

HEAD III: PROFESSIONAL CONDUCT AND ACCOUNTS

SPECIMEN PAPER

INSTRUCTIONS TO CANDIDATES

Write your candidate number in the box on the front cover of the question paper before answering any questions

QUESTION 1

- Write your answer to Question 1 in the yellow answer book supplied
- Complete your candidate number on the front of the yellow answer book

QUESTIONS 2-5

- Record your answers to Questions 2, 3, 4 and 5 on the Multiple Choice Question sheets [pages 5 and 6] of this Question Paper.

QUESTIONS 6-8

- Write your answers to Questions 6-8 in the blue answer book supplied
- Complete your candidate number on the front of the blue answer book

QUESTIONS 9-18

- Record your answers to Questions 9-18 on the Multiple Choice Question sheets [pages 10 to 14] of this Question Paper.

AT THE END OF THE EXAMINATION ATTACH TOGETHER

- this question paper
- your yellow (Accounts) answer book
- your blue answer book with the treasury tag provided

DO NOT REMOVE ANY OF THESE DOCUMENTS FROM THE ASSESSMENT ROOM

QUESTION I

You have been asked by the partners in your firm to organise a course of training within the firm for a lawyer from another jurisdiction who is working with the firm for a year.

As part of the training in relation to the Solicitor's Accounts Rules you propose to take the lawyer through the proper recording of a number of matters.

Explain in relation to each of these matters, as set out below:

- Whether office money or client money as defined by the Rules is involved (or neither)
- Identify the accounts in which you think the appropriate double entries should be recorded.
- Where alternatives are relevant describe them.

Please give full reasons to justify your answers.

You may assume that, unless otherwise indicated, cheques received by your firm were made out to the name of the firm.

- (a) Today you discover that you accidentally charged a client, Amblex Ltd, £1,000 for a disbursement actually paid on behalf of Rapido plc. Amblex has already paid the bill. You telephone Amblex to apologise for the error and the managing director tells you to retain the money as it is about to instruct you on a further matter.

5 marks

- (b) You receive a cheque for £3,000 from Beata on account of costs. She telephones you to ask you not to pay it until she instructs you to do so as she has insufficient funds to cover it at present.

4 marks

- (c) You act for Carlos in a litigation matter and hold £5,000 on account of costs.

Your firm's practice is to make all payments from the client bank account and to transfer sums from client to office bank account as soon as possible.

- (i) You instructed another firm of solicitors to act as your agents in relation to the litigation and today you pay their bill which is as follows:

	£
Professional Charges	200
VAT	35
Court fee	300
	535

6 marks

- (ii) You settle the litigation and send Carlos a bill. Your professional charges are £400 + VAT. You have made no payments on his behalf other than the agent’s bill referred to at (i) above.

4 marks

- (d) (i) Your firm sent a bill to Davina last week in connection with the registration of a patent on her behalf.

	£
Professional Charges	2,600
VAT	455
Registration fee (paid)	1,000
	4,055

You receive a cheque for £4,055 from Davina.

8 marks

- (ii) Explain how, if at all, your answer would differ if the bill had included a further £2,000 for expert’s reports, which you had not yet paid.

It is not necessary to provide entries for this part of your answer.

4 marks

- (e) Two months ago you sent Forex Ltd the following bill:

	£
Professional Charges	1,800
VAT	315
Surveyor’s fee (paid)	470
	2,585

Today you hear that Forex has gone into insolvent liquidation and that there will be no assets available to ordinary creditors. You decide to write off the debt as bad.

3 marks

Total : 34 marks

MULTIPLE CHOICE QUESTIONS 2 - 5

Questions 2 – 5 are Multiple Choice Questions. You should use PENCIL to answer these questions.

For each multiple choice question there are four suggested “answers” (A, B, C and D), of which only one is the appropriate (or most appropriate) answer. You may assume that there are no facts relevant to the question other than the facts which are given.

Indicate your choice of answer by shading in the appropriate box. For example, if you decide the answer to the question is A, mark the answer on this Question Paper as shown below:

A

B

C

D

MULTIPLE CHOICE QUESTIONS

QUESTION 2

You hold £10,000 for a client on account of costs and have to pay an invoice for the client of £1,400 plus VAT of £245. The client is registered for VAT.

