Examination Report

Exam Session:	June 2019
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

Performance of candidates was very wide ranging and, across the spectrum, reasonably good. The difference in performance levels was largely due to knowledge and application of relevant authority to the questions. On the whole, the paper was completed very well with 91% of candidates passing and 9% of candidates failing.

There was a total of 22 candidates that sat this paper. The paper appears to have performed well in that there was a very wide range of responses, and overall, the paper gave rise to candidate performance well within normal boundaries and expectations. 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 32% of the total number of submissions in accordance with ACLT Guidelines. Although this sample was in excess of the normal guideline sample, it was felt that, for the sake of fairness and consistency, a comparable sample should be selected. 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 and fail papers were considered.

The table below sets out the data on the paper.

Number of Candidates	22
Total Fails	2
Total Pass	20
% Pass	91
% Fail	9
Classification of Marks Achieved	
% Total in Pass Band	18
% Total in Merit Band	50
% Total in Distinction Band	18

It was evident that candidates were largely prepared for the examination. Candidates are reminded to take note of the number of marks allocated to questions in deciding how much to write. Where a question requires an explanation, then more detail is required. Where appropriate, case names or statutory authority should be cited. The strength in candidate's performance was their ability 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 18% 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.

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 strong. All 4 of the questions saw in excess of 86% passing each question. 3 of the questions were passed by 91% of the students. 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 business models (i.e question 1) where 91% of candidates achieved a pass or more (50% plus). Notably in section A, candidates need to bear in mind that purely descriptive answers are unlikely to attract marks much above the nominal pass of 5/10, even relatively basic analysis can considerably improve an answer on this section.

For the remaining three questions on the paper, candidates were required to select these from five optional questions. The vast majority of candidates were able to

answer three questions from this section to at least some extent, demonstrating breadth of knowledge and time management within the exam. However, there were still a number of papers where a candidate was let down by a weak final answer which attracted lower marks. The vast majority of candidates answered questions 5, 6 and 7. Only 2 or 3 students answered questions 8 or 9. This assisted with both marking and moderation in terms of ensuring consistency in marks awarded. The questions in section B on Costs Management, Civil Procedure and Protocols to Professional Negligence and Clinical Negligence Claims and Land/Family Law were the most popular on the paper. Questions 5, 6 and 7 were where candidates performed best on section B. Structure is an issue for a sizeable number of candidates on section B, candidates should practice mock papers and questions before taking the examination to maximise the marks that may be awarded for their ability to apply the law to the facts. Additionally, taking time to plan answers in the examination before commencing writing may assist candidates with this particular element.

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 describe Handy's ways of structuring an organisation. A discussion on alternative theorists will also have been credited but only where candidates had compared and contrasted Handy's model.

The table below sets out the data on this question.

Number of Candidates	22
Total Fails	2
Total Pass	20
% Pass	91
% Fail	9

This question was reasonably well answered with some candidates achieving marks as high as 90%. However, there were some candidates that had clearly not prepared for this question and they either did not attempt the question or their attempts were weak. The average mark on this question was 63% (merit level). It is clear that whilst candidates may have prepared for the question that they may have been unable to demonstrate much more than superficial knowledge of the subject matter. The candidates that performed well were able to outline the four arms of Handy's model and compare and contrast his model to others. Candidates who struggled simply listed what they knew. 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 legislative framework you need to consider if you were to make an application to become an SRA licensed entity.

The table below sets out the data on this question.

Number of Candidates	22
Total Fails	2
Total Pass	20
% Pass	91
% Fail	9

This question was answered by 100% of candidates and the pass rate (at 91%) was excellent. Marks ranged from 25% to 80% (high distinction). It was clear that some candidates had simply not prepared at all for this question despite the topic having appeared on previous papers and material being included within the revision packs. The average mark awarded for this question was 63% (a merit), a pleasing 69% of candidates were able to achieve merit level or above for this question (60% 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 critically discuss how the SRA Handbook encourages leaders to monitor and manage risk.

The table below sets out the data on this question.

