

## Examiner's report

### CTSI Professional Competency Framework

#### Stage 1: Unit 1 Regulatory Environment & Enforcement Examiner's Report September 2022

##### General

Congratulations to all candidates who sat examinations during September. Undertaking examinations can be challenging in addition to the other work and home responsibilities that many candidates have. 9 candidates sat the Unit 1 paper with 7 candidates achieving a pass mark or higher and one candidate obtaining an impressive 75%.

It was pleasing to see that some candidates had clearly taken on board the examiner's report from May and had made a concerted effort to revise areas such as contract law and the Consumer Rights Act 2015, which are important areas of this syllabus.

This was very encouraging to see. Contract law is the foundation of many cases and complaints that you may deal with as a Trading Standards professional and is therefore important knowledge to have.

It was clear that some candidates had not reviewed the whole syllabus, as gaps in knowledge were demonstrated in some of the lower scoring answers. There were also several answers that did not address the question that was set, so precious time was wasted providing information that was not asked for in the question. Practising exam technique is an important part of preparing for an assessment and time to practice answering questions from past examination papers and understanding what the question is asking for, will help candidates to perform at their best.

##### Section A

###### Q1

This was a popular question, chosen by 6 candidates. The marks achieved for this question ranged from 1 to 8.

This question was asking candidates to identify that terms can be implied into contracts via statute, the courts and by custom and practice. A brief explanation of each of these with either case law, such as *The Moorcock* or examples such as the Consumer Rights Act 2015 would have enabled candidates to obtain full marks here. It is important to read the question carefully as some candidates started discussing the difference between express and implied terms, which was not what was being asked.

###### Q2

Another popular question on the paper; with 6 candidates choosing to answer it. The marks ranged between 2 and 6.

Most candidates were able to explain what rescission of a contract meant but were unable to identify examples of when the right to rescind a contract may be lost. For example, due to a lapse of time or because it was not possible to rescind the contract.

### Q3

This question was focusing on the rights pertaining to reasonable time and reasonable price. It was surprising that this was not a popular question, with only 2 candidates choosing to answer it. The marks ranged from 2 to 6.

In order for these sections of the Consumer Rights Act 2015 to apply, the time or how the method of time will be fixed or price or consideration must not have been fixed in the contract, including the information caught under Section 50. The work must not have been paid for either, unless paid under protest for example.

### Q4

This question focused on the role of McKenzie Friends and was the least popular question on the paper, and was only answered by one candidate. However, the mark obtained for this question was the highest Section A mark achieved, as the candidate achieved a mark of 9.

Outlining what a McKenzie Friend is and what they can do, such as taking notes and providing moral support, as well as their limitations such as a lack of rights of audience, enabled the candidate to obtain a very good mark for this question.

### Q5

An identification of the different types of contractual terms was required for this question and 3 candidates elected to answer this one. Marks ranged between 7 and 8 and the question was generally answered very well.

It was pleasing to see that most candidates were able to define conditions, warranties and innominate terms. Some answers also provided case law such as the Hong Kong Fir Shipping case to support their discussions.

### Q6

All 9 candidates attempted this question and it was the most popular question on the paper. The marks obtained were between 2 and 5, suggesting that some candidates may have been better off selecting a different question to answer.

This question required candidates to identify the relevant remedies for digital content. Most students identified the right of repair or replacement, but candidates also needed to discuss the right to a partial refund if the repair or replacement was not done within a reasonable time or without causing significant inconvenience. Some candidates also discussed a short term right to reject or treated digital content the same as goods, which indicated a lack of understanding of what digital content is and how and why the remedies are a little different. Many candidates also forgot to discuss common law remedies, which the question asked for.

## Section B

### Q7

This was a popular question and was attempted by 6 candidates, with marks ranging from 10 to 26. This scenario was testing candidates' knowledge and understanding of contract formation and instantaneous communication methods.

