

# June 2015 Examination Marker Guidance

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This mark scheme is published as an aid to markers, to indicate the requirements of the examination. It shows the basis on which marks are to be awarded by examiners.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question paper.

**Before** you commence **marking each question** you must ensure that you are familiar with the following:

- the requirements of the specification
- these instructions
- the exam questions (found in the exam paper which will have been emailed to you along with this document)

Set out below is question specific indicative content that provides details of points that candidates **may** be likely to make. It is **not** exhaustive or prescriptive and points not included in the indicative content, but which are valid within the context of the question, are to be credited. Similarly, it is possible for candidates to achieve top level marks without citing all the points suggested in the scheme.

Included in the 'Marks' column are the number of marks available for each assessment objective contained within the question. It also includes 'characteristics' which a response in a particular level is **likely** to demonstrate. For example, "a pass response must cite the relevant CPR". In some instances an answer may not display all of the 'characteristics' detailed for a level but may still achieve the level nonetheless.

As already stated, neither the indicative content or 'marks' are prescriptive and/or exhaustive. It is imperative that you remember at all times that a response which:

- differs from examples within the practice scripts; or,
- includes valid points not listed within the indicative content; or, 
- does not demonstrate the 'characteristics' for a level

**may still** achieve the same level and mark as a response which does all or some of this. Where you consider this to be the case you should make a note on the script and be prepared to discuss the candidate's response with the moderators to ensure consistent application of the mark scheme.

## Section A

<b>Question 1:</b>	<b>What is the indemnity principle?</b>
<b>Total Marks Attainable</b>  Fail = 0-2.4 Pass = 2.5+ Merit = 3+ Distinction = 3.5+	5
<b>Indicative Content</b>	<b>Marks</b>
<b>Required:</b> Define the indemnity principle e.g: The indemnity principle simply provides that the receiving party cannot recover more costs from the paying party than he himself would be liable to pay his own solicitors.	1  A pass must include a definition
<b>Any other relevant point to describe the principle e.g:</b>  It is very common for paying parties to dispute or at least question the terms of the receiving party's retainer agreement, and furthermore demand sight of the retainer.  The indemnity principle does not apply in certain circumstances e.g legal aid	Up to 2 marks  A merit/distinction will include some analysis of the principle
<b>Credit any case law/points of law cited e.g:</b>  <ul style="list-style-type: none"> <li>• Harold v Smith (1860) - costs award should not be seen as a punishment;</li> <li>• Gundry v Sainsbury (1910) - unsuccessful party should not have to pay more to the successful party's solicitor than the individual successful party;</li> <li>• General of Berne Insurance v Jardine (1998) - look at the costs on an item by item basis, not globally;</li> <li>• Hollins v Russell (2003) - applies to CFA cases;</li> <li>• Bailey v IBC (1998) - signature of Bill is sufficient to show that indemnity principle has not been breached</li> </ul>	Up to 4 marks  To achieve more than a pass candidates must not simply cite cases but should show a holistic understanding of the development of the principle

<b>Question 2:</b>	<b>Outline the circumstances when costs management will not apply.</b>	
<b>Total Marks Attainable</b>		5
Fail = 0-2.4 Pass = 2.5+ Merit = 3+ Distinction = 3.5+		
<b>Indicative Content</b>		<b>Marks</b>
<b>Required explanation of costs management:</b>		1 Mark
<p>“Costs management” procedures were introduced for multi-track cases commenced on or after 1 April 2013 in both the county court and the High Court</p> <p>The change has been implemented by the introduction of new Civil Procedure Rules 3.12 to 3.18 and new Practice Direction 3E on Costs Management, as well as amendments to the Costs Practice Direction.</p>		A pass must include an explanation
<b>Any other relevant point to describe costs management e.g:</b>		1 Mark
Reference to Precedent Hs Reference to the courts case management powers and the overriding objective (CPR 3 and 1)		
<b>Credit any of the following, where provisions do not apply:</b>		Up to 4
<ul style="list-style-type: none"> <li>• where the court uses its discretion...either to not manage or to manage costs</li> <li>• Litigants in person</li> <li>• Fast track cases</li> <li>• Cases issued prior to 1.4.13</li> <li>• Cases commenced after 22.4.14 value over £10m</li> <li>• Proceedings in the admiralty and commercial court</li> </ul>		To achieve more than a pass candidates must not simply cite the examples but should show a holistic understanding of costs management

