

Examination Report

Exam Session:	June 2018
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.

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 90% of candidates passing and 10% candidates failing.

There was a total of 66 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 36% (24 papers) 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, from a cross-section of markers. All borderline papers were considered.

The table below sets out the data on the paper.

Number of Candidates	67
Total Fails	7
Total Pass	60
% Pass	90
% Fail	10
Classification of Marks Achieved	
% Total in Pass Band	40
% Total in Merit Band	39
% Total in Distinction Band	13

It was evident that candidates 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 demonstrated somewhat superficial knowledge and as a result were unable to consistently identify the appropriate procedure, 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 or relate the law to the facts of the scenario, this impacted upon marks significantly and was the main reason identified by the moderation team for only 13% of candidates achieving distinctions in this exam sitting. Some candidates failed to fully answer some of the questions as required which had a significant impact on the overall mark awarded. All candidates attempted the 3 questions required in Section B with the higher allocation of marks which demonstrates a positive impact of revision seminars. It was also evident that some candidates simply ran out of time and therefore this had a significant impact on the mark awarded overall.

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, these were answered reasonably well by most candidates and presented very few challenges for the markers and the marks pre-moderation were generally fair and in accordance with the marker guidance. Candidates performed particularly well in the section A questions on the learning outcomes concerning business models and the legal expectations of an employee. The question on the functional areas of business management, which involved candidates considering the steps required to get a Licence to set up a regulated entity, in section A was not answered as well. 30% of candidates failed that question but 70% of candidates were still able to achieve a pass for this question (more than half marks).

For the remaining three questions on the paper, candidates were required to select these from five optional questions. The vast majority of candidates answered questions 5, 6 and 7. This made the task of marking and moderating the work easier because it was possible to compare the work with other submissions to ensure consistency. The questions in section B on Case and Costs Management, Civil Procedure and Protocols to Professional Negligence and Clinical Negligence Claims and Civil Procedure Rules to Land and Family Matters were the most popular on the paper.

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 discuss alternative ways to structure a law firm that may lead to innovation.

The table below sets out the data on this question.

Number of Candidates	67
Total Fails	9
Total Pass	58
% Pass	87

% Fail	13
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This question was well answered with some candidates achieving marks as high as 100%. The average mark on this question was 60% (merit level) and it is clear that candidates had prepared well for the question. The candidates that performed well were able to outline the different models and relate them back to whether they were appropriate with a law firm and how they may lead to innovation. candidates who struggled simply listed different structures and did not provide any comment on the suitability to fostering an innovative law 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 explain the steps you would need to take in order to get the relevant licence to set up a regulated entity. In order to achieve a pass for this question candidates were expected to demonstrate how an application should be made and dealt with.

The table below sets out the data on this question.

Number of Candidates	67
Total Fails	20
Total Pass	47
% Pass	70
% Fail	30

This question was answered by 100% of candidates. It was clear that most candidates had prepared well for this question with 70% achieving at least a pass mark (50%). The candidates that achieved a pass were able to demonstrate their knowledge and apply it to the question set. However, this was the question candidates seemed to struggle with the most and it seemed that some may not have been expecting a question on the topic and were not prepared for it at all (3% of candidates did not obtain any marks at all). Marks ranged from 0%-80% and the average mark awarded for this question was lower than may have been expected at 50% (a borderline pass) but 13% of candidates were able to achieve distinctions 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 a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to discuss how the external regulations impact a business internally. candidates were required to outline the SRA requirements to manage and supervise the business and discuss how these may be met by implementing a risk management policy.

The table below sets out the data on this question.

Number of Candidates	67
Total Fails	19
Total Pass	48

% Pass	72
% Fail	28

The performance on this question was varied with nearly a third of all candidates failing the question. It appeared to the assessment team that some candidates may have left this question until last and simply ran out of time. 31% of candidates achieved distinctions for this question (70%+ of the marks available). The candidates that performed well were able to provide good explanations of the SRA requirements and how a risk management policy could be implemented. Marks were lower where there was a failure by the candidate to show sufficient knowledge of authority and specifically relate to the parts of the risk management policy. Some candidates simply outlined the role of the COLP and COFA but failed to deal sufficiently with the implementation of a risk management policy. The average mark awarded on this question was 56% (pass level).

The question was deemed fair by the assessment team.

Q4 – Termination of Employment

This was a compulsory question in section A of the paper, the question attracted up to 10 marks. Candidates were required to explain what claims may be brought against a costs firm where the firm have terminated the employment of one of their employees.

The table below sets out the data on this question.

Number of Candidates	67
Total Fails	10
Total Pass	56
% Pass	85
% Fail	15

This question was answered well by most candidates. Candidates were able to outline unfair dismissal, discrimination and breach of contract. The candidates who performed well were able to provide sufficient authority and case law in support. The average mark for this question was 56%. The highest mark awarded on this question was distinction level (80%) and 6% of candidates were awarded this mark.

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 memo of advice to achieve a departure from the costs management order in respect of all phases of a budget. Candidates were therefore required to provide advice and show knowledge of the costs management rules and orders. Significant and recent case law was available to the candidates to support their answers and this question was very topical.

The table below sets out the data on this question.

Number of Candidates	44
Total Fails	11
Total Pass	33
% Pass	75
% Fail	25

The range of marks was 10% - 90% and the average mark was reasonable at 55% (mid-range pass level). 9% of candidates achieved 80% or above and 22% achieved distinctions for this question (70%+). 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 offered 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 – 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 prepare a body of a memo to their solicitor colleague that had conduct of the matter. The response needed to deal with advice on how to respond to the Points of Dispute. This was the most popular optional question in Section B.

The table below sets out the data on this question.

Number of Candidates	63
Total Fails	7
Total Pass	56
% Pass	89
% Fail	11

The range of marks was again 15% - 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 was deemed fair by the assessment team and 89% of the papers showed a good performance by the candidates.

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 on a memo including 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 proceedings. Candidates were therefore required to use appropriate business language and show an ability to apply their knowledge to the facts of the scenario.

The table below sets out the data on this question.

Number of Candidates	36
Total Fails	5
Total Pass	31
% Pass	86
% Fail	14

This question was only attempted by 36 candidates with a very good pass rate. The average mark for this question was 62% (Merit) which is good. 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 a memo setting out the statutory tests for costs capping orders in judicial review cases.

The table below sets out the data on this question.

Number of Candidates	15
Total Fails	2
Total Pass	13
% Pass	87
% Fail	13

Only 14 candidates answered this question. The question was, however, answered very well with 87% of candidates achieving the required standard. Some candidates achieved high marks of up to 85% for this question and 33% of candidates achieved distinctions (70%+). The average mark was a pass at 60% (a borderline merit). The weaker responses missed some of the detail of the question and failed to adequately demonstrate the ability to apply the authority to the question posed.

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	41
Total Fails	5
Total Pass	36
% Pass	88
% Fail	12

This question was answered by 41 candidates. Despite the question being last on the paper it did not appear that candidates ran out of time on this question. The highest mark for this

question was 90%. Only 5 candidates failed this question with an average mark of 63% which is a merit. Candidates performed well on this question.

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

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