Examination Report

Exam Session:	August 2020
Exam Paper:	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 and marker guidance.

1. Summary of Candidate Performance

Overall performance was in line with previous examinations, with mixed performance on some questions on the paper but overall excellent pass rates. There was some poor performances and some excellent performances. A number of candidates were able to pass due to excellent performances on a minority of questions and those learners should reflect on the fact that they clearly had the ability to obtain higher marks if, on the day, they had been able to maintain this level across all of the questions they attempted on the paper.

The difference in performance levels was largely due to knowledge and application of relevant authority to the questions. The examination team made the usual comments regarding a lack of analysis in answering and a lack of structure in answering Part B questions. Candidates should not simply rote learn and state relevant law, they should apply the law to the question asked.

On the whole, the paper was completed very well with 93% of candidates passing and 7% of candidates failing.

There was a total of 14 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 29% of the total number of submissions in accordance with ACLT Guidelines. The selected papers were chosen to reflect a

range of marks, from the lowest to the highest. Only one marker 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	14
Total Fails	1
Total Pass	13
% Pass	93
% Fail	7
Classification of Marks Achieved	
% Total in Pass Band	7
% Total in Merit Band	50
% Total in Distinction Band	43

It was evident that candidates had prepared extremely well for the examination despite the unprecedented circumstances they will have faced as a result of COVID-19. The group, as a whole, should be commended for their results given the circumstances.

The strengths in performance were candidates being able to identify the appropriate legal framework, comment on the relevant procedure, accurately cite the relevant authority and apply that knowledge to the questions asked. The weaknesses were where candidates demonstrated superficial knowledge and simply listed authority that they felt was relevant. This approach resulted in those candidates being unable to fully answer the question or apply the law to the facts in section B of the paper. 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.

Some candidates failed to fully answer some of the questions as required which had a significant impact on the overall mark awarded. Not all candidates attempted the 3 questions required in Section B which meant that some students did not achieve a pass as a result. It appeared to the examination team that all candidates had sufficient time to complete the exam although there were some responses that appeared rushed and it may be that some candidates failed to manage their time appropriately in the exam.

Within the examination the question paper assessed 100% of the learning outcomes that had not been assessed within assignments 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, the performance on these questions was excellent. Only 1 of the 4 questions saw a pass rate below 100%. The marks for these questions pre-moderation were fair and in accordance with the marker guidance. Candidates performed best in the section A question on licensing authorities (i.e question 2) where all candidates passed and 64% of candidates achieved a distinction.

For the remaining three questions on the paper, candidates were required to select these from five optional questions. The vast majority of candidates (93%) answered questions 5 and 6 which assisted with both marking and moderation in terms of ensuring consistency in marks awarded. Questions 7, 8 and 9 were where candidates performed best on section B in terms or pass rates although there were no distinctions awarded for the responses to these questions.

2. Candidate Performance for Each Question

Q1 – Business Models

This was a compulsory question on the paper, found within section A, the question attracted up to 10 marks. Candidates were required to critically discuss Mintzberg's ways of structuring an organisation. The table below sets out the data on this question.

Number of Candidates	14
Total Fails	0
Total Pass	0
% Pass	100
% Fail	0

This question was very well answered with some candidates achieving marks as high as 90%. The average mark on this question was 70% (distinction level). It is clear that candidates had prepared extremely well for the question. The candidates that performed better were able to outline the different models and relate them back to examples of businesses that would be structured in accordance with the model.

Candidates who struggled simply listed different structures and did not provide any comment on the suitability to fostering for a firm. 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 outline the legislative framework that would need to be considered if an application was being made to become an SRA licensed entity.

The table below sets out the data on this question.

Number of Candidates	14
Total Fails	0
Total Pass	14
% Pass	100
% Fail	0

This question was answered by 100% of candidates and the pass rate (at 100%) was excellent. Marks ranged from 60% to 90% (merit to high distinction). It was clear that candidates had prepared extremely well for this question which may be as a result of the topic having appeared on previous papers. A pleasing 71% of candidates were able to achieve a distinction for this question (70% or higher).

The question was deemed fair by the assessment team.

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

This was also a compulsory question in section A of the paper and the question attracted up to 10 marks. Candidates were required to explain how the SRA Handbook encourages firms to monitor and manage risk.

The SRA Handbook is no longer in effect however candidates should have been credited for reference to either the new rules and regulations or the handbook because of the ACLT rules on learning new authority/changes to the law and the consequence of COVID-19 delaying the examination sitting. The marker guidance was presented in two parts the first covering the rules in the SRA Handbook and the second where the amended rules and regulations had been referenced.

The table below sets out the data on this question.

