

Examiner's report

Qualifications Framework

Stage 1: Unit 3 Trading Standards Law Part 1

Written Examiner's Report May 2024

General

22 Candidates sat the exam in May 2024, marks ranged from 37 to 83. There is a lot of material to study for this paper and candidates should be commended for their hard work.

Overall, there was only one candidate that unfortunately failed, most candidates showed a good understanding of the syllabus for Unit 3. Some students failed to demonstrate a detailed knowledge in the key areas of the syllabus in particular CPRs, ICACS, and Powers. It is also clear which candidates have applied the knowledge in their day-to-day duties, which is essential to cement learning and apply the legislation to different situations. Firstly, some general feedback that applies to all candidates and in every exam cycle, time management. It's important to enable sufficient time to be spent on each question. It was clear by some of the answers that the candidate had run out of time on some questions having spent far too much time writing detailed answers for Section A questions. One candidate only answered Section A questions, missing out on a potential 70 marks, candidates should understand how the exam is structured and answer three from Section A and two from Section B. Another recurring, important piece of feedback is not only to read the question, but also to understand what the question is looking for. Candidates have a limited time so it is essential that they stick to the relevant points, if the questions ask for an explanation this should be in your own words not reciting definitions, if it asks for case law or examples remember to include them. You can only be awarded marks for including points that relate to the question. Some candidates strayed way off topic or gave answers which did not relate to the question at all. Whilst it can be tempting to fill the page with the things you can remember, this is very unlikely to gain marks and candidates should focus that time on other questions. On the other end of the scale, some candidates write far too little, one or two sentences is very unlikely to contain sufficient points for a 10-mark question. Finally, try to formulate a structured answer and deal with points in order rather than mixing all together, unless otherwise indicated by the question, write in sentences and paragraphs not bullet points, it is generally your explanation that shows understanding (unless you're running out of time, and you may then pick up basic marks).

Section A

Q1

21 candidates answered question 1

Marks ranges from 3 to 10

All but one candidate answered this question, understandably as it is one of the important concepts covered by the Consumer Protection from Unfair Trading Regulations, which is a key part of the syllabus, and candidates are required to have a detailed knowledge. The question asks what is meant by the term "transactional decision" using case law and examples to illustrate. Most candidates scored above half marks, which shows they have a good understanding of the term. Candidates were expected to refer to Reg 2 and explain in their own words that essentially, this covers any decisions made by the consumer, giving some of the terms referred to in the definition, for example, whether how and on what terms to make a payment. Candidates were asked to explain its relevance so they should have been referring to the transactional decision test which is relevant when considering offences. The better candidates differentiated between the Sch 1 practices and the other

prohibitions. Candidates were then asked for examples and case law so they could have included consumers making a purchase, cancelling a contract, clicking on a link, and referred specifically to the decision in the Trento case, and used other case law to illustrate different decisions - OFT v Purely Creative- the decision was to call the premium rate number for example. There was some confusion around case law, names facts etc.

Q2

8 candidates answered question 2

Marks ranged from 2 to 6

Only one candidate scored over half marks for this question, mainly due to not going into sufficient detail, or a lack of understanding regarding PACE and its application and relevance to trading standards officers. Some candidates went into detail on the contents of the codes, which is not what the question is asking for. The overarching purpose is to set out Police powers and protect the human rights of suspects. Candidates did not explain why it applies to trading standards, i.e. s.67 and answers regarding potential consequences of not adhering to the codes were poor. One candidate gave a detailed answer but referring to wrong legislation entirely – CPIA. Had this been the question it would have been a good answer but unfortunately scored few marks, perhaps exam nerves but make sure you read the question. There was a Scottish version of this question referring to the Criminal Justice (Scotland) Act 2016, but this was not attempted by any candidates.

Q3

7 Candidates answered question 3

Marks ranged from 2 to 7

This question focussed on the rules for digital content in terms of cancellation under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Firstly, candidates had to explain what digital content means, which only some managed to do reasonably, although most did list some examples. One candidate had listed products such as CDs DVDs etc, which are not digital content. Secondly, candidates were asked about specific information requirements for digital content which most candidates missed out. Finally, the aspect regarding cancellation rights was also bot answered particularly well. Candidates identified the time frame i.e. 14 days but did not talk about the process and requirements for immediate downloads.

Q4

6 candidates answered question 4

Marks ranged from 3 to 9

This question was answered reasonably well by most candidates who attempted it. Firstly, candidates were required to define unused material and give examples of material collected during an investigation which would fall within this category. Explanations were quite vague, and some examples provided would be evidence rather than unused material. The second part of the question was answered better, showing candidates understanding of the disclosure test and sensitive material.