<b>Question 3:</b>	<b>When may summary assessment take place? Outline the procedure.</b>
<b>Total Marks Attainable</b>  Fail = 0-4.9 Pass = 5+ Merit = 6+ Distinction = 7+	10
<b>Indicative Content</b>	<b>Marks</b>
<b>Required:</b>  CPR 44.6 procedure for assessing costs - 1 (a) the court may make a summary assessment of costs  CPR PD 44, 9.2: <ul style="list-style-type: none"><li>• at conclusion of a fast track trial</li><li>• any other hearing which has lasted not more than 1 day</li></ul>	Up to 2  A pass must include an explanation.
<b>Any other relevant point to describe summary assessment e.g:</b>  CPR PD 44, P.D 9.5 It is the duty of the parties and their legal representatives to assist the judge in making a summary assessment of costs. Each party who intends to claim costs must prepare statement of costs (N260) or schedule must be filed: <ul style="list-style-type: none"><li>• not less than 2 days for fast track trial</li><li>• not less than 24 hours for other hearings</li></ul> CPR PD 44, 9.6: failure to comply will be considered when looking at the costs  CPR PD 44, 9.8: no time to summarily assess.  CPR PD 44, 9.10: disproportionate and unreasonable costs	Up to 4  To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base
<b>Any other relevant point to describe the content of the Schedule or N260:</b>  The Schedule (N260) must include: <ul style="list-style-type: none"><li>• the number of hours to be claimed;</li><li>• the hourly rate to be claimed;</li><li>• the grade of fee earner;</li><li>• the amount and nature of any disbursement to be</li></ul>	Up to 3  To achieve more than a pass candidates must not simply cite law but should show a greater

<p>claimed, other than counsel's fee for appearing at the hearing;</p> <ul style="list-style-type: none"> <li>• the amount of legal representative's costs to be claimed for attending or appearing at the hearing;</li> <li>• counsel's fees; and</li> <li>• any VAT to be claimed on these amounts.</li> </ul> <p>The schedule must be signed by the party or parties legal representative.</p>	<p>depth to their knowledge base</p>
<p><b>Credit any case law/points of law cited e.g:</b></p> <p>Williams &amp; Gergiou v Wayne Hardy builders (SCCO) (unreported 2014): highlights the importance of filing N260 on time. As no N260 was filed 24 hours prior to hearing no costs were allowed</p> <p>MacDonald v Taree Holdings (2000)</p>	<p>Up to 2</p> <p>At least one other point of law must be cited to acquire a distinction</p>

<b>Question 4:</b>	<b>What documents must be lodged with the court when a request for detailed assessment is made?</b>	
<b>Total Marks Attainable</b>		10
<p>Fail = 0-4.9  Pass = 5+  Merit = 6+  Distinction = 7+</p>		
<b>Indicative Content</b>		<b>Marks</b>
<p><b>Required:</b></p> <p>Explanation of what DA is</p> <p>Detailed Assessment Hearings- governed by CPR 47.14 and PD 13.</p> <p>CPR 47.14: RP must file request for DA Hearing within 3 months of expiry of period for commencing DA proceedings.</p> <p>CPR PD 47, 13.1: Reiterates the above position.</p>		<p>Up to 2</p> <p>A pass must include an explanation.</p>
<p><b>Details of Documents to be lodged with the court e.g:</b></p> <p>CPR PD 47, 13.2 sets out the documents to be filed with a request for DA:</p> <ul style="list-style-type: none"> <li>• N258 needs to be filed plus NOC,</li> <li>• Bill,</li> <li>• Order/Judgment/Doc giving right to DA,</li> <li>• Precedent G PODS and Replies,</li> <li>• Any other orders,</li> <li>• Fee notes and written evidence of disbursements over £500 as per CPR PD 47, 5.2.</li> <li>• Statement signed by legal representative and estimate of the length of time the DA hearing will take.</li> <li>• Court fee will also need to be paid.</li> </ul>		<p>Up to 8</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>
<p><b>Credit any other points of law cited e.g:</b></p> <p>CPR PD 47, 13.4- On receipt of request for DA, Court will fix a date for hearing</p> <p>CPR PD 47, 13.6- Court will give at least 14 days notice of time</p>		<p>Up to 2</p> <p>At least one other point of law must be</p>

