

Examiner's report

CTSI Professional Competency Framework

Stage 1: Unit 3 Examiner's Report September 2021

General

15 candidates sat the Unit 3 exam

Overall, most candidates showed a good understanding of the syllabus for Unit 3, but some students failed to demonstrate a detailed knowledge in the key areas of the syllabus in particular CPRs, ICACS,

Due Diligence and Powers. Some general feedback that applies to all candidates is 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. Another 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. A number of 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.

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 (unless you're running out of time and you may then pick up basic marks).

Section A

Q1 This question was answered by all 15 candidates. Marks ranged from 2-8. The purpose of the question was to assess candidates' knowledge of what is meant by the term aggressive practice. Marks were awarded for correctly identifying that the prohibition, and explanation of aggressive practices is contained in regulation 7. There are some key concepts when looking at aggressive practices, they must significantly impair a consumer's freedom of choice, by using harassment, coercion or undue influence, and must cause them to take a different transactional decision (or be likely to) (Reg 7(1)).

The weaker candidates failed to mention all of these key points. Further marks were available for identifying the factors which should be taken into account in reg 7(2) - timing, location, nature, persistence, language and behaviour, exploitation of circumstances or misfortune etc. A lot of candidates did not cover these points. Finally, candidates were asked to use examples, most candidates gave relevant examples or case law to illustrate their answer.

Q2 This question was answered by 5 candidates. Marks ranged from 5-9 with most candidates giving a good explanation of what is meant by continuity of evidence and talked about the chain of evidence from seizure to court and the importance of showing it has not been altered or tampered with.

Candidates were also expected to discuss how to demonstrate continuity, for example adhering to CPIA and PACE Codes, keeping records, secure evidence bags, transport and storage, handling or

opening by others etc. The weaker answers did not include sufficient detail on the practical processes.

- Q3** No candidates attempted this question, which is surprising as it covered basic powers in the Consumer Rights Act 2015 which is part of the detailed knowledge requirements of the syllabus. The question required candidates to explain the powers for requesting information from a third party i.e., the power in Para 14 of Sch 5.

This should have covered the requirement to provide a notice in writing stating the information required, the reason and a time frame, as well as the form in which the information should be provided. This power can be used for both civil and criminal enforcement activities. Finally, the question required candidates to identify the consequences of failure to provide the requested information, an application can be made to the court and the costs of that application can be recovered from the third party.

- Q4** 10 candidates answered this question. Marks ranged from 2-6, most candidates were able to provide details of relevant case law but the weaker answers failed to properly explain the concept of strict liability and due diligence.

To gain full marks candidates should have explain why the defence exists and why it is necessary to avoid miscarriage of justice in strict liability offences, this also needed clarification of what strict liability means and give an example. Some candidates failed to cover the first stage of the defence - mistake, act or default of another, reliance on information supplied by another etc. or did not explain what is meant by "reasonable precautions" and "due diligence" i.e., systems and procedures and then ensuring these are working to prevent offences.

- Q5** 3 candidates answered this question. Marks ranged from 5-7 and candidates gave a reasonable answer. All explained what event and entity data is and gave some examples but did not give a full explanation of different types of communications data.

- Q6** 9 Candidates answered this question. Marks ranged from 3-9. Candidates were expected to refer to the definitions in the regulations for off-premises and on-premises contracts, the weaker candidates dd not include all 4 types of off-premises contracts and did not cover difference in information requirements or cancellation rights.

Section B

- Q7** 6 candidates answered this question. Marks ranged from 6-23. This question required candidates to prepare a plan for training a used car trader who was expanding sales practices to include a full online service, to cover the legislation relevant to the business. In order to obtain full marks, candidates were expected to cover both the Consumer Protection from Unfair Trading Regulations 2008 and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2015.

