

## CTSI Professional Competency Framework (CPCF) written examination

### Unit 3 Trading Standards Law 1

May 2023

#### Guidance for this examination

Please ensure that you indicate clearly at the top of the answer booklet, the law viewpoint from which you will be answering: English, Scottish or Welsh.

The examiners may expect candidates to show knowledge of legislation which is in place but not in force (i.e. has been enacted) and regulations which have been made but are not yet in force, if they are directly relevant to the subject-matter of the examination.

#### Examination structure

There are two sections to the examination paper:

**Section A** Consists of six questions.  
Candidates should attempt to answer three questions.  
Total allocation of marks is 30 marks.  
Suggested time allocation is 30 minutes.

**Section B** Consists of four questions.  
Candidates should attempt to answer two questions.  
Total allocation of marks is 70 marks.  
Suggested time allocation is 90 minutes.

Total time allowed – two hours (plus ten minutes' reading time).

#### Note:

The Trading Standards Law 1 is a **closed book**; no materials are permitted to be taken into the examination room.

*The examination paper has six pages, including this front sheet.*

**Section A**

Candidates should attempt to answer three questions.

Each question carries ten marks.

Total: 30 marks.

1. The Consumer Protection from Unfair Trading Regulations 2008 prohibit “misleading omissions”. Using examples and case law, explain what is meant by this term.

(10 marks)
  
2. **Answer both parts:**

Under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 there is only one criminal offence.

  - (a) Identify the circumstances in which the criminal offence would be committed, and the potential penalty.

(5 marks)
  - (b) What are the consequences of breaching the other provisions within the Regulations?

(5 marks)

(total 10 marks)
  
3. **Answer both parts:**

When investigating offences, enforcement officers may use a “Covert Human Intelligence Source”.

  - (a) Explain what is meant by this term and what authorisation is required.

(6 marks)
  - (b) Give two examples illustrating how it would apply in practice in trading standards activities.

(4 marks)

(total 10 marks)
  
4. Paragraph 32 of Schedule 5 of the Consumer Rights Act 2015 states that the courts may issue a warrant authorising an officer or an enforcer to enter premises. What are the conditions which must be satisfied before a warrant will be issued?

(10 marks)

**Section A continues over the page.**

5. Most consumer protection legislation provides a defence if the business can prove that it took “all **reasonable precautions** and exercised all **due diligence**”. Using case law and examples, explain what this means.
- (10 marks)

6. **Answer both parts:**

Part 8 of the Enterprise Act 2002 provides an alternative enforcement regime for enforcers, allowing them to take injunctive action when there has been a specific domestic or Schedule 13 infringement.

- (a) Explain what is meant by the terms “**domestic infringement**” and “**Schedule 13 infringement**”.
- (6 marks)
- (b) The available measures have been amended to include “**enhanced consumer measures**”. Giving some examples, explain how this improves the outcomes for consumers.
- (4 marks)
- (total 10 marks)

**Section A total of 30 marks.**

**End of Section A.**

**Examination paper continues over the page.**

## Section B

Candidates should attempt to answer two questions.

Each question carries 35 marks.

Total: 70 marks.

### 7. Answer all parts:

You are a Trading Standards Officer at Blankshire Council and have received several consumer complaints in relation to a local discount store 'Rock Bottom' and their pricing practices. It is a large store on a retail park and sells a range of pre-packed food, cleaning products and home decorating products. The complaints include:

- There are signs in the shop window which state "final reductions – closing down", the first complaint about this is from 6 months ago, and "cheapest in town".
- Inside the shop there are further signs "50% off RRP".
- Shelf-edge labels have higher prices crossed out next to the lower price.
- Some products have references to prices charged by other local supermarkets.
- Some goods do not have a price.
- Consumers have been charged higher prices at the till.

- (a) Apply the provisions of the Price Marking Order, The Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008 and outline the potential offences.

(15 marks)

- (b) You are planning to visit the shop; outline what powers you will use and the procedure you will follow to gather the required evidence.

(15 marks)

- (c) When you carry out your visit, the manager claims that they were thinking of closing but doesn't know if it will happen now as business has picked up. He also says that they look online at other retailers' prices and use those as a basis for their discount claims. He does not have any records to evidence this and wasn't aware of some of the requirements you have raised concerns about. What advice will you give Rock Bottom about rectifying the breaches, records and due diligence?

(5 marks)

(total 35 marks)

8. Your authority has been approached by a local business group who hold regular networking and workshop events for small businesses in the area. Steve Jones, who is the coordinator for the group, tells you that most of the businesses are retailers or provide services to consumers but some also sell to other businesses, many have a physical premises, but they mostly operate online through their own websites or social media. He says that lots of the businesses are trying to be more environmentally friendly and sustainable, and want to promote this in their marketing.

Having done some research, Steve has found that the Advertising Standards Authority has upheld complaints in relation to environmental claims and is aware of a new code issued by the Competition and Markets Authority. He has asked if you could attend the next event to give a presentation to the businesses covering the general Fair Trading laws that apply to them and, in particular, how these apply to "eco claims". Your presentation should cover the Consumer Protection from Unfair Trading Regulations 2008, The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and the Business Protection from Misleading Marketing Regulations 2008.

