

# **QUALIFIED LAWYERS TRANSFER TEST**

**HEAD III - PROFESSIONAL  
CONDUCT AND ACCOUNTS**

**2011**

## EXAMINATION INSTRUCTIONS TO CANDIDATES

**This paper contains XX pages. Please check immediately that you have all the pages.**

### **1. Time allowed**

The time allowed for this examination is **3 hours** plus **15 minutes** reading time.

### **2. Colour of ink**

Write only in blue or black ink.

### **3. Format of examination**

This examination consists of two parts.

Part 1 – Professional Conduct, Financial Services and Money Laundering

N.B. The professional conduct questions consists of 10 multiple choice questions and 2 longer style questions. There is a separate question dealing with financial services and money laundering (60% of the marks)

Part 2 – Accounts (40% of the marks)

**N.B. Answers to Part 2, Question 1 – Accounts ledger entries MUST be written on the ledger provided on a separate sheet. Candidates can submit as many ledger sheets as required.**

**Candidates MUST attempt all the questions**

### **4. Pass mark**

To pass this examination candidates **MUST** obtain 50% of the marks in each section i.e. 30% in Part 1 and 20% in Part 2 and attain at least 50% overall. Candidates must pass attain a pass in both sections in one sitting to pass the test.

## **5. Marking criteria**

Marks will be awarded for:

- Technical accuracy of law and practice;
- Correct use of references to the professional conduct rules;
- The use of appropriate professional language and terminology, using the correct grammar and spelling;
- The ability to apply knowledge and procedure to the facts of the question;
- The ability to exercise professional judgement to the issues raised and to offer a practical solution where necessary;
- Displaying a clear understanding of the legal process.

Marks may be deducted for:

- Poor presentation;
- Poor grammar, spelling, etc;
- Significant inaccuracies in the answer which would prejudice the client's interests or compromise the solicitor's professional obligations;
- Failure to carry out instructions appropriately.

## **6. Permitted Material**

Candidates may take into the Test any book, document or other written material including study notes made by the candidates. Any of the materials can be highlighted, underlined and annotated.

## **PART 1**

# **PROFESSIONAL CONDUCT, FINANCIAL SERVICES AND MONEY LAUNDERING**

SAMPLE

## Section I

(20 Marks)

There are 10 multiple choice questions in this section. You should select **ONE** correct answer and fill in the circle next to the correct answer. There are two marks for each correct question. There is No negative marking.

1.	A few months ago you acted for Mr Brown who was buying 34 Green Lanes. Mr Brown paid for a full structural survey which revealed that the property was affected by subsidence so he withdrew from the transaction. Yesterday, Mrs Black asked you to act for her on her proposed purchase of the same property. What is the conduct issue here?	
a.	You have a duty to make Mrs Black aware of all information which is material to her retainer including the survey information	<input type="radio"/>
b.	You have a conflict because you have previously acted for Mr Brown	<input type="radio"/>
c.	There is a client conflict because Mr Brown and Mrs Black have both instructed you in respect of the same property	<input type="radio"/>
d.	There are no conduct issues here as long as Mrs Black also obtains a survey	<input type="radio"/>
2.	Which of the following statements is <b>not</b> true about the use of information barriers?	
a.	You must make the judgement that it is reasonable to withhold material information from your current client	<input type="radio"/>
b.	Both clients must give informed consent to the arrangement	<input type="radio"/>
c.	The information barrier extends to all staff acting on the matter including secretarial and reception staff	<input type="radio"/>
d.	It would be very risky for a sole practitioner to use an information barrier	<input type="radio"/>

3.	What statement is the best summary of your client care duties?	
a.	All clients must receive a client care letter	<input type="radio"/>
b.	All clients must receive client care information	<input type="radio"/>
c.	You do not need to give clients information if you do not think it is necessary	<input type="radio"/>
d.	The firm must adopt a style in which to give information and use this method for every client	<input type="radio"/>
4.	Which of the following is <b>not</b> an example of a high risk activity when considering client conflicts of interest?	
a.	Acting for two co-defendants both charged in respect of an aggravated burglary offence	<input type="radio"/>
b.	Acting for a developer and a first time buyer where the developer is selling a new-build flat to the buyer	<input type="radio"/>
c.	Acting for mother and son, where the mother is remortgaging her home to fund her son's business activities	<input type="radio"/>
d.	Acting for lender and borrower on a mortgage transaction where the mortgage is a standard product	<input type="radio"/>
5.	The firm enters into a contractual arrangement with an insurance company whereby they agree that they will refer every litigation client needing after the event insurance to the company. In return the firm will receive a commission payment. The senior partner sends a memo to all fee earners advising them of the arrangement. He makes several comments in his email. Which of them is <b>not</b> true?	
a.	Even though there is a contractual arrangement, the firm must consider the needs of each individual client	<input type="radio"/>
b.	It may not be appropriate to recommend that every litigation client buys after the event insurance	<input type="radio"/>
c.	The commission is a private arrangement between the insurance company and the firm	<input type="radio"/>
d.	Some clients may already have insurance to cover the costs and the fee earner should discuss this with the client	<input type="radio"/>
6.	June is a sole practitioner with a conveyancing practice. She is acting on the sale of 44 Acacia Avenue for Mr Smith. The buyers' solicitor telephones June but as she is busy her secretary, Margaret, deals with the call. The buyer's solicitor says that there is the need to buy insurance to deal with the breach of restrictive covenant and asks whether the buyer will pay for this. Margaret confirms that the buyer will pay. She is very busy and forgets to mention this to June or make a note of the conversation. On completion, June finds out about the insurance but refuses to pay. What is the conduct position?	

