answer that question rather than simply stating all relevant knowledge. The question was deemed fair by the assessment team.

## Q3 – Impact of External Elements of the Business Environment on the Business

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to evaluate how the SRA requires risk to be managed within SRA regulated firms. In order to achieve a pass in this question candidates were required to demonstrate knowledge of the content of a risk management policy, better responses were also able to make the link between the policy and the process of managing risk which showed the candidates ability to apply their knowledge.

The table below sets out the data on this question.

<b>Number of Candidates</b>	9
<b>Total Fails</b>	5
<b>Total Pass</b>	4
<b>% Pass</b>	56
<b>% Fail</b>	44

The performance on this question again was poor. Marks ranged from 30%-70%. The candidates that performed well made clear references to up to date authority and the roles of individuals in respect of risk. Many candidates failed to discuss the risk management policy which impacted on the marks awarded substantially. The question was deemed fair by the assessment team.

#### **Q4 – Legal Expectations of an Employee.**

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to discuss the proposition that performance management can only have a positive impact on a business. To achieve a pass in this question candidates were expected to explore what the aims of performance management are and identify any risks associated with performance management strategies, either operationally or in terms of a firm's policy.

The table below sets out the data on this question.

<b>Number of Candidates</b>	9
<b>Total Fails</b>	4
<b>Total Pass</b>	5
<b>% Pass</b>	56
<b>% Fail</b>	44

56% of candidates achieved a pass for the question. On the whole this question was answered well and it is clear most candidates had prepared for this question. Candidates achieved between 10% and 60% of the marks available which does indicate that some candidates were ill prepared. This question was deemed fair by the assessment team.

#### **Q5 – Case and costs management**

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 write the body of a letter to their client setting out the reasons behind the costs orders made by the court explaining the relevant provisions on enforcement.

The table below sets out the data on this question.

<b>Number of Candidates</b>	8
<b>Total Fails</b>	3
<b>Total Pass</b>	5
<b>% Pass</b>	63
<b>% Fail</b>	37

This question was one of the most popular of the optional questions with 89% of candidates selecting this question to answer.

The range of marks was 35% - 65% and the average mark was 50% (a borderline pass). The question posed was topical in nature, the weaker performing candidates seemed to struggle to communicate clearly that the issues only

became relevant on enforcement. It was clear some students may have limited knowledge of how the provisions of the CPR apply in practice which meant at times some responses appeared somewhat superficial. The question was deemed fair by the assessment team.

### **Q6 – Civil Procedures and Protocols to Professional Negligence and Clinical Negligence Claims**

Again, this was an optional question in section B of the paper, and attracted up to 20 marks. Candidates were required to advise on a bill of costs and write the body of a memo to a solicitor client enclosing the bill of costs and advising on the recoverability of the ATE premium in the matter. The letter had to include detail on the possibility that the premium may be reduced on assessment.

The table below sets out the data on this question.

<b>Number of Candidates</b>	8
<b>Total Fails</b>	1
<b>Total Pass</b>	7
<b>% Pass</b>	88
<b>% Fail</b>	12

This question was one of the most popular choices from the optional questions with 88% of candidates selecting this question to answer. The pass rate on this question, i.e those achieving over 50% of the marks available, was the highest on the paper within section B with 88% of responses achieving a pass or above.

The range of marks was 30% - 65% and the average mark was good at 55% (a mid range pass). It was clear that students had prepared well for this question which is unsurprising given the number that are likely to have had some exposure to these particular provisions within their day to day role. There was scope within this question for students to consider the issue of proportionality and it was pleasing to see that the higher performing candidates used this to demonstrate their ability to analyse the law and the uncertainty faced by practitioners. This question was deemed fair by the assessment team.

### **Q7 – Civil Procedure Rules in Relation to Land and Family Law Matters Heard in the Civil Courts**

This was an optional question in section B of the paper, and attracted up to 20 marks. Candidates were required to draft the body of a memo to a professional client setting out how costs in three family cases would be dealt with (TOLATA, Schedule 1 Children Act 1989 and ancillary relief proceedings).

The table below sets out the data on this question.

<b>Number of Candidates</b>	4
<b>Total Fails</b>	1
<b>Total Pass</b>	3
<b>% Pass</b>	75
<b>% Fail</b>	25

The question was deemed fair by the assessment team, marks ranged from 25% to 75% and the average mark for this question was 55%, a mid range pass. Most candidates clearly had the requisite knowledge of the applicable law and were able to outline the relevant authority however it was clear that all candidates struggled to apply that law to the facts of the question posed. This may be attributable to the fact candidates do not practice this type of law or have limited experience in this area of practice. It may also be an indication that for many this was the last question they may have attempted on the paper and therefore time management may have been an issue.

### **Q8 – Civil Procedure Rules in Relation to a Contentious Probate and Judicial Review**

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 advise on the relevant costs provisions where a caveat had been issued by the Probate Registry and the estate applied to the court under the CPR Part 7 procedure to prove the will in solemn form. Candidates were asked to write the body of a memo to their professional client, setting out the rules on costs in contentious probate matters with specific consideration to the general rule under the CPR.

The table below sets out the data on this question.

<b>Number of Candidates</b>	6
<b>Total Fails</b>	2
<b>Total Pass</b>	4
<b>% Pass</b>	33
<b>% Fail</b>	67

The question was deemed fair by the assessment team and was answered reasonably well with 67% of candidates achieving the required standard. 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 assessment team deemed this question fair.

### **Q9 – Explain the Law and Procedure Relating to Injunctions in Litigation Claims**

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 write the body of a memo advising their professional client how the costs of any injunction proceedings would ordinarily be dealt with and the consequence and reasoning of costs being reserved in the scenario they were presented with.

The table below sets out the data on this question.

<b>Number of Candidates</b>	1
<b>Total Fails</b>	0

<b>Total Pass</b>	<b>1</b>
<b>% Pass</b>	<b>100</b>
<b>% Fail</b>	<b>0</b>

This was the least popular of the optional questions with only 11% of candidates selecting it. The question was deemed fair by the assessment team.

**Mark Armstrong**  
**Moderator**

**Kirsty Allison**  
**Head of Education**