Prepare a plan for your presentation.

(35 marks)

**Section B continues over the page.**

9. **Answer all parts:**

You are contacted by Anna. She is a home carer for Kwame who is 85 and lives alone in a small bungalow in a quiet cul-de-sac which houses mostly older residents. Kwame has some mobility issues so doesn't leave the house often.

Anna tells you that she visited Kwame today and he was very upset and anxious. He told her that he had made a mistake and now couldn't pay her to look after him. Kwame told Anna that two men had come to his door a few weeks ago and told him that they had been working next door and had noticed the trees in Kwame's garden appeared to be suffering from serious fungal disease. Kwame agreed to let them into his garden to look and was then told that his three birch trees were infected and would need to be treated urgently, otherwise they would spread the disease to all of the other trees in the area and, if left, there was a risk that they may lose branches or even fall completely onto his bungalow. He was told this would cost him £50. Thinking this was a small cost to save his trees and potentially any damage being caused, Kwame agreed but was given no paperwork.

On that day, the men had sprayed the three trees with a liquid, which they told Kwame was a high strength fungicide that was only available to professional tree surgeons. The men had finished after 15 minutes and then asked Kwame for £150. Kwame was surprised and said that he thought it was £50. One of the men told him they had said £50 per tree and he must have misheard. Kwame didn't have that amount of cash in the house, but the men said they needed it straight away to buy materials for their next job so Kwame would have to get in the van and go the bank. Under pressure, Kwame agreed and went to withdraw £150 from the bank on the High Street.

To Kwame's surprise the men knocked on his door again a week later and said they needed to do a second treatment, as the infection was so severe and it had been raining all week so the first application would have diluted. Again, Kwame reluctantly agreed and paid another £150. On leaving, the men said they'd be back to check again in a week's time. Kwame told them not to as he didn't have any more money to pay for more treatment. However, that morning, they had arrived and went straight into Kwame's garden without knocking on the door. He saw them through the window and went to the back door. Kwame told them to leave but they approached him and said they had bad news: the treatment hadn't worked so now the trees had to be cut down, otherwise he could get a fine. They said they would be back in the morning and Kwame would need to have £2,000 ready in cash.

You arrange to visit Kwame that afternoon. You look at the trees and cannot see any visible evidence of fungus on the trees. You do find an empty 5 litre carton which is labelled "white vinegar" in a bush in the garden. Kwame says it doesn't belong to him but he did see the men filling their sprayer from a similar container.

- (a) Apply the provisions of the Consumer Protection from Unfair Trading Regulations 2008 and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and identify any potential offences. (20 marks)
- (b) What actions will you now take and how will you gather the evidence necessary to prove the offences? (10 marks)
- (c) Kwame is very distressed, confused and worried about giving a statement as he is scared of the men. Explain how you might deal with this. (5 marks)
- (total 35 marks)

**Section B continues over the page.**

**10. Answer both parts:**

You are asked to review the complaints received against a local used car dealer: Bob's Brum Brums. Over the past year, your authority has received 45 complaints from consumers across the country. A summary of the complaints is below:

- All 45 complaints allege that the vehicles were not as described.
- 20 complainants state they had mechanical issues or breakdowns soon after purchase, when they had been described as "just serviced," "excellent condition" and "reliable". Some of these consumers have had other garages examine the cars who have said they were not roadworthy.
- 5 consumers report that when they arrived for an arranged test drive, the car was different to the one in the photo on the website.
- 10 complainants suspect the vehicles mileage is incorrect.
- 1 complainant states he part exchanged his existing vehicle, was told it had serious engine problems and was only scrap value and received £500. He then saw it advertised on the trader's website two weeks later at £4,500, described as in "good condition" and "low mileage only 35000 miles," when in fact it had 95,000 miles on the clock when the consumer traded it in.
- All consumers reported difficulties when trying to contact the trader to resolve their complaints; some haven't had a response at all despite telephoning, emailing and writing to them by post.
- In some cases, the trader had been verbally abusive to the consumers and told them he wasn't dealing with any issues as cars were sold as seen.

The trader has two premises in your area and from the history on your database you can see that the owner, Bob Baxter, has been previously advised regarding descriptions, mileages and dealing with complaints.

You check the trader's website and find 50 cars advertised. On the homepage is a banner stating "5 star ratings" and "Platinum Member of the Trusted Used Car Network". There is also a section which states "Try before you buy. Free Nationwide Delivery". You check the T&C's page and find the following in very small text:

All descriptions and photos are for illustration only, we are not responsible for any discrepancy.

All purchases subject to £50 admin fee.

Delivery is available subject to fuel surcharge.

No returns accepted.

Prepare a report for your manager on your findings, this should cover:

- (a) The potential offences you have found from your review of complaints and the website. (15 marks)
- (b) Your options to address these breaches in terms of informal, criminal and civil measures, setting out the issues you would take into consideration and the advantages and disadvantages of each option. (20 marks)
- (total 35 marks)

**Section B total of 70 marks.**

**END OF EXAMINATION PAPER.**