and place of hearing.

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a distinction

<b>Question 5:</b>	<b>Outline the role of the CLSB.</b>	
<b>Total Marks Attainable</b>		10
Fail = 0-4.9 Pass = 5+ Merit = 6+ Distinction = 7+		
<b>Indicative Content</b>		<b>Marks</b>
<b>Required explanation of ACL and CLSB's role:</b>		
ACL is approved regulator (LSA S20(5))- Independent regulatory authority is CLSB. Approved regulators under the LSA (section 20(5) of the LSA 07), regulate those undertaking reserved legal activities (s12 and Sch 2 LSA 07) i.e authorised persons (s18 LSA 07) which can include an entity. CLSB not currently regulate entities but are applying to.		Up to 3  A pass must include an explanation and more than a pass would require depth to knowledge base.
<b>Any other relevant point to describe the reserved legal activities undertaken by CLs e.g:</b>		Up to 2
The 6 Reserved Legal Activities are found at Section 12 and Schedule 2 of the LSA 2007 which are:  Section 12(1)(a) Exercise of rights of audience – relevant to Costs Lawyer's Role, Section 12(1)(b) Conduct of litigation – relevant to Costs Lawyer's Role, Section 12(1)(c) Reserved instrument activities, Section 12(1)(d) Probate activities, Section 12(1)(e) Notarial activities, Section 12(1)(f) Administration of oaths – relevant to Costs Lawyer's Role.		Examples may be cited but should not be credited unless specifically related to the role of CL/CLSB
<b>Identifying the setting of standards and role in monitoring compliance with those standards:</b>		Up to 3
S176(1) LSA 2007- Pursuant to this Costs Lawyers to adhere to CLSB code of Conduct. Breach will result in disciplinary proceedings by CLSB.  CLSB set and publish the CL Code of Conduct (2014 amendments) x7 principles		To achieve more than a pass candidates must not simply cite law but should show a greater depth to their

<p>Cost lawyers are required to comply with practicing rules when they hold a practicing certificate</p> <p>CLSB Disciplinary rules/dealing with complaints.</p>	<p>knowledge base</p>
<p><b>Credit any other points cited, including reference to specific elements of the Code of Conduct and Practising Rules e.g:</b></p> <p>The 7 principles from the COC:</p> <ul style="list-style-type: none"> <li>• Professionalism and integrity,</li> <li>• Administration of justice and duty to court,</li> <li>• Clients interests,</li> <li>• Service and quality of work,</li> <li>• Ombudsman,</li> <li>• Respect and dignity,</li> <li>• Confidential</li> </ul> <p>Rules from the Practising Rules</p> <ul style="list-style-type: none"> <li>• Rule 4: application for practising certificate</li> <li>• Rule 8: notification requirements</li> <li>• Rule 9: continuing professional development</li> <li>• Rule 10: insurance</li> </ul>	<p>Up to 4</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>

