

## **Examiners' Comments on the 2007 Examination**

### **Head IV: Accounts and Professional Conduct**

#### **Question 1**

1. The question was straightforward, but many candidates had made fundamental errors with regard to who can sign on clients account. Application was lacking in the way in which the questions were answered.
2. The candidates spent too much time just repeating the relevant rules, practice directions, etc. without any application to the key issues that need to be addressed and dealt with.
3. The candidates did not read the question. Some tried to embark upon professional issues when the question asked them just to deal with the Solicitors' Accounts Rules.
4. However, overall, the standard was acceptable.

#### **Question 2**

Question 2 sought to examine student understanding on a range of issues including practice advertising; running of offices; finding, engaging and retaining clients; fees; and advising clients. Good to better students were able, overall, to demonstrate an adequate understanding of most issues. The students who struggled looked to have completed inadequate preparation - they gave vague responses and sometimes incorrect responses.

This question directly raised the issue of Recovery Agents. The better students were familiar with the Announcement of the Law Society on Recovery Agents. A significant minority were not aware of the specific issues of Recovery Agents however.

Overall assessment of performance: satisfactory.

#### **Question 3**

Question 3 dealt with the professional duties of advocates. It raised issues involving competence (including failure to join a necessary party), contingency fees, discussing the case with a witness during that witness's testimony and deceiving the court. It also involved the duty to act in the best interests of the client. This question was generally well answered and only a small number of candidates failed the question.

#### **Question 4**

This question dealt with conflict of interest and confidentiality. More specifically the question raised issues involving acting for vendor and purchaser contrary to rule 5C of the Solicitors' Practice Rules, lending money to a client, acting against a former client, solicitor joining a new firm, Chinese Walls and disclosure of confidential material by mistake. The question posed difficulties for some students who had not made themselves aware of Chinese Walls and injunctive relief. Overall, however, the answers were of a satisfactory level.

There was general consistency between the standard of answers and the pass rate of Part I and Part II of the examination, although, as with previous years, there was a small number of candidates who passed the Professional Conduct segment of the examination but failed the Accounts segment.

Looking at the overall results we note that the pass rate appears slightly lower than last year. This should not, we believe, give rise to undue concern. Most candidates seem to have studied the subject and taken the examination seriously.