



## **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 in regard to any relevant legislation.**

Q1 - Candidates showed knowledge of the powers and responsibilities, referring to relevant legislation. 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. Candidates would gain more marks by showing the ability to analyse the process.

##### **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.

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

Q2c) - Generally answered satisfactorily. Evaluation and analysis of the process would gain more marks.

**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 show more than a knowledge of the process to obtain a Pass grade.

**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 which is in accordance with all legal regulations for this Writ of Control and attach this as an appendix. Then explain the risks and your risk management plan below.**

Q3 – All candidates were able to provide the required Appendix. Candidates achieving a Pass showed the ability to evaluate the situation presented in the question, using their risk assessment to adapt their approach accordingly.

**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. Higher marks were achieved by those who assessed their impact on all three parties listed in the question.

**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 was a range of answers to this question. Strong answers used examples to show how approach would differ to meet the needs of the situation. 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. Candidates should note that the Pass level and higher requires evidence of the ability to evaluate their actions and use communication skills.

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

- a) Use case examples 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.

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

Q5b) – As with the previous question, the stronger answers were those that showed the ability to handle effectively situations that were complex.

- c) Explain how insolvency impacts on the enforcement of a Writ, 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.