## Section B

<p><b>Question 6:</b></p>	<p>You work in house for a High Street Solicitors Practice; your friend has just landed a job at the same firm as a trainee legal executive. She has received a memo from her supervisor, a partner at the firm, together with the file of James Bodgit. She has been told that this is a case where their client, the claimant in a debt recovery matter, has instructed that the Defendant's defence is fabricated and doesn't address the points in the particulars of claim. It is the Claimant's case that the defendant has no real prospect of success. Your friend is in panic, she has been asked to provide notes for Mr Bodgit's forthcoming appointment.</p> <p>Write a memo to your friend explaining the appropriate application that would need to be made in order to have the matter concluded without trial.</p>
<p><b>Total Marks Attainable</b></p> <p>Fail = 0-4.9          Pass = 5+          Merit = 6+          Distinction = 7+</p>	<p>10</p>
<p><b>Indicative Content</b></p>	<p><b>Marks</b></p>
<p><b>Required:</b></p> <p>Sets out answer in required format (memo) and address points in question.</p> <p>Identify this question requires knowledge of summary judgments CPR 24</p>	<p>1</p> <p>A pass must answer the question in appropriate format and identify the relevant law/procedure</p>
<p><b>Any other relevant point to describe the procedure e.g:</b></p> <p>CPR 23: Application for summary judgment is by notice of application with evidence in support of application in the form of witness statement and documentation.</p>	<p>Up to 8</p> <p>To achieve a merit or distinction candidates must</p>

<p>CPR 24.4(1): Claimant can apply for summary judgment at any time after the Defendant has either acknowledged service or served a Defence.</p> <p>CPR 24.2: The test is whether the court is satisfied that:</p> <ul style="list-style-type: none"> <li>• the defendant has no real prospect of successfully defending (or the claimant has no real prospect of succeeding on) the claim or issue; AND</li> <li>• there is no other compelling reason why the case or issue should be disposed of at a trial.</li> </ul> <p>CPR 24.4(3): requires applicant to give opponent at least 14 days' notice of hearing date</p> <p>CPR 24.5(1): If the application is to be opposed, the opposing party should reply at least 7 clear working days before the hearing together with supporting evidence.</p> <p>CPR PD24 para 4: Where the court considers that there is an arguable point but it is improbable or unlikely to succeed, the court may make a conditional order.</p>	<p>state specifically that it is C who would apply in this instance because the D has no real prospect of defending the claim i.e they must show an ability to apply the law to the scenario rather than just cite the law</p>
<p><b>Credit any other relevant law cited e.g:</b></p> <p>Contrasting to Part 23 – application notices only usually require 3 days notice</p> <p>CPR 7 - issue (i.e particulars of claim and statement of truth that the D either does not reply adequately or defence is so weak)</p> <p>Acknowledgement of service and defence are found in the response pack - N9</p> <p>Part 45 fixed costs applicable here (and for default judgments)</p>	<p>Up to 3</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>

<b>Question 7:</b>	<p>You are instructed for the Paying Party on a matter listed for detailed assessment before a Deputy District Judge. Your opponent is a costs draftsman from another area, you have received numerous e-mails from him, badgering you over petty points and threatening you with wasted costs orders when you do not respond by return.</p> <p>Your own Client, is angry by the correspondence and now insists that you argue the case in a way which you know is wrong. He expects you to present his case by arguing facts that are untrue, and to put forward submissions on the law that are simply wrong.</p> <p>Prepare a summary on what is meant by a wasted costs order and when the court may be minded to make such an order.</p>
<b>Total Marks Attainable</b>  Fail = 0-4.9 Pass = 5+ Merit = 6+ Distinction = 7+	10
<b>Indicative Content</b>	<b>Marks</b>
<b>Required:</b>  S 51 of the senior court act 1981 and CPR 44.2: costs payable by one party to another are the discretion of the court.  CPR 46.8: The Court can order a party or legal representative to pay a specified sum (or can disallow a specific sum) where costs have been wasted	Up to 2  An explanation should be given as to the discretion of the court when making an order for costs
<b>May also raise points on conduct:</b>  Buxton v Mills-Owen [2010] - lawyers shouldn't plead matters that are meritless.  Duty to the Court  Personal liability for costs  CLSB/SRA Code of Conduct	Up to 1  To achieve a distinction candidates should demonstrate knowledge of the ethical considerations raised in the

