Pupillage Application Assessment Criteria and Marking Scheme 2024

- Total marks available: 45 (10 points per narrative answer and 15 for other information contained within the application form).

- We ask that markers proceed to the narrative answers before grading the rest of the application form.

- "Extenuating circumstances" answer not to be separately marked but to be taken into account in the overall scores given.

- References are not taken into account at this stage.

- Mark ranges:
  - Outstanding: 9-10
  - Very good: 6-8
  - Good: 3-5
  - Anything below good: 1-2

- Markers are encouraged to use the full range of marks, including half marks where appropriate.

Assessment criteria

Applicants will be assessed by reference to the criteria indicated in the "App Form" column of the competency matrix. The principal purposes of each question are stated in the application form.

"Suitability" below refers to the degree to which the applicant satisfies the criteria.

Marking Scheme for the narrative questions

Matters relevant to all narrative questions

Good: gives some insight into the particular applicant's suitability.

Very good: gives a complete answer to the question asked, and provides solid insight into at least one aspect of the applicant's suitability by reference to evidence.

Outstanding: a clear, complete, well-expressed and concise answer that gives deep insight into (ideally multiple aspects of) the applicant's suitability. The answer may show particular originality or creativity.

Matters relevant to the specific questions

Q1: [*Note: the principal purpose of this question is to test written advocacy and logical reasoning ability*]
"Fair recruitment is more important in regulated professions (such as the Bar) than other careers". Do you agree? In no more than 500 words, identify some of the arguments in favour of and against this position.

Good: Provides a decisive answer to the question with sound reasons for agreement or disagreement; identifies plausible counterarguments.

Very good: Provides a decisive answer to the question with sound reasons for agreement or disagreement; identifies plausible counterarguments in a way that shows some understanding of the underlying policy considerations, and rebuts those counterarguments effectively.

Outstanding: Provides a decisive answer to the question with comprehensive reasons for agreement or disagreement; identifies plausible counterarguments in a way that shows a thorough understanding of the underlying policy considerations, and rebuts those counterarguments compellingly.

Q2: [*Note: the principal purpose of this question is to test verbal reasoning and analytical skill*]

A clause in a commercial (business to business) contract provides:

"The seller's maximum aggregate liability to the buyer under or in connection with the contract, including any liability arising out of or relating to the performance and/or breach and/or termination of the contract, shall in no case exceed £1 million."

The clause is expressly stated not to apply to claims for personal injury or death caused by the seller's negligence or breach of statutory duty. Assume that the Unfair Contract Terms Act 1977 does not apply.

In your view, does this clause cap liability for a negligent misrepresentation made by the seller that induced the buyer to contract? Please explain the basis for your view in no more than 500 words.

Good: Provides a decisive answer to the question. Identifies and applies the relevant principles of construction.

Very Good: Provides a decisive answer to the question. Identifies the specific difficulty in interpreting the clause. Identifies and applies the relevant principles of construction giving reasons for the applicant's preferred construction over competing construction(s).

Outstanding: Provides a decisive answer to the question. Identifies the specific difficulty in interpreting the clause. Identifies and applies the relevant principles of construction in a way that is easy to understand and gives reasons for the applicant's preferred construction that show sound commercial judgment.

Q3: [*Note: the principal purpose of this question is to test judgment and potential as an oral advocate*]

Identify a piece of exceptional oral advocacy that you have seen in a non-legal context. Please choose a piece of advocacy that is widely known, and from the last decade. In no more than 500 words, please explain what you consider made it stand out, and how it could have been improved.

Good: identifies an appropriate piece of advocacy. Answers all parts of the question by reference to general propositions.

Very good: identifies an appropriate piece of advocacy and demonstrates an understanding of the chosen piece. Answers all parts of the question showing insight into general qualities relevant to practice at the bar.

Outstanding: identifies a suitable piece of advocacy and demonstrates a deep understanding of the chosen piece. Answers all parts of the question showing insight into their suitability supported by their analysis of the text.