

### Moderator's Assignment Feedback – Writs of Control

After each series, we ask our moderators to provide a report on each assignment-based unit to identify:

- a) any questions which were usually answered particularly well, including main points and qualities that characterised good answers.
- b) any questions which were usually answered badly and main weaknesses in candidates' answers.
- c) common errors or misconceptions made by candidates.

We hope that this will be of assistance when completing your Writs of Control assignment.

#### General feedback to candidates

This assignment is at Level 4 and so candidates need to show the ability to evaluate and analyse as well as the recall of knowledge.

In general candidates show a clear understanding of the process and requirements for enforcing Writs of Control. To achieve a Pass on this unit, they need to show the ability to vary their approach and adapt it to the situation.

Candidates are reminded that the mark scheme and learning outcomes indicate what their answers need to show at each level. They should use these with careful reading of the question when drafting their answers. The Assignment Learner Guidance for this Level gives general advice on how to use Appendices to ensure they earn marks.

#### Feedback for each assignment question

**Q1. Evaluate the powers and responsibilities of a High Court Enforcement Officer in relation to Writs of Control, and regarding to any relevant legislation.**

Q1 - Candidates showed knowledge of the powers and responsibilities, referring to relevant legislation. However, candidates did not achieve a pass if they failed to **evaluate these powers and responsibilities in relation to Writs of Control**, as required in the question, nor made reference to legal requirements. Higher marks would be obtained by clear evaluation of these powers and responsibilities to show technical, theoretical, or practical knowledge.

**Q2. Use the following cases to analyse the processes for issuing a Writ of Control, including transfer up to High Court where required.**

**a) Where the Judgment Creditor has a County Court Judgment**

Q2a – Generally answered satisfactorily with clear knowledge of the process. However, candidates need to **analyse the process** to meet the pass grade criteria.

**b) Where the Judgment Creditor has a foreign Judgment that requires registration in the first instance**

Q2b – Most answers were poor, showing a basic understanding of the process and limited analysis. Candidates need to **analyse the process** to meet the pass grade criteria.

**c) Where the Judgment Creditor has a judgment issued in the High Court**

Q2c - Generally answered satisfactorily. Candidates need to **analyse the process** to meet the pass grade criteria.

**d) Where the Judgment Creditor has an Employment Judgment/ACAS COT3<sup>1</sup> Agreement for a Writ of Control to be issued**

Q2d - As with other parts of Q2, candidates need to **analyse the process** to meet the pass grade criteria.

**e) Transferring up a Cost Order for a Writ of Control to be issued.**

Q2e - Most answers were poor, showing a basic understanding of the process and limited analysis.

**Q3. Paulette, an HCEO, has received instructions to enforce at a commercial premises. She is informed that the factory is in a cul-de-sac and that there are a large number of workers on the site. There is a perimeter fence, and the gate is normally kept locked. The factory apparently has sufficient stock to justify removal and sale.**

**Prepare a generic and pre-planned risk management plan for the Writs of Control case above and attach this as an appendix.**

**Referring to your risk management plan, explain how you would mitigate/control the risks in this case with consideration to any due diligence and legal requirements.**

Q3 – All candidates were able to provide the required risk management plan in an Appendix. Candidates achieving a Pass showed the ability to use their risk management plan to explain how they would control the risks in this Writs of Control case, with reference to any due diligence and legal requirements. Candidates would achieve a higher mark if explained how they would adapt their approach depending on the relative risks of the Writs of Control case and any potential emerging risks they identify.

**Q4. Enforcement of Writs of Control**

**a) Evaluate how the different ways that an Enforcement Agent may take control of goods impact on the outcomes for creditors, debtors and third parties.**

Q4a - Most candidates were able to clearly identify the ways of taking control of goods. However, candidates must evaluate the relative outcomes for creditors, debtors and third parties to

achieve a pass grade. Higher marks were achieved by those who assessed their impact on all three parties listed in the question. Candidates can use examples (hypothetical or actual) to demonstrate their practical, theoretical and technical knowledge.

- b) Using examples, explain how the approach to enforcement would differ where an Enforcement Agent is met with health and safety concerns and cases of potential vulnerability. Refer to any legal requirements in your response.**

Q4b - There were a range of answers to this question. Strong answers used examples (hypothetical or actual) to show how approach would differ to meet the needs of the situation, demonstrating their practical, theoretical and technical knowledge. Weak answers showed limited ability and/or did not provide examples demonstrating ability in the question.

- c) Evaluate how to report effectively the outcome of enforcement of Writs of Control**

Q4c – All candidates showed an awareness of how report outcomes. However, in order to achieve a pass, candidates must evidence their ability to **evaluate** the reporting of their enforcement actions. Also, they need to demonstrate their knowledge of stakeholders and communication skills to achieve an excellent pass.

#### **Q5. In relation to problems with the enforcement of Writs of Control**

- a) Use case examples (hypothetical or actual) to explain how to manage third party and exempt goods claims, in accordance with relevant legislation and best practice guidance.**

Q5a – This question produced a range of answers. Candidates should note that the question is placed in the context of managing problems. Consequently, candidates that showed ability to handle situations with an element of complexity achieved higher marks. Candidates should use examples (hypothetical or actual) to demonstrate their practical, theoretical and technical knowledge.

- b) Explain how to manage the removal and sale of goods in a range of circumstances, including problematic, complex situations, in accordance with the relevant legislation and best practice guidance.**

**Use examples (hypothetical or actual) to demonstrate your practical, theoretical and technical knowledge.**

Q5b – As with the previous question, the stronger answers were those that showed the ability to handle effectively situations that were problematic and complex. Candidates can use examples (hypothetical or actual) to demonstrate their practical, theoretical and technical knowledge.

- c) Explain how different types of insolvency affects how the HCEO enforces a Writ of Control, with reference to relevant legislation.**

Q5c – All candidates were able to show an awareness of relevant legislation to provide a basic explanation of the impact of insolvency. Candidates should note the mark scheme at Pass level and above refers to what the HCEO needs to do when enforcing the writ in cases of insolvency.