



CHIEF EXAMINER REPORT

JUNE 2025

LEVEL 6 UNIT 2 – CONTRACT LAW

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the June 2025 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Overall, candidate performance was below the level witnessed in previous sessions.

Candidates are reminded that they must have familiarity with the topic areas being examined. Exam technique is also important. Particular areas to note as tending toward stronger performance were offer and acceptance, consideration and implying terms as a matter of fact. Particular areas of weakness were misrepresentation, damages, privity and implying terms as a matter of law.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance has not been included.

Section A

Question 1	16 marks
<p>This question was attempted by just over a quarter of the cohort. Performance was generally average, but there was a very significant split between marks awarded for part (a) which obtained the second highest mean mark percentage of any question, and part (b) which by some way obtained the lowest. This was partly because for candidates in general, knowledge of implying a term in fact (part a) was better than knowledge of implying a term in law (part b); but there was also an additional key factor which was that a number of candidates simply misread A1(b) as being about statutory implied terms.</p>	
<ul style="list-style-type: none">• Distinction between express and implied terms• Understanding of different ways in which terms can be implied• Explanation of implication by court in fact as opposed to by law• Discussion of 'officious bystander' test• Discussion of 'business efficacy' test• Discussion of modern case law as to use of the tests	
Question 1b	9 marks
<ul style="list-style-type: none">• Explanation of implication by court by law as opposed to in fact• Recognition by courts that test is one of necessity• Recognition of wider effect of term implied by law• Role of policy in deciding whether to imply term• Further relevant case law	

Question 2	25 marks
Question A2 asked candidates about their knowledge of misrepresentation as a doctrine, but more specifically about the element of inducement. Some responses were able to discuss this element in detail but a number of candidates struggled to write more than a handful of sentences about any aspect of misrepresentation.	
<ul style="list-style-type: none"> • Requirements for actionable misrepresentation (in outline) • Need for claimant to show inducement/ reliance • Representation must be material • Representation must be known to representee • Inducement in fraudulent misrepresentation – actively present to claimant’s mind • Inducement in negligent/innocent misrepresentation – but for approach 	

Question 3	25 marks
Attempts too limited for detailed analysis	
<ul style="list-style-type: none"> • Recognition of damages as primary remedy for breach of contract • Explanation of usual, expectation-based approach to contractual damages • Recognition of different approaches to calculating expectation loss: <ul style="list-style-type: none"> • Difference in value • Cost of cure • Speculative loss/ loss of a chance • Alternative basis for damages: • Loss of amenity • Reliance loss/ wasted expenditure 	

Question 4a	15 marks
Attempts too limited for detailed analysis	
<ul style="list-style-type: none"> • Definition of undue influence • Actual undue influence • Evidential undue influence: <ul style="list-style-type: none"> • Protected relationships • Relationship established on the facts • Transaction calls for explanation • Rebutting the presumption • Comparison of doctrine of undue influence with doctrine of duress • Criticism of “classes” of undue influence • Previous requirement of manifest disadvantage • Burden of proof in evidential presumption • Further relevant case law 	

Question 4b	10 marks
Attempts too limited for detailed analysis	
<ul style="list-style-type: none"> • Notice may be actual or constructive • When third party will be 'put on inquiry' • Steps required to avoid being fixed with constructive notice • Further detail on above points • Further relevant case law 	

Section B

Question 1	25 marks
This question did obtain the highest overall mean mark and was very popular, with nearly three quarters of candidates attempting it. It was a relatively straightforward "offer and acceptance" question.	
<ul style="list-style-type: none"> • Identification of need for agreement to create valid contract • Discussion of usual approach to agreement – offer and acceptance • Distinction between offer and invitation to treat • Identification of legal effect of counter-offer • Application of law to initial advertisement and subsequent emails • Discussion of rules relating to communication of acceptance • Conclusion regarding purchase of freezers • Application of law to tender for services • Conclusion regarding tender for services • Relevant case law to support above 	

Question 2	25 marks
Attempts too limited for detailed analysis	
<ul style="list-style-type: none"> • Identification of need for consideration to create valid contract • Explanation that consideration must be sufficient... • ...but need not be adequate • Application of law to agreement for sale of coffee machine • Identification of principle that pre-existing contractual duty is not normally good consideration • Discussion of 'practical benefit' doctrine • Application of law to renovation contract(s) • Identification of need for intention to create legal relations to create valid contract • Presumptions regarding intention to create legal relations • Methods of rebutting presumption • Application of law to agreement to work at reopening event • Relevant case law to support above 	

Question 3	25 marks
This was the least popular section B question and tended to be answered well (if students knew the main law in the area, the Unfair Contract Terms Act 1977) or poorly (if they did not know that law).	
<ul style="list-style-type: none"> • Recognition that the law will look carefully at clauses excluding or limiting liability • Identification of requirements for such a clause to be effective: incorporation, interpretation and compliance with legislation • Discussion of incorporation by signature • Application of law to the facts on this point • Identification of Unfair Contract Terms Act 1977 • Discussion of prohibition on exclusion of liability for personal injury caused by negligence • Discussion of section 3 Unfair Contract Terms Act 1977 • Explanation of the test of reasonableness • Application of the test of reasonableness • Application of law to the facts on this point 	

Question 4	25 marks
This three-part question on privity was popular. Unfortunately a few candidates simply did not grasp the issues in some or all parts of the question.	
Question 4a	10 marks
<ul style="list-style-type: none"> • Identification of principle of privity • Explanation of basic 'rule' - that third party cannot enforce agreement • Contracts (Rights of Third Parties) Act 1999 • Application of Act on basis that term confers a benefit • Identification of Trent within contract • Relevant case law to support above 	
Question 4b	15 marks
<ul style="list-style-type: none"> • Explanation of basic 'rule' - that third party cannot enforce agreement • Contracts (Rights of Third Parties) Act 1999 • Application of Act on basis that term confers a benefit • Identification of Trent within contract • Use of collateral contract • Relevant case law to support above 	
Question 4c	5 marks
<ul style="list-style-type: none"> • Explanation of basic 'rule' - that third party cannot enforce agreement • Contracts (Rights of Third Parties) Act 1999 • Application of Act on basis that term confers a benefit • Identification of Ursula within contract • Relevant case law to support above 	