Number of Candidates	22
Total Fails	3
Total Pass	19
% Pass	86
% Fail	14

This question was answered by 100% of candidates and the pass rate (again at 86%) 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. Many candidates did not offer much by way of

discussion as to the requirements and therefore some of their knowledge appeared superficial. Marks ranged from 40% to 100% (higher distinction). The candidates that achieved a pass were able to demonstrate their knowledge and apply it to the question set. The average mark awarded for this question was 64% (a merit), a pleasing 68% of candidates were able to achieve merit level or above for this question (60% 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 legal considerations for a firm when implementing performance management strategies.

The table below sets out the data on this question.

Number of Candidates	22
Total Fails	2
Total Pass	20
% Pass	91
% Fail	9

Again, the pass rate on this question (at 91%) was excellent. The candidates that performed well were able to outline the potential claims of unfair dismissal, discrimination and breach of contract depending on the effectiveness of performance managing individuals. Those that performed less well failed to acknowledge that these were just some of the potential risks faced by firms and that the risk was the potential claims that may be brought by individuals where there was not a fair and adequate procedure for managing performance of employees. Marks ranged from 35% to 90% (a higher distinction) with the average mark being 71%. Whilst the lower marks may indicate students had simply not prepared for this question it is clear that those that had prepared were able to apply their knowledge well with 87% of candidates achieved a merit or above (60% plus) for this question.

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 their professional colleague setting out whether an application should be made to amend a budget or if it is a matter best

left to assessment. The advice should have covered whether candidates considered the case developments were significant enough to justify a departure from the budget and whether the court will approve specific hours and disbursements.

The table below sets out the data on this question.

Number of Candidates	20
Total Fails	0
Total Pass	20
% Pass	100
% Fail	0

91% of candidates answered this question. This is a very topical area for many candidates and it was pleasing to see that such a high proportion opted to answer it. The range of marks was 50% - 80% and the average mark was excellent at 64% (merit level). 40% of candidates achieved a distinction (70% plus) for this question. 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. Some candidates failed to address whether the court would approve specific hours and disbursements. The candidates that did not perform as well simply described the law and failed to demonstrate the ability to apply their knowledge to the facts of the question which a response at level 6 requires.

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 an email to a professional client setting out whether or not the premium in the case was recoverable and what challenges may be made as to the recoverability, proportionality and reasonableness of the premium.

The table below sets out the data on this question.

Number of Candidates	22
Total Fails	2
Total Pass	20
% Pass	91
% Fail	9

The range of marks was 30% - 83% and the average mark was 63% (merit level). This question was well answered with the majority of candidates passing and it was clear that candidates had prepared well. This is pleasing given the importance of this topic to the day to day work undertaken by costs professionals. This question required knowledge of the pre and post LASPO provisions.

This question was deemed fair by the assessment team and 91% 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 write the body of an email a professional client setting out how costs in family cases are usually dealt with, how the costs in the type of case in the scenario should be dealt with and what rules the Court should have considered when making a costs order.

The table below sets out the data on this question.

Number of Candidates	19
Total Fails	2
Total Pass	17
% Pass	89
% Fail	11

This question was attempted by 86% of candidates with an excellent pass rate. Marks ranged from 35% (fail) to 83% (distinction) for this question. The average mark for this question was 63% (mid-range 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 letter of advice setting out the statutory tests for costs capping orders in judicial review cases and whether or not they believed an application in the scenario would be successful.

The table below sets out the data on this question.

Number of Candidates	2
Total Fails	0

Total Pass	2
% Pass	100
% Fail	0

Only 2 candidates answered this question. The question was, however, answered well with 100% of candidates achieving the required standard. 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 write the body of an email advising on an injunction being granted on the balance of convenience and the way costs will be determined in such a case. Candidates should also have advised how the costs of any injunction proceedings would ordinarily be dealt with and the consequence and reasoning of costs being reserved if the injunction is made on the balance of convenience.

The table below sets out the data on this question.

Number of Candidates	3
Total Fails	2
Total Pass	1
% Pass	33
% Fail	67

This question was answered by 14% of candidates. It was clear that candidates had difficulties answering this question and that could be the result of bad time management. Marks ranged from 42% to 83%. Overall candidates did not perform well on this question and most students avoided the question.

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

Mark Armstrong
Moderator