

Introduction

Time

Despite concerns raised in the candidate survey there was no evidence of candidates running out of time.

Paper format

Candidates raised concerns in the candidate survey about the format of the question paper. There was no evidence of difficulty with the adapted format. Past papers had included problem questions and the answers to the problem questions demonstrated good application of the law. There was clearly question-spotting in the short answers. I would expect candidates in years to come to have a better coverage of the syllabus. Rules on formation of contract and to establish negligence were answered well.

Professional Conduct

Questions on the IPReg rules were poorly answered on the whole.

Problem Questions v Short Answers

The spread of marks indicated an even achievement across most of the short answer questions. In contrast there were two problem questions that were noticeably better answered – the questions concerned contract formation and the overriding objective/IPEC jurisdiction. In the problem question section, many chose the negligence question (number 10) but had difficulty in answering other parts of the question – since the negligence part of the question did not make up the majority of the marks candidates did not achieve highly on this question.

Questions

Part A

Question number	Comments on questions (by part)
Question 1	<ul style="list-style-type: none">a) Most candidates had a good understanding of the rules of evidence and the weighting to be applied.b) Most candidates did not have difficulty with this though the better candidates only understood why opinion evidence is usually not allowed.c) Many candidates did not understand the distinction between these two types of statements.d) Though there was generally a low level of knowledge on the IPReg code of conduct, candidates did tend to pick up some marks on this question.
Question 2	<ul style="list-style-type: none">a) Most candidates did well on this part.b) Most candidates demonstrated a lack of knowledge of the Contracts (Rights of Third Parties Act) 1999.c) Most candidates picked up 2 out of the 3 marks here.

Question 3	<p>a) No candidate answered this part correctly and most answers were wildly inaccurate guesses.</p> <p>b) I suspect that this question was chosen because candidates had revised 'malicious falsehood' which was answered well.</p> <p>c) Most knew the basics of the without prejudice rule but there was little evidence to suggest a sophisticated understanding of it.</p>
Question 4	<p>a) Most candidates knew a number of the distinctions between a limited company and sole trader.</p> <p>b) This question was answered poorly and very few candidates knew the normal aggregate limit on client monies.</p> <p>c) Most candidates did not have difficulty with this question.</p>
Question 5	<p>a) Most candidates knew the distinction between the two types of property ownership but a number got confused as to which was called which.</p> <p>b) This part was answered well on the whole.</p> <p>c) There was a general lack of awareness of what 'relevant knowledge' meant as many candidates believed that it equated merely to a conflict of interest which could be waived by the parties involved.</p>

Part B

Question number	Comments on question (by part)
Question 6	<ul style="list-style-type: none"> a) There were no clear problems with the answering of this part. b) Many candidates achieved full marks on this part. c) There was a lack of knowledge of basic appeal routes in the criminal system (and some candidates unaware that this was a criminal matter). I suspect that those who answered this question looked at the parts a) and b) in deciding to answer this question and became unstuck on this part. d) Candidates knew how to take on a client but many were unaware of the restrictions on acting in criminal matters and appreciating that they might have a lack of knowledge of such matters as patent attorneys.
Question 7	<ul style="list-style-type: none"> a) Candidates often achieved full marks on this part showing knowledge of the special nature of the IPEC. b) Again candidates often achieved full marks on this part having clearly rope-learnt the overriding objective. c) Again little difficulty shown in understanding the standard of proof required.
Question 8	<ul style="list-style-type: none"> a) Unfortunately even where candidates spotted the American Cyanamid principles, the responses were incomplete. Some candidates couldn't decide whether this was a search/seizure order or freezing injunction situation. The question was posed as a problem and therefore it distinguished poor candidates from good candidates. b) Candidates usually only achieved 1 mark as they failed to understand that the initial application would have been made before commencing proceedings and without notice to the defendant. c) This was not answered well and where candidates did identify the witness statement correctly they did not appreciate the requirement for a statement of truth. d) Many candidates grasped correctly that this was hearsay evidence. e) As many candidates as answered the question correctly in terms of delay, did not appreciate the rule on full and frank disclosure.
Question 9	<ul style="list-style-type: none"> a) Most candidates achieved full marks on the formation of a valid contract. b) Many candidates correctly identified the hearsay evidence but then many had problems appreciating the weight to be given by an expert opinion, albeit an in-house expert.

	<p>c) On the whole candidates did not appreciate how advocates can inadvertently create evidence without meaning to.</p> <p>d) The answers to this part were disappointing. Most candidates got the word 'equitable' in their answers in relation to the status of the assignment but beyond that many candidates were unsure if the contract could be sued on.</p>
Question 10	<p>a) Most candidates mistook a limited partnership for a limited liability partnership – only 2 or 3 candidates spotted the difference and those few then did not display much knowledge.</p> <p>b) This was answered well, with candidates demonstrating a good knowledge of the law of negligence. I suspect that this question was chosen by candidate because of this part of the question.</p> <p>c) The majority did not know about vicarious liability.</p> <p>d) Some of the better candidates identified negligent misstatement but most did not.</p> <p>e) Most candidates identified two professional failings by Jonathan but some had difficulty expressing this for example their answers amounting to 'he didn't do his job well' rather than identifying it as a general 'competency issue'.</p>