a.	Margaret's statement is an undertaking and June must honour undertakings made on behalf of the firm	<input type="radio"/>
b.	The buyers' solicitors should realise that Margaret is not a fee-earner and they should speak to June	<input type="radio"/>
c.	It is an undertaking but not made in writing so it is not enforceable	<input type="radio"/>
d.	It is an undertaking but is not enforceable as Margaret did not get Mr Smith's instructions to give it.	<input type="radio"/>
7.	Bilal is a sole practitioner who decides to open a new department offering a wills and probate service. He hires Mina who has recently qualified as a solicitor and puts her in charge of the department which she runs with the help of Alf who is unqualified but has worked with Bilal for 30 years. Bilal tells Mina to promote the new service and she starts to consider what marketing she can do? Which of the following methods of marketing is acceptable?	
a.	Arranging for Alf to visit a local funeral company to speak to relatives who are making funeral arrangements	<input type="radio"/>
b.	Going to visit the local old peoples' home and talking to the residents about making a will	<input type="radio"/>
d.	Obtaining the names of the residents of the old peoples' home and sending them personalised letters	<input type="radio"/>
e.	Hiring a marketing company to promote the firm's services by handing out leaflets in the street.	<input type="radio"/>
8.	The partners of Bentleys & Co are looking at ways to streamline their operations and they are considering outsourcing some key aspects of their operations. Which of the following statements is <b>not</b> true?	
a.	Law firms can outsource their litigation work to foreign law firms	<input type="radio"/>
b.	There are jurisdictional issues which firms must consider when they outsource services abroad	<input type="radio"/>
c.	Client consent must be obtained before information is handed over to a service provider	<input type="radio"/>
d.	The firm must be satisfied that the service provider is reputable	<input type="radio"/>

9.	You are acting for the seller of a residential property. The seller is in negotiation with a buyer but today he tells you that he wants to deal with another prospective buyer. Which of the following statements best describes your obligations.	
a.	where you act for a seller of land, you inform all buyers immediately of the seller's intention to deal with more than one buyer, provided you have the client's consent	<input type="radio"/>
b.	where you act for a seller of land, you inform all buyers immediately of the seller's intention to deal with more than one buyer	<input type="radio"/>
d.	where you act for a seller of land, you do not have to inform all buyers immediately of the seller's intention to deal with more than one buyer	<input type="radio"/>
e.	where you act for a seller of land, you must inform all buyers immediately by telephone of the seller's intention to deal with more than one buyer	<input type="radio"/>
10.	You made a will for a client, who has since lost capacity and is being cared for in a home. The daughter tells you that her uncle has a Last Power of Attorney in respect of her mother's affairs. The client's daughter asks for a copy of her mother's will for her and her siblings. Which of the following statements best describes your response to this request:	
a.	You should provide a copy of the will to all the client's children	<input type="radio"/>
b.	You should refuse to a copy of the will	<input type="radio"/>
c.	You should ask the named executors in the will for consent to disclose the will to the daughter	<input type="radio"/>
d.	You should seek instructions from the uncle	<input type="radio"/>

Section II

[20 Marks]

Sally is the Compliance Officer for Legal Practice (COLP) in a small law firm. James is one of the fee-earners in the litigation department and he sends Sally an email to say that one of his clients has made a complaint about the service he has received. The client is upset that his claim was unsuccessful and that he has had to pay the other side's costs. The client says that James misled him and gave him cause to believe that his claim would be successful.

James tells Sally that the client was a nervous person who needed a lot of reassurance. James says that he is not surprised that the client has complained as he never listened to what James told him. Sally asks James to check his files for confirmation that the client had been given information about the costs and the likelihood of success. James says that there will not be any letters or attendance notes as he had several long meetings with the client and told him everything he needed to know.

- a. Has the firm met the client care outcomes?

(10 marks)

Josie is a young solicitor who has recently joined the firm of Harvey & Co. One of her clients is an elderly gentleman called Archie Brown who has instructed the firm in respect of a boundary dispute which he is having with a neighbour.

Josie meets with Archie and takes his initial instructions and gives him information about the firm's service standards, costs and other matters. The next day, she finds out that Archie has contacted the senior partner of the firm. Archie has told the senior partner that whilst Josie seems a nice young lady he does not believe that she will do a good job for him and that he would prefer the matter to be handled by someone older.

The senior partner tells Josie to transfer the file to Sam who is an older, male colleague. When Josie protests, the senior partner tells her not to make a fuss and reminds her that she is in the middle of her probationary period with the firm.

(10 marks)

- b. What are the conduct issues?

SAMPLE