

The Joint Insolvency Examination

November 2025 sitting

Senior Moderator's Remarks

Introduction

These remarks are written following the publication of the results of the November 2025 sitting of the Joint Insolvency Examination ("the Examination"). It should be read in conjunction with the individual reports prepared by the Examiners for the two papers in England and by their counterparts in Scotland. In their reports, the Examiners give specific examples of where candidates did or did not do well.

How candidates fared at the 2025 sitting – some statistics

The number of candidates sitting one or more papers in 2025 was 172, exactly the same number as in 2024. The vast majority (161) attempted the English versions of the papers, but there was a welcome increase in the number of candidates attempting the Scottish law papers. Across the cohort there were 51 candidates who sat the personal insolvency paper and 150 who sat the corporate insolvency paper.

There were 18 candidates who were successful in passing the English law personal insolvency paper, a disappointing pass rate of 39%. The pass rate for this paper has been falling steadily since the introduction of the two paper format in 2018. The pass rate for the Scottish law personal insolvency paper was a creditable 60%.

The results for the corporate insolvency paper in England were very pleasing, with a pass rate of exactly 50% being recorded. This is the highest pass rate achieved for some years. However, the pass rate in England was, as for personal insolvency, bettered by the candidates sitting the Scottish law corporate paper who achieved an excellent 60% pass rate.

Personal insolvency

The personal insolvency landscape has changed significantly in recent years and the majority of the procedures now open to individuals with debt problems do not need the involvement of an authorised insolvency practitioner. Where firms in the insolvency market are involved with personal insolvency, the work is often carried out by a small number of designated staff. The vast majority (over 90%) of IVAs are now carried out by fewer than 20 specialist organisations.

It is not possible to pinpoint exactly why the pass rate in personal insolvency (in England and Wales) is on a downwards trajectory, but the developments outlined in my previous paragraph may well be a significant factor. There are some candidates who present excellent scripts and demonstrate that they have good practical knowledge of the subject. However, far too many candidates are unable to do this and their scripts suggest that they are attempting to pass the paper without the advantage of actually having done much, if any, personal insolvency work in practice. Given the practical focus of the examination, these candidates are always going to be at a disadvantage.

As has been the case in recent years, the percentage of candidates passing the personal insolvency paper coming from smaller firms (those with fewer than 10 insolvency practitioners) was commensurate with the percentage of candidates passing the paper coming from firms with 10+ insolvency practitioners. This contrasts with the results for the corporate insolvency paper where the pass rate achieved by candidates from larger (10+ insolvency practitioners) is significantly higher than that achieved by candidates from smaller practices.

Corporate insolvency

As I have said, the pass rate for the 2025 sitting, at 50%, was very pleasing. Many candidates were able to show good practical application of many of the subjects examined. However, the 2025 paper examined areas which, although undoubtedly in the syllabus, might be considered away from the mainstream (for example, litigation funding in question 1 and changes in office holder in question 3). Generally speaking, some candidates fared less well when the subject being examined was more towards the margins. The corporate insolvency syllabus is very wide, but candidates need to be properly equipped to tackle questions drawn from across the syllabus.

Bad habits – but continuing good news

Candidates may recall that, following the very poor corporate insolvency results in 2023 the decision was taken to share with representatives from the tutoring organisations and major insolvency firms anonymised examples of marginal candidates' answers.

This exercise demonstrated to a wider audience the range of approaches that candidates can and do take when formulating their answers. It also demonstrated that, at that time, the perennial issues to which I have drawn attention over the years persisted, and that perpetuating these bad habits was preventing too many candidates from presenting scripts that were passworthy.

One year on, my review of scripts for the 2024 sitting suggested that there had been an improvement in the way in which some candidates presented their answers. As ever, there was rarely any visible evidence of planning but it was good to see that some candidates had apparently given thought to how their answers could be presented in a logical, organised way. Candidates who did this will invariably have been awarded better holistic marks.

I am pleased to say that my own review of scripts in 2025 suggested that the improvements seen in 2024 had been continued. But, as in 2024, the improvement was far from universal. However well laid out, a candidate's answer will not be acceptable if they (1) do not take the time to appreciate what is being required of them, (2) spend time answering a question that has not been asked and/or (3) wander off the subject. The oft warned against practice of a candidate committing to paper everything they know on a particular topic (the "checklist" approach), in the hope of being awarded marks along the way, is still in evidence. These failings are preventing candidates from presenting scripts that can be considered as passworthy: such scripts are at best borderline and are usually at real risk of not being passed.

The first of the above failings (candidates not appreciating what is being required of them) is key. Candidates who do not take the time to (1) read and understand the question and its requirements, and (2) plan their answer, are likely to set off down the wrong track. Time spent reading and planning is usually time well spent.

This year a number of instances were noted where candidates wrote something their scripts that could never be right, legally or otherwise, and might be considered as dangerous. This must be avoided. Candidates who do this sow seeds of doubt in the minds of the examiners and moderators who, rightly, question whether the candidate in question has demonstrated the appropriate levels of knowledge and competence. At the very least, candidates who make such comments can expect to be marked down holistically.

Final remarks

Too many candidates are falling just short. The purpose of the exam is to identify candidates who are able to demonstrate that they have sufficient knowledge of insolvency law, procedure and practice to enable them to carry out the functions of an authorised insolvency practitioner. This is the yardstick by which candidates are measured and candidates whose scripts do not show the required knowledge will not pass. With many scripts failing by very few marks, if candidates take heed of these remarks it would not take much for the pass rates achieved in 2025 to be exceeded in 2026.