Which ONE of the following statements is CORRECT?

- A** If the invoice is addressed to the client, it must be paid from the client bank account.
- B** If the invoice is addressed to the firm, it can be paid from the client bank account.
- C** If the invoice is addressed to the client, it cannot be paid from the office bank account.
- D** If the invoice is addressed to the firm, it must be paid from the office bank account.

QUESTION 3

Which ONE of the following statements is CORRECT?

- A** Client money must always be paid into the client bank account without delay
- B** All dealings with client money must be recorded in the solicitor's accounts
- C** Office money can never be paid into the client bank account.
- D** A payment cannot be made from a client bank account on behalf of a client if the payment exceeds the amount held in the account for that client.

QUESTION 4

Which ONE of the following statements is CORRECT?

- A** A solicitor can never keep commission earned in relation to a client transaction without the client's consent.
- B** A solicitor can keep the first £20 commission earned in relation to a client transaction without the client's consent.
- C** Interest earned on money in a general client bank account is office money.
- D** All commission earned must be accounted for to the client unless the institution paying the commission agrees otherwise.

QUESTION 5

You and a partner in your firm are a trustee of the Moon and Stars Family Trust and receive a cheque for £1m being the proceeds of sale of trust investments.

Which ONE of the following statements is WRONG?

- A** The trust is a controlled trust.
- B** R24 does not apply to the money so it is not necessary for the solicitor to account to the trust for interest.
- C** You can pay the £1m into a designated deposit account.
- D** You can pay the money into the client bank account.

Part II – Professional Conduct, Financial Services and Money Laundering

QUESTION 6

This question must be answered in the BLUE answer book

- (a) You are a solicitor in the London area. Alice and Charles come to see you about a business matter. Alice and her colleague, Brian, have run a business for many years through the medium of a company in which they are the only shareholders. They have reached agreement with Charles to sell the business to him, i.e. to sell the shares in the company to Charles. All three now want you to act for them in completing the necessary formalities.
- (b) You are also consulted by David, Erin and Frank. David and Erin have agreed to sell their house to Frank. They all want you to deal with the conveyancing formalities for them.

Explain the profession conduct problems that arise in these situations and how you would deal with them.

17 marks

QUESTION 7

This question must be answered in the BLUE answer book

- (a) You are an assistant solicitor working in the conveyancing department of a provincial firm. You receive a telephone call from E, an estate agent. He is acting for a young couple, Mr and Mrs F, who are trying to buy a flat. They need someone to do the conveyancing for them. E offers to recommend you to them, but, before making the recommendation, asks if you would be willing to pay him £150 for the introduction.

Explain whether you would agree to this request.

- (b) Another couple Mr G and Miss H come to see you. They are also buying a flat. The estate agent has recommended a particular mortgage package to them. Involving an interest-only mortgage linked to a joint endowment life insurance policy. They are not happy with this and ask for your advice.

You explain to them the different types of mortgage and without your giving any advice on the particular mortgage package suggested by the estate agent, they decide that they would prefer a different package involving a repayment mortgage. Not having any dependants they see no need to have any supporting life insurance. They ask you if you can recommend a suitable broker to advise them. There are several local mortgage brokers.

What criteria should you consider when deciding which broker to recommend? Would you be able to recommend a broker who is a tied agent?

13 marks

QUESTION 8

This question is to be answered in the BLUE answer book

Take the facts in 7(b) above. Assume that you recommended a broker who advised Mr G and Miss H to take out a mortgage with the Z bank. When Mr G and Miss H came back to you after seeing the broker they asked you various question about the mortgage which you answered. They asked you about the broker's recommendation and whether you considered his advice was right. It seemed to you a good proposition. They decided to go ahead and you proceeded with the purchase of the flat and the mortgage.

Your firm has decided not to seek authority from the FSA to carry out regulated activities.

Explain

- (i) **the circumstances in which you might carry out a regulated activity;**
- (ii) **the ways in which you could avoid the need to seek authorisation for this.**

15 marks

MULTIPLE CHOICE QUESTIONS 9 - 18

Questions 9 – 19 are Multiple Choice Questions. You should use PENCIL to answer these questions. Each question is worth 1 ½ marks.