With these types of questions, it is important to take each part of the question at a time and discuss whether you think it is an offer, acceptance, counter-offer etc. and explain your reasoning and any supporting case law. Some candidates did this very well and achieved good marks. Marks were awarded for discussing these issues and for providing supporting evidence, even where the conclusion differed from that of the examiner.

The best answers included identifying that the advert was an invitation to treat and then discussing Chris' offer and the following counter-offer made by Beth, supported by case law such as Partridge v Crittenden and Hyde v Wrench. A discussion was then required in relation to the email sent by Chris and whether this amounted to an acceptance and if so, when this acceptance took place. The best answers discussed the application of the postal rule and case law relating to instantaneous communication methods; as well as discussing the importance of the business hours and how the time of sending the email was relevant. Some candidates showed a very good understanding of contract law formation and case law within their answers, which was very pleasing to see.

## Q8

3 candidates selected to answer the question on the Intelligence Operating Model (IOM). Marks for this question ranged between 13 and 30.

Part (a) required the definition of intelligence used in the model, which is information which has been subject to a defined evaluation process and analysed in order to assist with decision making.

Part (b) required candidates to identify the different types of intelligence and how they are used. These include strategic, tactical and operational intelligence. Candidates obtained credit for describing some of these types of intelligence in their answers but this was not a well answered part of the question.

Part (c) saw much higher marks being achieved by candidates, as there were many advantages to choose from relating to the use of intelligence by Trading Standards Services. These could have included prioritisation, decision making, co-ordinating operations etc.

Part (d) required candidates to explain the role of the Local Intelligence Liaison Officers. Areas for discussion in the better answers provided included the importance of their role locally as a point of contact, sharing the intelligence with wider partners and reporting to regional analyst teams.

## Q9

4 candidates chose to answer this question with marks ranging from 13 to 16.

This question focused on the Consumer Rights Act 2015 and contract law formation. Candidates needed to discuss the relevance of the notice in the changing room and how so-called 'blacklisted terms' would apply to this scenario. Knowledge of negligence was also needed for this question due to the customer's injury in the shop. A brief overview of the elements that would need to be proven such as a duty of care and a discussion about any remedies that the consumer may have been able to claim, was asked for.

The question also required a discussion about the incorporation of terms and it was good to see so many candidates using relevant case law to support their answers. It was a little concerning that one candidate stated that if a consumer was told about the statement on the back of the receipt before purchasing anything, then they would be bound by that term. An important area of knowledge for candidates is unfair contract terms and how the law applies to terms and notices which seek to restrict consumer rights.

A discussion about the jeans and the customers rights and potential remedies was also asked for by this question, as well as a discussion about the relevance or not, of the jeans being in the sale. Most candidates were able to discuss this part of the scenario well and identify the relevant sections of the Consumer Rights Act 2015 and the remedies. However, many answers did not discuss the relevance of the sale.

## Q10

This question was selected by 5 candidates and focused on alternative dispute resolution (ADR). This is a very topical subject at the moment. It was good to see some good answers to this question, with marks ranging from 14 to a very impressive 31.

Part (a) required a definition of ADR, an explanation of the different types of ADR such as mediation, arbitration, conciliation, adjudication etc. and a discussion about whether or not ADR is compulsory. The best answers demonstrated a good awareness of the compulsory requirements in some areas, such as the financial sector, and the voluntary nature of engaging with ADR in other sectors.

Part (b) of this question was answered well by most candidates. There are lots of benefits relating to ADR to choose from. The most common ones mentioned were speed of resolution, cost, reputational damage, control, learning better skills to resolve complaints in future, flexibility and less confrontation.

Part (c) required candidates to demonstrate their knowledge of the information requirements set out under the Regulations relating to ADR. The best answers identified that information needed to be sent to a consumer once a deadlock had been reached and that it had to be provided in a durable medium. Candidates needed to also list the information requirements set out in the Regulations for both compulsory and voluntary engagement with ADR, to obtain good marks for this part of the question