

## Examiner's report

### CTSI Professional Competency Framework

#### Stage 1: Unit 3 Trading Standards Law Part 1 Examiner's Report November 2019

##### General

29 Candidates sat the exam in November 2019, marks ranged from 13 to 71. There is a lot of material to study for this paper and candidates who have taken the exams during this first cycle have been under additional time pressures so all should be commended. 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, CPRs, ICACS, Due Diligence and Powers. Some general feedback that applies to all questions is that candidates must read the general instructions regarding the exam paper and answer the required number of questions for each section, a couple of candidates either answered insufficient questions or too many questions in Section A.

Time management is 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. Write as clearly as possible, whilst the examiner understands that some candidates handwriting is not the neatest, it makes it extremely hard to mark when words cannot be deciphered. Read the question, candidates have a limited time so it is essential that they read and understand what the question is asking for and stick to the relevant points, if the questions asks 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, don't just write out everything you know about a topic. 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** 23 candidates answered question 1. Marks ranges from 2 to 9.

To gain full marks candidates were expected to identify where the term is defined in the regulations, and also explain the definition. Most candidates included the correct definition but many did not explain any of the elements further. The better answers explained what types of actions/omissions this covers, the term trader and consumer, and provided some examples. The question also asks for case law, in this case *R v Christopher Steele*, *R v X Ltd* and *Nemzeti* case could all have been used and must explain why the judgements clarified the term commercial practice - that it is an outwardly facing practice of the business but can be based on a single action, single consumer or no consumer at all. A good proportion of the candidates included the correct case law however some included case law relating to trade or business, this is not the term that they were asked to explain.

**Q2** 6 candidates answered question 2. Marks ranges from 6 to 9.

Candidates who attempted this question generally gave a good answer and showed they understand the concept of IP. The question required an explanation of what is meant by intellectual property, essentially that it is the rights that exist for creative work and ideas, such as music - copyright, brand logo's - trade marks, designs etc. A good answer clearly explained the concept with examples. The second part of the question merely asks for the 4 types of IP rights and the relevant legislation. The third part of the

question asks for the criminal offences. No marks were given for discussion of civil infringements. This is where some of the weaker answers failed to identify the correct offences.

### Q3 23 Candidates answered question 3. Marks ranged from 3 to 9

This question was a popular question and as a core part of the syllabus, candidates should have been able to get good marks here. The question specifically refers to the powers under the Consumer Rights Act 2015 and in particular para 23 and the requirement to give 2 days' written notice to the occupier. The first part asks for the information which the notice must contain, this is in para 23(4)(b). Most candidates remembered that it must contain the purpose of the visit, only a few included that it also need to detail the obstruction offence. There was some clear confusion between this notice and a PACE Code B notice. The second part of the question asks for the circumstances in which 2 days written notice is not required. These are again in para 23 (5) and (6) there are five exceptions listed here only a few candidates got all of these, and some talked about entry with a warrant rather than these exceptions. Several candidates gave other exceptions such as when undertaking activities under food legislation and examples relating to age restricted sales neither of which involve using powers under the Consumer Rights Act 2015. Candidates must remember to read the question and answer in relation to the legislation covered within the syllabus.

### Q4 14 candidates answered question 4. Marks ranged from 2 to 8

The question asked for an explanation of the concept of strict liability and the due diligence defence using case law. Candidates were expected to identify that strict liability offences only need to prove actus reus not mens rea. Marks were available for a brief explanation and providing examples and case law. The question also asks for explanation of the due diligence defence, candidates should have made the link between a strict liability offence and the need for a due diligence defence to protect from injustices in certain situations. Candidates were expected to outline the defence - where due to mistake, act or default of another etc. and they have taken reasonable precautions and exercised all due diligence, and an explanation of these terms using examples and case law. The better candidates included all of these points but many did not include any narrative to explain what it means in practice, the weaker answers did not correctly explain what strict liability means, seemed to get confused between the concept of due diligence and that of professional diligence and failed to include any case law.