	problem question
<p><b>Any other relevant point to describe wasted costs orders e.g:</b></p> <p>Wasted costs applications should be left until the end of the Trial.</p> <p>Applications are usually raised by the aggrieved party but can be made by the Court of its own initiative.</p> <p>CPR 46 PD 5.4 A party may apply for a wasted costs order – (a) by filing an application notice in accordance with Part 23; or (b) by making an application orally in the course of any hearing.</p>	Up to 2
<p><b>Credit any case law/points of law cited e.g:</b></p> <p>Ridehalgh v Horsefield (1994) CA: The Court should only make a Wasted Costs Order where the legal representative has acted improperly, negligently or unreasonably - a mistake is not enough</p> <p>Harley v McDonald [2001] AC: Wasted Costs Orders are discretionary and should be reserved for unjustifiable conduct</p> <p>Orchard v S E Electricity Board [1987] QB: Wasted Costs Orders should not be used as a threat to intimidate the other party -</p> <p>Symphony v Hodgson [1994] QB: Wasted Costs Orders should not be motivated by a resentment or inability to obtain an effective costs order against an impecunious litigant</p> <p>Harrison v Harrison [2009] wasted costs were neither a punitive nor a regulatory jurisdiction, but rather a compensatory one.</p> <p>Persaud v Persaud [2003] Court of Appeal held that it was not right to interfere with the judge’s discretion to overturn a wasted cost order. [so basically once its made your unlikely to get it appealed]</p>	Up to 6  To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base

<p><b>Question 8a:</b></p>	<p>In the past you have often been instructed by Miss Jenny Hargreaves who is a local Solicitor. She has recently got a new job and has been hired to set up and run a Personal Injury Department for them. She has contacted you and has asked for your help in designing a number of leaflets to be handed to prospective clients.</p> <p>a) Prepare a summary for Miss Hargreaves of the methods of funding that should be considered by a solicitor advising her client in relation to a claim for damages for personal injury.</p>
<p><b>Total Marks Attainable</b></p> <p>Fail = 0-4.9  Pass = 5+  Merit = 6+  Distinction = 7+</p>	<p>10</p>
<p><b>Indicative Content</b></p>	<p><b>Marks</b></p>
<p><b>Required:</b></p> <p>Identify methods of funding and suggest most appropriate e.g:</p> <ol style="list-style-type: none"> <li>1. Private – hourly rates</li> <li>2. Legal Aid – means and merits test, no longer available for PI (since the AJA 99)</li> <li>3. CFA – no win no fee, lawful contingency agreement replace public funding in PI</li> <li>4. DBA – lawful contingency agreement introduced by LASPO but not widely used</li> <li>5. Insurance – ATE and BTE - Insurance must be checked and if no insurance CFA/ATE most appropriate method of funding</li> </ol>	<p>Up to 3</p> <p>An explanation should be given as to funding generally and the types of funding available</p>
<p><b>Any other relevant point to describe CFAs e.g:</b></p> <p>S58 of the Courts and Legal Services Act 1990:</p> <ul style="list-style-type: none"> <li>• they must be in writing,</li> <li>• not relate to family or criminal proceedings,</li> <li>• success fees must not exceed 100% of the base costs,</li> <li>• percentage of success fee must be specified;</li> </ul> <p>Access to Justice Act 99: Success Fees and Insurance Premiums were recoverable from the other side</p> <p>s44 and 46 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012: success fees and ate premiums no longer</p>	<p>Up to 4</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base.</p>

<p>recoverable from the paying party and success fee for PI claims now capped at 25%.</p> <p>Reference to risk assessment</p> <p>Reference to Consumer Regulations</p>	
<p><b>Any other relevant point to describe DBAs e.g:</b></p> <p>s45 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012: introduced damages based agreements.</p> <p>These are an agreement that the costs of the solicitor will be paid as a percentage of damages recovered by their client. They have not become common place because of the difficult position it puts a client in</p> <p>It's necessary to consider the risks involved in the litigation, as the solicitor will only be able to recover a percentage of the client's damages and this is capped at 25% for PI claims (Damage Based Agreements Regulations 2013).</p>	<p>Up to 3</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>
<p><b>Any other relevant point to describe ATE and BTE e.g:</b></p> <p>BTE insurance is found in some types of insurance, such as home contents insurance;</p> <p>ATE insurance can be taken out by the solicitor.</p> <p>This is no longer recoverable from the paying party for claims made following April 2013;</p>	<p>Up to 2</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>
<p><b>Any relevant points on Third party funding:</b></p> <p>Third party funding is where someone who is not a party to the litigation funds the claim (solicitors costs, experts fees, counsels fees and disbursements).</p> <p>The third party will take a percentage of the money awarded to the claimant.</p>	<p>Up to 1</p> <p>To achieve more than a pass candidates must not simply cite law but should show a greater depth to their knowledge base</p>

