

Examiner's report

CTSI Professional Competency Framework

Stage 1: Unit 3 Trading Standards Law Part 1 Examiner's Report September 2020

General

31 Candidates sat the exam in September, marks ranged from 32 to 74. There is a lot of material to study for this paper and candidates who have taken the exams during this cycle have faced additional challenges with the impact of the pandemic, 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 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, And of course, 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 1 to 9

This was a popular question understandably as it relates to a key concept of the legislation which is in the detailed knowledge area of the syllabus. To gain full marks candidates were expected to identify where the term is defined in the regulations, and explain in their own words the meaning. Over two thirds of candidates scored half marks or over, most explained the definition well, and gave some examples, but many did not fully explain the significance of the term or it's wide interpretation. The better answers linked the term back to the meaning of unfair commercial practices and the transactional decision test. The question also asks for case law, in this question *OFT v Purely Creative*, *Trento Sviluppo srl*, *Centrale Adriatica Soc. coop. arl v Autorità Garante della Concorrenza e del Mercato*, *Verband Sozialer v DHL* could all have been used and must explain why the judgements clarified the term transactional decision – e.g decision to listen to telemarketing call, enter a shop, visit a website.

Q2 22 candidates answered question 2

Marks ranges from 3 to 10

Again, this question was very popular with the majority of candidates achieving over half mark and two excellent answers gained all 10 marks. The question required an explanation of the terms

selling price and unit price, and also details of how prices must be provided. Candidates showed a good understanding of the terms selling price and unit price and the majority of answers picked up all of these marks, the weaker answers failed to provide some of the basics of displaying prices e.g in GBP, consumers shouldn't have to seek assistance etc. Some candidates also gained marks for including some of the exemptions.

Q3 14 Candidates answered question 3

Marks ranged from 3 to 10

Almost half of the candidates attempted this question and those who did, the majority achieved over half marks. This question requires a basic knowledge of the Regulation of Investigatory Powers Act (or RIPA for Scottish candidates), as well as an understanding of why the safeguards exist – Human Rights infringements, and the requirements for authorisation and judicial approval. The majority of candidates identified the correct legislation and gave a good explanation of the types of surveillance, how many failed to mention human rights or the process for justification and approval. The better candidates gave examples of where trading standards may want to use surveillance powers.

Q4 6 candidates answered question 4

Marks ranged from 4 to 7

This question was only answered by a handful of candidates, which is surprising as it relates to a key area of the syllabus – due diligence, rather than requiring anything more than a basic awareness of age restricted sales legislation. Most candidates who attempted this question made this connection, but some of the poorer answers focussed more on the age restricted sales element.

The question required candidates to explain the due diligence defence and why a business would need to put steps in place, and some discussion around specific difficulties when selling online how this is different to face to face sales. Marks were available for including reference to practices that might leave a retailer open to non-compliance, and some suggestions as to practical steps such as online ID verification, procedures for deliveries etc., there were some excellent suggestions here. Some of the weaker answers failed to mention the due diligence aspect as well as the precautions, such as checks on the system in place.

Q5 25 candidates answered question 5

Marks ranged from 2 to 10

This was again a popular question, with a wide range of marks achieved. As well as explaining the specific types of contracts that the regulations apply to – distance, off-premises and on-premises, marks were also available for identifying that they are b2c contracts, and sales contracts/service contracts. Most candidates that attempted this question gained reasonable marks, with one being awarded full marks. The better answers gave good explanations of the types of contracts, and gave examples to illustrate these, whereas some of these were missed by other candidates, particularly in relation to the four types of off-premises contracts.

Q6 This question was answered by 3 candidates

Marks ranged from 3 to 8

Only a few candidates attempted this question, but again there was a wide range of marks. Candidates were expected to explain what comparative advertising means in their own words, with marks available for type of adverts and examples.