In these question, any reference to the Solicitor’s Practice Rules 1990 also includes reference to any consolidated amendments.

For each multiple choice question there are four suggested “answers” (A, B, C and D), of which only one is the appropriate (or most appropriate) answer. You may assume that there are no facts relevant to the question other than the facts which are given.

Indicate your choice of answer by shading in the appropriate box. For example, if you decide the answer to the Question 2 is A, mark the answer on this Question Paper as shown below:

A

B

C

D

QUESTION 9 (1 ½ MARKS)

Which one of the following statements is CORRECT?

- A** There are no circumstances in which a solicitor can give an undertaking without incurring personal liability
- B** A solicitor is not bound to honour an undertaking given by his/her trainee
- C** You negotiated a settlement in a contract dispute and gave the following undertaking: “In consideration of your client discontinuing his claim, we undertake to pay £10,000 in settlement of your client’s claim within 7 days”. Your client has disappeared without handing you any money but nevertheless you are bound to pay it.
- D** The Law Society will force a solicitor to comply with an undertaking given to the court

QUESTION 10 (1 ½ MARKS)

Which one of the following statements is NOT CORRECT

If a solicitor acts in a discriminatory way to his staff or his clients

- A** Only clients can complain to the Law Society;
- B** Only staff can complain to the Law Society;
- C** This may be professional misconduct;
- D** This may be inadequate professional services

QUESTION 11 (1 ½ MARKS)

You used to act for a client, Frances. You drafted her will some time ago and Frances died last month.

Which one of the following statements is CORRECT?

- A** You may disclose the contents of the will immediately because your duty of confidentiality ends when your client dies.
- B** You may disclose the contents of the will immediately because although the duty of confidentiality does not end when the client dies, the contents of a client's will are only confidential until the client dies.
- C** Once probate has been granted the solicitor can disclose the contents of the will but only with consent from the executors.
- D** The contents of a will are confidential until probate has been granted. Once probate has been granted the solicitor can then disclose them without consent from anyone.

QUESTION 12 (1 ½ MARKS)

Which one of the following statements is CORRECT

A solicitor should keep the client properly informed about costs as a matter progresses and, in particular, should tell the client, unless otherwise agreed, how much the costs are at least every

- A** 4 weeks
- B** 1 month
- C** 3 months
- D** 6 months

QUESTION 13 (1 ½ MARKS)

Which one of the following statements is NOT CORRECT?

- A** A client can terminate a retainer at any time and for any reason;
- B.** In non-contentious matters a solicitor is always free to terminate the retainer where a client refuses to pay an interim bill.
- C** A solicitor can terminate the retainer where a client refuses to pay an interim bill in a contentious matter.
- D** A solicitor can terminate the retainer where the solicitor is unable to obtain instructions from the client

QUESTION 14 (1 ½ MARKS)

You have just received a complaint from a client and after going through the firm's complaints procedure the client is still dissatisfied. You have therefore advised him to contact the Consumer Complaints Service (CCS).

Which one of the following statements is NOT CORRECT?

- A** The CCS can impose a fine on your firm
- B** The CCS can order your firm to reduce/repay fees.
- C** The CCS can order you to rectify a mistake at your firm's expense
- D** The CCS can order your firm to pay interest on the client's money

QUESTION 15 (1 ½ MARKS)

You are defending Mitch in a criminal prosecution.

Which one of the following statements is CORRECT?

- A** If Mitch tells you that a friend will give false evidence on his behalf, you can call the friend as a witness.
- B** If a trainee gave an undertaking to the court which the firm is unable to comply with; the Law Society will take disciplinary action against the firm.
- C** You can make it a condition of acting as Mitch's solicitor that you also act as his advocate in court.
- D** If the prosecution omits to mention facts which weakens Mitch's, case, you are under no obligation to mention them yourself.

QUESTION 16 (1 ½ MARKS)

In the current year a firm carrying out relevant business for a new client must, under Money Laundering Regulations, obtain evidence of identity where a one-off transaction will involve

- A** 5,000 euros or more
- B** 10,000 euros or more
- C** 15,000 euros or more
- D** 20,000 euros or more