<b>Question 8b:</b>	<p>In the past you have often been instructed by Miss Jenny Hargreaves who is a local Solicitor. She has recently got a new job and has been hired to set up and run a Personal Injury Department for them. She has contacted you and has asked for your help in designing a number of leaflets to be handed to prospective clients.</p> <p>b) Prepare a summary for Miss Hargreaves of what is meant by a part 36 offer for settlement outlining the formalities and tactical advantages of drafting such a letter.</p>
<p><b>Total Marks Attainable</b></p> <p>Fail = 0-4.9  Pass = 5+  Merit = 6+  Distinction = 7+</p>	<p>10</p>
<p><b>Indicative Content</b></p>	<p><b>Marks</b></p>
<p><b>Required:</b></p> <p>Part 36 offers to settle in the prescribed form aim to encourage parties to try and settle a dispute.</p> <p>They set out the costs and other consequences that a party will face if it refuses a reasonable offer to settle.</p> <p>You can make a part 36 offer to settle liability, damages, costs</p>	<p>Up to 2 marks</p> <p>To pass an explanation of a part 36 offer should be given including</p>
<p><b>Any relevant points on form of the letter e.g:</b></p> <p>CPR 36.2: for an offer to be valid it must fulfill the requirements set out in CPR 36.5</p> <p>CPR 36.5 (1)</p> <p>a) in writing  b) clear its part 36  c) open for period of 21 days  d) whether it relates to whole claim or part  e) whether it takes into account any counterclaim</p>	<p>Up to 3 marks</p> <p>The formalities of such an offer should be discussed.</p>
<p><b>Any other relevant point to describe the principle e.g:</b></p> <p>CPR 36.3 (a) the party who makes an offer is the “offeror”</p> <p>CPR 36.3 (b) the party to whom an offer is made is the “offeree”</p> <p>36.8 (1): The offeree may, within 7 days of a Part 36 offer being</p>	<p>Up to 2 marks</p> <p>To achieve more than a pass candidates must not simply cite law but should</p>

made, request the offeror to clarify the offer.	show a greater depth to their knowledge base
<p><b>Credit any points raised e.g:</b></p> <p>If a party does NOT accept the offer AND at trial judgment is entered against him/her which is 'at least as advantageous' to the opposing party as the proposals contained in their Part 36 offer, then, unless the court considers it unjust to do so, the party will be ordered to pay:</p> <ul style="list-style-type: none"> <li>• interest on the whole or part of the Claimant's damages at an enhanced rate of interest (up to a maximum of 10% above Bank of England Base Rate) from the date upon which the initial time for accepting the offer expired</li> <li>• Costs on an indemnity basis from the date upon which the offer should have been accepted</li> <li>• Interest on those costs at a rate of up to 10% above Base Rate.</li> </ul>	<p>Up to 4 marks</p> <p>To achieve a distinction candidates must show a greater depth to their knowledge base and include a discussion as to how a part 36 offer operates</p>