Number of Candidates	14
Total Fails	1
Total Pass	13

% Pass	93
% Fail	7

This question was answered by 100% of candidates and the pass rate (at 93%) was excellent. The candidates that performed well were able to provide good explanations of the SRA requirements (or lack of) and how a risk management policy could be implemented. Marks ranged from 40% to 85% (fail to higher distinction). The average mark awarded for this question was higher than may have been expected at 70% (a borderline distinction), a pleasing 71% of candidates were able to achieve a distinction level for this question (70% or higher).

The question was deemed fair by the assessment team.

Q4 – Performance Management

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain the risks faced by firms when implementing performance management strategies.

The table below sets out the data on this question.

Number of Candidates	14
Total Fails	0
Total Pass	14
% Pass	100
% Fail	0

Again, the pass rate on this question (at 100%) was excellent. The candidates that performed well were able to outline the potential claims of unfair dismissal, discrimination and breach of contract. The distinction level answers were all able to explain what performance management was and address the issue of the risk to firms when implementing performance management strategies. The weaker responses were not as explicit in dealing with the issue of risk. Marks ranged from 55% to 90% (a higher distinction).

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 Ms Smith advising when a claimant is entitled to the protection of QOCS and in what situation that protection may be lost. The responses should have

included consideration of the facts in the question and whether candidates believed QOCs protection may be lost in the case they were presented with.

The table below sets out the data on this question.

Number of Candidates	13
Total Fails	3
Total Pass	10
% Pass	77
% Fail	23

93% of candidates answered this question. This is an important concept for many candidates and it was pleasing to see that such a high proportion opted to answer it. The range of marks was 35% - 88% and the average mark was very good at 60% (merit level). 39% of candidates achieved a distinction (70% plus) for this question which was really pleasing. The candidates that performed well not only referred to the relevant authority but were also able to offer some logical sound advice based on the information they had been given.

Some candidates were also able to identify deficiencies in the information they had been provided with and areas of uncertainty in terms of the advice given. The candidates that did not perform as well simply appeared to state the law and failed to demonstrate the level of depth to their knowledge, or their ability to apply the law to the facts, required at level 6.

The question was deemed fair by the assessment team.

Q6 – Civil Procedures – Clinical and Professional Negligence

This was an optional question in section B of the paper and attracted up to 20 marks. Candidates were required to write the body of a memo on the recoverability of the ATE premium in the facts they were presented with. They were also asked to advise on the possibility of the premium being reduced on assessment. 93% of candidates opted to answer this question making it one of the two most popular questions in Section B of the paper.

The table below sets out the data on this question.

Number of Candidates	13
Total Fails	2
Total Pass	11
% Pass	85

% Fail	15

The range of marks was 40% - 90% and the average mark was 65% (mid-range merit). This question was well answered with the majority of candidates passing and it was clear that candidates had prepared well. This question required knowledge of the pre and post LASPO provisions and the test of proportionality. The results for this question are extremely pleasing given the importance of this topic to the day to day work undertaken by costs professionals.

This question was deemed fair by the assessment team.

Q7 – Civil Procedure – Land and Family

This was an optional question in section B of the paper, again, this question attracted up to 20 marks. Candidates were required to prepare advice setting out how costs in family cases are usually dealt with, candidates were then required to advise on the particular facts of the case and how costs will be dealt with in financial remedy proceedings.

The table below sets out the data on this question.

Number of Candidates	11
Total Fails	1
Total Pass	10
% Pass	91
% Fail	9

This question was attempted by 79% of candidates with an excellent pass rate. Marks ranged from 45% (borderline fail) to 88% (high distinction) for this question. The candidates that performed better were those that cited relevant authority and explained the consequence of that authority on the lay client's case. The average mark for this question was 65% (mid merit) which is pleasing given many candidates will have had no practical experience of this niche area of costs.

The question was deemed fair by the assessment team.

Q8 – Civil Procedure – 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 write the body of a memo setting out the

rules on costs in contentious probate matters with specific consideration of the general rule under the CPR.

The table below sets out the data on this question.

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

Only 3 candidates answered this question. The question was, however, answered well with 100% of candidates achieving the required standard. The average mark for this question was 60% (merit level). The question was deemed fair by the assessment team.

Q9 – Injunctions

This was an optional question in section B of the paper and attracted up to 20 marks. Candidates were required to prepare an advice on whether a costs order would be provided in the circumstances of an interim injunction application.

The table below sets out the data on this question.

Number of Candidates	1
Total Fails	0
Total Pass	1
% Pass	100
% Fail	0

This question was answered by 7% of candidates. Despite the question being last on the paper it did not appear that candidates ran out of time on this question, all candidates passed the question. It was clear that candidates had prepared well.

This question was deemed fair by the assessment team, despite the poor pass rate.

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