### Q5 14 candidates answered question 5. Marks ranged from 2 to 10.

Most candidates that attempted this question gained reasonable marks, with one being awarded full marks. The question provided examples of legislation that governs the investigation process but candidates could have chosen other legislation which wasn't referred to so long as it concerned the investigatory process. Some candidates had a clear understanding of some of the legislation and how it impacts on trading standards, others either did not provide sufficient detail to gain full marks or did not apply the correct legislation in explanations. Marks were available for correct identification of the legislation, a summary of its purpose e.g. RIPA balance rights of individuals with powers of enforcers, the main concepts and how it impacts on trading standards

### Q6 This question was answered by 2 candidates. Both gained 4 marks

This question concerned the use of powers to obtain information and secondly, who that information can legally be shared with, with reference to CRA, DPA and GDPR. Candidates were expected state that they could request information under CRA from the fulfilment house. Apply the provisions of the DPA - gateway for FH to share personal data, and can request details of client and also details of consumers who have been sent products. The second part expected candidates to identify the circumstances in which they can share information gathered in performance of duties under the EA crime and taxation, prevention and detection of crime, financial institutions, others - consent and examples of other organisation who we may share data with such as police, social services, victim support etc.

## Section B

**Q7** Question 7 was attempted by 10 candidates. Marks ranged from 2 to 18

The question asked for a plan not a detailed description and for this reason candidates did not score highly. There were a lot of things that could be covered in this training session, CPRs, BPRs, ICACS and Price Marking order and the PPG. Some candidates did not include all of the relevant points as they spent too much time giving details on limited number of points therefore limited the marks available to them. The question does not ask for details. The better answers included an overview of the legislation, how it applies to Comfy Furniture stores and then relevant examples of prohibited practices, actions and omissions, information requirements relevant to furniture, cancellation rights and products made to a consumer's specification. Requirements in relation to comparative advertising and the guidance on price promotions in the PPG should also have been included. The plan should have been appropriate to the audience and contain practical advice on application.

**Q8** Question 8 was attempted by 11 candidates. Marks ranged from 13 to 25.

There were several excellent answers for this question, which required discussion of the relevant application of ICACS to a company selling double glazing and guttering/fascias. The better answers included a general explanation of the Regulations and how they apply to the business using the key definitions. Candidates were expected to cover on-premises, off-premises and distance contracts and the information requirements for each as well as discussion on cancellation rights. Many candidates did not go into sufficient detail here and provide examples relevant to the business, or pick up on the current cancellation policy being incorrect or the 10% discount for signing on the same day (which should have prompted candidates to mention CPRs. Exemptions from cancellation should also have lead to discussion of agreeing for work to start before the end of the cancellation period and items "made to the consumers specification". Only a handful of candidates included any explanation of offences and penalties for reaching the legislation.

**Q9** Question 9 was attempted by 13 candidates. Marks ranged from 0 to 27

Again, some respectable marks were awarded here, this question was a good choice for those candidates who had a good knowledge of powers. The first part of the questions asks you to explain your powers when enforcing legislation, this section only required candidates to give a brief introduction to the CRA 2015 powers and list the powers. Easy marks were missed here for going into too much detail on limited number of powers. The second part of the question required candidates to provide a more detailed explanation of powers of entry, along with the requirement to give notice with reasoning as to why this was not necessary in this case. Candidates were asked to explain how they intended to conduct the visit and seizure, which should have resulted in a discussion around further powers when on the premises, search, seizure and reference to PACE. Reference to case law was required but often overlooked by candidates.

**Q10** Question 10 was attempted by 23 candidates. Marks ranged from 5 to 26

This was a detailed question with a lot of different elements but should have provided some easy marks for candidates who could identify each of the issues and explain how CPRs and ICACS apply to the scenario. Knowledge of definitions and offences for each piece of legislation is a core part of the syllabus and this was a typical doorstep crime scenario which candidates should be familiar with. A good answer began with an explanation of how the legislation applies referring to definitions - consumer (average/vulnerable), trader, commercial practice, misleading actions and omissions, aggressive practices, off premise contracts etc. followed by a review of each of the issues in turn, misleading price, information requirements, no cancellation rights, misleading statements and omissions, aggressive practices, professional diligence, and banned practices. The question also asks the candidate to consider what evidence is required and how they will obtain it. This only required a brief list and where appropriate any powers or guidance to be followed, for example the physical evidence the consumer will

produce in statement, secured and given reference number, or using powers under the CRA 2015 to obtain info from bank, or RIPA for comms data.