<b>Question 9:</b>	<p>You are instructed by Mr Jay Thomas, a Solicitor with a local High Street firm. He has returned to practice after travelling around Europe for the past 12 months. On his return from his travels he has taken on a role in Debt Recovery.</p> <p>He has contacted you having received a Bill of Costs from an opponent who successfully defended a Debt claim valued at £80,000. He has no prior experience of Detailed Assessment and needs you to explain the procedure and next steps.</p>
<p><b>Total Marks Attainable</b></p> <p>Fail = up to 9.9  Pass = 10+  Merit = 12+  Distinction = 14+</p>	<p>20</p>
<p><b>Indicative Content</b></p>	<p><b>Marks</b></p>
<p><b>Required:</b></p> <p>CPR 47.1: Takes place at conclusion of hearing</p> <p>CPR 47.6 (1) Detailed assessment proceedings are commenced by the receiving party serving on the paying party</p> <ul style="list-style-type: none"> <li>• notice of commencement in the relevant practice form; and</li> <li>• a copy of the bill of costs.</li> </ul> <p>CPR 47.6 (2): The receiving party must also serve a copy of the notice of commencement and the bill on any other relevant persons specified in Practice Direction 47.</p> <p>Practice Direction 47 deals with the form of a bill</p> <p>CPR 47.7: sets out the period for commencing detailed assessment proceedings.</p>	<p>Up to 5 marks</p> <p>To pass relevant CPR should be identified.</p>
<p><b>Discussion on next procedural steps e.g:</b></p> <p>CPR 47.9 (1) The paying party and any other party to the detailed assessment proceedings may dispute any item in the bill of costs by serving points of dispute</p> <p>CPR 47.9 (2) The period for serving points of dispute is 21 days</p>	<p>Up to 6 marks</p> <p>To pass relevant CPR should be identified.</p>

<p>after the date of service of the notice of commencement.</p> <p>CPR 47.14 (6) Only items specified in the points of dispute may be raised at the hearing, unless the court gives permission.</p> <p>CPR 47.13 (1): Where any party to the detailed assessment proceedings serves POD, the RP may serve a reply on the other parties to the assessment proceedings.</p> <p>CPR 47.13(2): RP may do so within 21 days after being served with the POD to which the reply relates.</p> <p>CPR PD 44, 12.1: Replies must be limited to points of principle and concessions only, must not contain general denials, specific denials or standard form responses.</p> <p>CPR PD 47, 12.2: When practicable Replies must be set in the form of Precedent G.</p>	
<p><b>Discussion on Request for a Hearing e.g:</b></p> <p>CPR 47.14 and CPR PD 47, 13: governs Detailed Assessment Hearings.</p> <p>CPR 47.14: RP must file request for DA Hearing within 3 months of expiry of period for commencing DA proceedings.</p> <p>CPR PD 47, PD 13.1 – Reiterates the above position.</p> <p>Because of value DA not PA appropriate (oral hearing)</p> <p>CPR PD 47, 13.2: N258 needs to be filed plus NOC, Bill, Order/Judgment/Doc giving right to DA, Precedent G PODS and Replies, Any other orders, Fee notes and written evidence of disbursements (over £500 as per CPR PD 47, 5.2)</p> <p>Statement signed by legal representative and estimate of the length of time the DA hearing will take.</p> <p>Court fee will also need to be paid.</p>	<p>Up to 5 marks</p> <p>To achieve more than a pass candidates must show a greater depth to their knowledge base</p>
<p><b>Credit any case law/points of law cited e.g:</b></p> <p>CPR PD 47, 13.4: On receipt of request for DA, Court will fix a date for hearing</p> <p>CPR PD 47, 13.6: Court will give at least 14 days notice of time</p>	<p>Up to 3 marks</p> <p>To achieve more than a pass candidates must</p>

and place of hearing.	show a greater depth to their knowledge base
<p><b>Credit any discussion of the powers of an authorised court officer at DA e.g:</b></p> <p>CPR 47.3(1)(a): Can make wasted costs orders</p> <p>CPR 47.3(1)(b): can make an order in relation to conduct and for the delay in commencing DA proceedings</p> <p>CPR 47.8: Sanction for delay in commencing detailed assessment proceedings</p> <p>CPR 47.20 (1): The receiving party is entitled to the costs of the detailed assessment proceedings. There are exceptions to this.</p>	<p>Up to 4 marks</p> <p>To achieve more than a pass candidates must show a greater depth to their knowledge base</p>