



Examiner's Comments

07 EQUITY

September 2025 Examinations

The exam comprised of four questions. Candidates were required to answer three questions. Question 1 was compulsory and worth 40 marks and all other questions were worth 20 marks.

Question 1

The three parts of this question required students to identify issues and demonstrate a knowledge of relevant principles related to mutual wills, secret trusts, charitable purposes.

Question 2

The four parts of this question required students to identify issues and demonstrate a knowledge of relevant principles concerning the rule in *Saunders v Vautier*, a trustees rights to a lien in relation to properly incurred expenses, and the right of a beneficiary to trace trust property passed on by a trustee, acting in breach of trustee duties, to a third party.

Question 3

This question required students to identify issues and demonstrate a knowledge of relevant principles dealing with fiduciary obligations and constructive trusts that arise pursuant to the rules in *Barnes v Addy*.

Question 4

The two parts of this question required students to identify issues and demonstrate a knowledge of relevant principles concerning discretionary defences to an application for specific performance and the principles underlying the assignment of future property pursuant to the rule in *Holroyd v Marshall*.

Characteristics of poor or average responses

Lack of knowledge or understanding of basic equitable principles which led to an inability to identify legal issues raised by problem questions; poorly structured and written answers; and poor time management.

Characteristics of very good or excellent responses

Responses in this category were ones that did well the matters, noted above, that poor responses did not do well.

Common mistakes

Inability to identify relevant legal issues raised by the questions which led students to reciting principles that were not relevant to answering the questions.

Areas for improvement

See comments to previous questions. Also, students need to dramatically improve their answering technique, to ensure they clearly state the issue(s) raised by the question, state the relevant law accurately, apply that law to the facts, and then come to a conclusion.

Many answers were such that it was clear that students had not adequately absorbed the facts of the question and many answers strayed into matters that were irrelevant to the matter that had to be addressed. Students need focus more intensely on that facts of problem questions and exactly they need to address in answering the question.