

Examiners' Comments on the 2001 Examination

Head III: Commercial and Company Law

General

Examination questions are often in the form of a factual complex and the candidate is required to identify the relevant legal issues and then apply the legal issues to the factual complex.

This is often not handled well by candidates.

The facts presented are invariably not exhaustive and it is incumbent on candidates, within the parameters of the facts presented to them, to consider the variable scenarios to which the facts apply and then to address the relevant legal issues in respect of each of the scenarios.

For example: "If the contract is valid then..... however, if the court concludes that the contract is not valid then....."

Candidates tend to identify just one scenario and limit their answers to discussing the legal issues in relation to that scenario only.

As a result, the answer will be incomplete and the candidate demonstrates an inability to flesh out the legal issues that are often not readily apparent when a solicitor interviews or takes instructions from his/her client.

Specific Issues

Some candidates displayed a complete lack of knowledge of the fundamental principles underlying the Listing Rules.

Some candidates ignored general common law principles when tackling issues that are also governed by legislation.

Some candidates failed to apply the relevant legal issues to the facts presented to them. Often, a candidate will correctly identify the legal issues involved but then, instead of applying the legal issues to the pertinent facts, the candidate will simply regurgitate the legal issues, without having any regard to the relevant facts.