

GUERNSEY BAR EXAMINATION**11:00AM, THURSDAY 22 MAY 2025****COMPULSORY PAPER TWO****PROFESSIONAL CONDUCT, ETHICS AND RELATED ISSUES****ONE HOUR****CANDIDATES ARE REQUIRED TO ANSWER ALL QUESTIONS****THE MARKS AVAILABLE FOR EACH QUESTION ARE SHOWN BELOW. NOT ALL QUESTIONS CARRY EQUAL MARKS.**

- QUESTION 1 – 15 MARKS
- QUESTION 2 – 15 MARKS
- QUESTION 3 – 10 MARKS
- QUESTION 4 – 10 MARKS

TOTAL 50 MARKS**PLEASE ENSURE THAT THE FOLLOWING IS CLEARLY MARKED ON EACH PAGE OF YOUR ANSWER SCRIPT:**

- NAME OF PAPER
- CANDIDATE LETTER
- QUESTION NUMBER
- PART NUMBER OF QUESTION (if applicable)

MATERIAL PROVIDED:**1. Oath, Articles and Rules of Professional Conduct of the Guernsey Advocate**

QUESTION 1 (15 Marks)

For the purposes of this question, you are an employed Advocate working for Victor Hugo LLP, a fictional law firm based in Saint Peter Port, Guernsey. You specialise in both residential conveyancing and in criminal litigation.

Facts

You specialise in residential conveyancing and have just taken on a new client, Derek Taylor, who wishes to purchase an apartment in Saint Peter Port.

Question 1A (8 Marks)

What information should you give Mr Taylor at the start of the retainer and what are your obligations in keeping him updated?

Facts

It transpires that Mr Taylor is a very intense and demanding client who wants to be kept updated regarding his matter, several times a day.

Question 1B (4 Marks)

You want to treat all of Mr Taylor's communiques as low priority and are considering terminating your retainer with him. What are your obligations to Mr Taylor with regards to his constant demands for "expedition"? If his demands continue are you able to terminate your retainer without notice?

Facts

You decide to continue to act for Mr Taylor and his conveyancing is nearing completion. On the telephone you give him a verbal undertaking that completion (of the conveyancing) will take place no later than Tuesday 20 May 2025. You later find out that your secretary has given Mr Taylor a verbal undertaking that completion will take place no later than Thursday 22 May 2025. You are worried about both of these undertakings because due to market forces outside of your control, it is likely that completion will in fact be delayed.

Question 1C (3 Marks)

Is the undertaking given by you binding? Is the undertaking given by your secretary binding? Are you bound by either undertaking if market forces outside your control cause you to break them?

QUESTION 2 (15 MARKS)

For the purposes of this question, you should answer on the basis that you are an employed Advocate working for Victor Hugo LLP, a fictional law firm based in Saint Peter Port, Guernsey. You specialise in both residential conveyancing and in criminal litigation.

Facts

Damian Taylor, (Derek's younger brother), now wishes to instruct you in a residential conveyancing transaction in relation to a house he wishes to purchase in Saint Peter Port. He has also stipulated to his buyer, that he wants them to instruct you for the sale.

Question 2A (8 Marks)

Can you act for both sides of this transaction? What advice would you give and what ethical considerations apply?

Facts

The transaction is completed and Damian Taylor is extremely happy with your services. He is also aware that you specialise in criminal litigation. Damian suggests that he could do "big business" with you and refer numerous crime clients to you in exchange for a "small fee" or a "small share" of the fees you generate from these referrals.

Question 2B (7 Marks)

Are you able to receive referrals for work? What are the ethical considerations that apply in relation to the proposed referral fee? What are the ethical considerations in relation to fee sharing?

QUESTION 3 (10 MARKS)

For the purposes of this question, you are an employed Advocate working for Victor Hugo LLP, a fictional law firm based in Saint Peter Port, Guernsey.

Facts

Jamie Dunne is a young Advocate employed by Victor Hugo LLP. One afternoon in the office he confides in you that a former client, Ms Elsworthy, has made a complaint of a sexual nature against him. The complaint has been made in writing to La Chambre de Discipline. The allegation relates to alleged sexual misconduct that took place during an appointment with Ms Elsworthy, five months ago. Jamie asks you for some advice about the complaints process.

Question 3A (3 Marks)

Advise Jamie Dunne on the initial process for the complaint, who will initially consider it and what the rules are in relation to limitation concerning this type of complaint.

Facts

Several weeks pass and Jamie Dunne is informed that an investigation is being undertaken to determine whether to refer this case onto the Chambre for a disciplinary panel hearing.

Question 3B (2 Marks)

Who will investigate this complaint? What test will they apply in determining whether to refer this case onto the Chambre?

Facts

The case proceeds to a full panel hearing. Jamie is now extremely nervous. He asks you about the composition of the panel. He understands that it will be a 3-person panel but is confused about the status of each of the panel members.

Question 3C (3 Marks)

What are the 3 member categories that will make up the panel?

Facts

The hearing takes place and the complaints against Jamie are upheld. Jamie is distraught and asks you whether he can appeal the panel's decision and who he can appeal to.

Question 3D (2 Marks)

Can Jamie Dunne appeal and if so who can he appeal to?

Question 4 (10 MARKS)

For the purposes of this question, you are an employed Advocate working for Fantine LLP, a fictional law firm based in Saint Peter Port, Guernsey. You specialise in conveyancing and trusts.

Facts

Fantine are instructed by Jose Eduardo to act for him with respect to the purchase and development of land on the edge of St Peter Port. Mr Eduardo is originally from Madeira but over the last 20 years has lived in both Guernsey and London. He has acquired British citizenship. Your firm acted for Mr Eduardo on a couple of other matters about 5 years ago.

Mr Eduardo's plan is to build a block of luxury flats for sale on the open market to individuals and firms that are relocating to Guernsey. Several family members will be providing him with loans to assist with the purchase and development of the land. These will be provided on an ongoing basis as the project develops.

Mr Eduardo tells you that he will arrange for the loans to be paid into bank accounts that he holds in Portugal, Brazil, Mozambique and Angola. The funds will then be transferred into his bank account in London before being paid into your firm's client account.

You check the firm's records and see that when you acted for Mr Eduardo in the past the firm only received funds from a bank in Guernsey.

Question 4A (5 Marks)

What concerns might you have about the arrangements proposed by Mr Eduardo and what steps might you or your firm take?

Facts

Fantine have now been approached by Timur Rusayev who wishes to set up a trust fund in Guernsey. Mr Rusayev is a Kazakh national who was previously a senior official in his country's finance department. He left this role in February 2020 after a disagreement concerning the government's policy on Covid 19.

Mr Rusayev used the contacts he built up in his government role to develop a portfolio of investments. He now has business interests throughout Central and Western Europe.

Mr Rusayev is keen for you to start work on the matter immediately and would therefore like to meet you this week to discuss the legal issues that need to be dealt with when setting up the trust.

Question 4B (5 Marks)

What matters specific to Mr Rusayev do you need to deal with if you are to take him on as a client?

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