Whilst candidates were only asked to provide a plan and were not expected to prepare "full" notes, they should have outlined the key areas with a brief explanation of what they would cover along with examples. This should have included covering key concepts such as commercial practice, transactional decision and average consumer, the prohibitions under the CPRs - Sch 1 practices, misleading actions, omissions, aggressive practices and professional diligence. Examples could have included how these apply to adverts, mileage history, conditions, verbal statements by salesmen, after sales service.

Further marks were available for discussion of the "due diligence" defence. In terms of ICACS, again candidates were expected to outline the difference in types of contracts, on and off-premises and distance contracts and how this applied to Rod's Revs, an explanation of the additional information required for off-premises and distance contracts as well as cancellation rights and obligations. The

weaker answers did not include all of the points, and some candidates failed to mention CPRs. A few candidates included civil provisions of the Consumer Rights Act 2015 which is not on the syllabus therefore no marks can be awarded.

- Q8** All 15 Candidates attempted Q8. Marks ranged from 13-30. The question was a typical doorstep selling scenario. Candidates were asked to apply both the Consumer Protection from Unfair Trading Regulations and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations.

Firstly, candidates should remember to consider the concepts and definitions within the legislation, many candidates failed to include reference to commercial practices, average consumer, transactional decision and off premises contracts. In terms of the offences, there were a lot of potential breaches, some candidates missed descriptions of the chair, approved by the association and the prohibited practices evident in the calls and visit. Many candidates also did not pick up all of the marks in relation to lack of pre-contractual information and failure to provide cancellation rights. Part b) of the question required candidates to consider the evidence need to prove the offences and how they would obtain it.

Whilst most candidates included taking a statement from Gurdeep, most did not mention how they would go about obtaining this or the procedure, similarly very few candidates discussed how they would take any paperwork or the chair itself as evidence as they failed to refer to how they would secure this and comply with CPIA. Candidates should think about the content of the syllabus when answering these types of questions.

- Q9** 5 candidates attempted this question. Marks ranged from 13 -24. This question covered both the Price Marking Order and the Consumer Protection from Unfair Trading Regulations and candidates were also expected to have a good understanding of the CTSI Guidance for Traders on Pricing Practices.

Firstly, they were asked to identify the relevant provisions and make a plan for what they would cover on their visit. Whilst some candidates clearly had a good understanding of pricing issues, the weaker candidates failed to cover all of the potential issues and most did not think about how they would actually conduct the inspections i.e. by test purchasing a selection of items and offers and checking the prices charged or reviewing price history documentation. The second part of the question asked the candidates to think about the powers they would be using and any documentation they would need.

Most candidates covered the basics here, some included Sch 5 Para 21 and 22 - where they would not need to introduce themselves to the business, and identified the Para 23 powers, but missed picking up marks considering whether this would be classed as a routine visit and therefore the requirement to give advance notice. The final part of the question was not very well answered by most, there were clear breaches of the CPRs either a banned practice or misleading action in relation to the product being similar to Heinz and most did not consider comparative advertising under the BPRs.

- Q10** 4 Candidates answered this question. Marks ranged from 8-20. Some parts of this question were answered reasonably but overall marks were not particularly good. The first part of the question asked candidates to explain why the activity would be directed surveillance, and what the process is for authorisation.

Only one candidate referred to the definition of directed surveillance in RIPA/RIPSA, but most correctly identified the need for authorisation and judicial approval in order to safeguard against interference with human rights. Part b) firstly asked candidates to explain the offences, this required more detail about the elements of a Trade Marks Act offence than was provided by all of those who answered.

Secondly the candidates were asked to explain the powers which could be used, most candidates failed to pick up the maximum marks here as they did not include entry to the business (para 23) and home (para 32), inspection and search (para 25), seizure of goods and documents (para 28 and 29) and breaking open containers (para 31).

The third part of the question was the weakest for most candidates, only one candidate answered the first part of this by referring to the conditions in Para 32 (A or B and C, D or E) but most did pick up a few marks by stating that they would need to identify the goods which would be likely to be found. In general, the answers to this question were not detailed enough or failed to address the points at all.