The second element to this question was to look at the conditions when comparative advertising is permitted as per Reg 4 with marks for mentioning each one of the conditions. The weaker answers failed to give an accurate description of what the terms means and examples to illustrate this. Marks were also lost for not recalling some of the conditions.

Section B

Q7 Question 7 was attempted by 27 candidates
Marks ranged from 10 to 30

This question was a typical used car scenario question, and was a popular choice for candidates. There were 3 parts to the question, first applying the Consumer Protection from Unfair Trading Regulations 2008 and identifying possible offences.

The methodical approach is best with these types of questions, so those candidates who went through the advert and then the telephone call in turn and identified all of the issues e.g. using a personal Facebook profile/one careful owner, the descriptions and mileage, the price and how these could be misleading actions or omissions.

In the telephone call the statement about having lots of enquiries should also have generated some discussion. There was a max of 10 marks for this part of the question, but there were plenty of issues to cover.

The second part of the question related to evidence gathering, candidates were asked to identify the evidence needed and how they would obtain it using their powers. A total of 15 marks available and again plenty of opportunity to discuss various aspects – how we would evidence the content of the social media advert, subscriber checks, RIPA/RIPSA/IPA.

Again those candidates who approached it methodically and covered the evidence required to prove the elements of the offences they had identified in the first part of the question achieved better marks.

Some candidates omitted to include basics like statement gathering, expert witnesses, DVLA. The final part of the question asked candidates to consider use of the Enterprise Act in this case and the process for doing so. This only required an overview of why TS can use the Enterprise Act i.e domestic/Sch 13 (community) infringements, harm to collective interests of consumers and the aim is to stop the practice, and what the process would be i.e. consultation to enforcement order.

Q8 Question 8 was attempted by 5 candidates
Marks ranged from 9 to 19

This question was only attempted by a handful of students and even the highest mark was just over half of the available marks. This question was intended to get candidates to consider the application of the CPRs and BPRs to the estate agents in terms of descriptions and property particulars, and the precautions that could be implemented for the business to be able to rely on the due diligence defence.

Although most candidates did include some references to descriptions and the application of these particular pieces of legislation (which are core parts of the syllabus), some candidates included other requirements such as EPCs, Estate Agents Act etc. where there were limited marks available for these areas. Most candidates failed to include reference to the BPRs, and did not give sufficient discussion of the due diligence defence generally and the practical steps that might be appropriate.

Q9 Question 9 was attempted by 11 candidates
Marks ranged from 14 to 29

Around a third of candidates answered this question and on the whole the quality of answers was good. Again, unfair trading and pricing are key areas of the syllabus so this question carried marks for including the CPRs and the Price Marking Order.

A common mistake when tackling these types of question is to start writing detailed information, the question asks for a plan for the session not the detail. Candidates should consider the audience and structure their plan accordingly.

Candidates who included the relevant banned practices, actions and omissions which could apply to pricing issues, and also the requirements of the Price Marking Order, achieved higher marks. The training plan also should include the PPG guidance and again examples of relevant promotions – BOGOF, reference pricing.

As well as the legislative requirements, the question also requires consideration of records, checks etc. so candidates should have included due diligence references, what records may be required. TS powers to request documents and other information about enforcement and penalties should also have been included.

Q10 Question 10 was attempted by 8 candidates
Marks ranged from 18 to 27

All candidates answering this question achieved over half of the available marks with some really good answers overall. 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 slight twist on 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.

Some candidates did not make a decision on arresting the suspects.

The question also asks the candidate to consider other actions to take whilst at the victim's house, essentially what evidence is available and how will they obtain it. Candidates could have included statements, documentation, photographs, details of the suspects, search of the van etc.

Candidates should remember to include references to guidance etc where applicable. The final part of this question was only answered well by a handful of candidates, it related to potential offences by National Surveys, in addition to their part in CPRs offences in relation to the windows, few candidates considered the "survey" and whether this was really just a sales call, and any potential data protection issues.