Q5

5 candidates answered question 5

Marks ranged from 3 to 9

This question was answered well by a couple of candidates and not so well for others. More of a practical application question than others, it is a fair assumption that those with practical experience in this area fared better than others. The main focus of the question was to examine students' knowledge of powers and information sharing, but to demonstrate this, candidates needed to understand what a fulfilment house is and its place in the supply chain. Some candidates were not clear on this and were including information such as call scripts etc. which a fulfilment company would not have, examples should have included details about their client,

details of fulfilled orders, details of returns etc. Candidates were also expected to identify para 14 of the CRA Sch 5 as the relevant power to use. The second part of the question asked about who this data could be shared with and in what circumstances, with reference to DPA and GDPR, candidates were required to identify other enforcers and explain the gateways.

Q6

19 candidates answered question 6

Marks ranged from 7 to 10

This question was very popular, and as it sits in the basic knowledge section of the syllabus was relatively simple, providing candidates with experience of age restricted sales an opportunity to get high marks. Firstly, candidates were asked to identify age restricted products and then to explain precautions that retailers can take, showing their understanding of due diligence defences. Most candidates correctly identified 5 products but only some gave a good explanation of precautions.

Section B

Q7

13 candidates answered Q7

Marks ranged from 12 to 29

This question was a scenario question based on property descriptions and the application of the Consumer Protection from Unfair Trading Regulations. As with all questions in section B, the better candidates provide more structured answers, introducing scope and key concepts of the legislation first. There were two properties in this scenario which had both been misdescribed, although there were differences in the methods of selling. With the first property it was not clear whether the seller was a private individual or a landlord, the better candidates explored this and the meaning of trade/business. The remaining requirements were to apply the regulations and identify offences, it is essential for candidates to provide explanations around potential offences and not just to list them with no context. Most candidates identified the majority of issues, some missed a few. The second part of the question related to gathering the required evidence, again, most candidates got the main points but several missed key evidence and did not explain how they would obtain it, for example stating that evidence from the consumer would be in a witness statement, other evidence required powers to be exercised.

Q8

6 candidates answered Question 8

Marks ranged from 18 to 28

The least popular section B question, but with reasonable marks achieved by candidates. This question was again exploring knowledge of CPRs and powers but from the perspective of planning a project on used cars and briefing officers. The first phase was undercover visits, so candidates needed to cover the process including consideration of RIPA and authorisation, recording the process and capturing digital evidence. A couple of candidates answered this well, but others missed key points and also did not cover questions that undercover officers should ask salesperson. The second part of the question was to draft a briefing for Phase 2 the announced inspections, here candidates had the opportunity to explain the relevant offences, the powers to be used and the how other evidence would be collected such as statements from vehicle examiners and consumers

Q9

7 candidates answered Question 9

Marks ranged from 15 to 23

This question was a business advice question exploring the candidate's knowledge of the Consumer Contracts Regulations, there was sufficient scope within the question for those with a good knowledge to demonstrate this.

Whilst most candidate included the main information requirements, they did not include specific requirements for website sales, payment buttons, and also did not pick up on the range of products sold by the web developer's clients and did not include specific requirements for digital content. A key point to get across in the advice would be the location of the required info and cancellation forms etc. In terms of cancellation rights, again candidates could have explained this more fully to provide the trader with a good overview. Some candidates included reference to other fair-trading legislation as required but others went slightly off-piste here and therefore missed a considerable chunk of marks, they should have mentioned the other legislation the syllabus, CPRs and BPRs in particular as the question states that some of his clients sell to other businesses, pricing etc.

Q10

18 candidates answered Question 10

Marks ranged from 11 to 28

The most popular section B question perhaps as it is most akin to doorstep crime type scenarios that candidates are used to seeing in this exam. The scenario included a range of potential unfair trading offences as well as information requirements, most candidates identified the majority although only a few mentioned issues around the no shows and excuses and only a handful identified all offences. When discussing offences again, more detail is required for example not just a misleading action, but what part of Reg 5(4), benefits, price, need for a repair etc. Candidates often get distracted with these types of scenarios and begin to include reference to the consumers civil rights, whilst usually valid to the scenario in practice, the syllabus for Unit 3 does not include the Consumer Right Act (other than Sch 5). Part b of the question looked evidence and this time most of the evidence was available without using powers so candidates should have briefly summarised any pertinent points such as adhering to the HO guidance when taking evidential photographs, a handful of candidates did well on this part. The final part was a brief look at the Enterprise Act and whether a previous undertaking was breached, the key point here was whether the undertaking was for the trader as a Ltd Company or as an individual. Candidates then should have given a brief summary of the process, consultation, undertaking, enforcement order.