Postscript

The 2025 sitting of the Examination marks my final session as Senior Moderator. The examination only happens each year because a small team of dedicated, experienced and professional people work together to create papers of a high standard and to make a proper assessment of candidates' efforts. The Examiners and Moderators for the four papers in England and Scotland, and the marking teams in England, all play a significant part and I am very grateful to them all, past and present, for their hard work. I must also thank the team at ICAEW who, every year, work diligently behind the scenes to ensure that the examinations work and actually take place. Finally, I am very grateful to the members of the JIE Board for all their support over the years. My successor as Senior Moderator is already in place and I know that the Examination is in good hands for 2026 and beyond.

JOINT INSOLVENCY EXAMINATION BOARD
CORPORATE PAPER
EXAMINER'S REPORT AND MARK PLAN FOR THE NOVEMBER 2025 SITTING

General comments

It is encouraging to see that the number of candidates achieving success in the corporate paper has increased for the second year running.

In my report last year, I set out my general thoughts on what makes the difference between a “pass” and a “fail” candidate. I also provided a guide for unsuccessful candidates and those attempting the paper for the first time which sets out the characteristics of a “pass” paper and also the reasons, in my opinion, for poorly answered papers. I would encourage future candidates to read my report from last year.

To add to this, the examination is a test of knowledge and understanding of corporate insolvency including Insolvency Law and “best practice” guidance. The exam calls on the knowledge and experience of candidates and requires the application of these to the specific facts of the question. The scenarios set out in each question are practical and typical to what an Insolvency Practitioner in general practice will face. As in practice, in some questions, the application and processing of significant numerical data is required.

A common theme on each question, as noted below in the detailed commentary, is that familiarity with the Insolvency Act and Rules will assist and guide in the examination. Although the regurgitation of sections of the Act and Rules is not encouraged, the “Book” can help in the examination (as it does in the day to day working of an Insolvency Practitioner). As in previous years, a lot of easy marks have been missed which if the Book had been used effectively and efficiently in the examination could have made the difference between a pass and a fail if applied correctly to the facts of the question.

Getting the balance right in using the material available in the exam is crucial as general copying of the Act and Rules does not help if not applied or relevant to the facts of the question. This is also not a good use of valuable time in the examination.

In addition, time management in the exam is essential. It is clear to see which candidates have attempted all four questions and those where insufficient time has been spent on each question which severely hampers the prospect of passing the exam. Exam practice, under exam conditions, is recommended.

I provide detailed commentary on each question setting out the areas being examined and an assessment of how candidates performed on each question. Generally, except for Question 4, the paper was performed well. Further details of the performance of each question are set out below.

Comments on each question

Question 1

This question was set around the situation where an insolvency appointment has limited funds available but there may be a case to pursue which has merit. The question required candidates to set out the powers available to a Liquidator in these circumstances, the due diligence that would be carried out against the parties being pursued and the options available to fund the pursuit of claims.

The question then moved forward to the position where action had commenced, and an offer had been made by the parties being pursued. This required candidates to consider the offer compared to the alternative of pursuing the action in Court and the associated risks of doing so.

This question was generally answered well by candidates.

Part (a)

The first part of the question asked candidates to list the powers available to a Liquidator when bringing proceedings in office holder and company actions. Candidates that had spent time familiarising themselves with the Insolvency Act and Rules would have been at an advantage when approaching this question.

Generally, this was answered well but a lot of candidates missed out on “easy” marks by not identifying the relevant sections of the Insolvency Act that deals with the powers available.

Part (b)

Candidates were asked to explain what financial due diligence would be performed against the individuals and company being pursued. This was a practical question and candidates with experience of pursuing claims and assessing the financial position of parties being pursued should have done well in this part of the question.

This was answered well.

Part (c)

This part of the question required candidates to set out the potential options available to fund actions following the advice, by the legal team, that the case had decent prospects of success if brought to Court. In addition, there was a requirement to set out the risks, advantages and disadvantages of each option for the IP and the creditors.

Again, those candidates with experience of pursuing claims, when funds are limited, should have performed well.

This part was not answered well with a lot of candidates not explaining all options available. Many candidates did not understand the difference between litigation funding and the legal assignment of a claim and the difference to control and risk of each should proceedings ultimately be issued. Also, a number of candidates thought that one way forward might be for the liquidator's firm to fund the action. Given the sums and risks involved, this was highly unlikely to be a viable option.

Part (d)

This part of the question required candidates to calculate the estimated net realisations available should the case be won at court and compare to the offer being made.

There were two ways that candidates could approach this question by either:

1. Calculating the total income including the costs award and then deducting all costs or
2. Deducting the irrecoverable costs from the claim value

This part of the question was answered well but a lot of candidates simply listed out all costs without differentiating those that would be claimable from the other side if won and those that would be irrecoverable post LASPO 2012.

It should have been recognised by candidates that even if a case is successful after the issuing of proceedings that not all costs are recoverable and the amount awarded by the Court will be reduced following payment of irrecoverable costs such as adverse costs insurance fees, success fees etc.

Part (e)

This required candidates to consider the advantages and disadvantages of accepting the offer compared to issuing proceedings. Due to the offer resulting in a similar net amount being available compared to success at Court, due to the litigation risk involved, it was considered appropriate to accept the terms of the offer.

This part was answered well by the general body of candidates.

Question 2

This question was set around the practical scenario of a business facing financial difficulties seeking advice as to the best way forward. This question required candidates to compare the option of shutting down immediately against the option of the company continuing to trade and placing the company into administration at a later point.

A high proportion of candidates failed to identify this and answered the question on the basis of an immediate appointment of administrators and the administrators trading the business. (In practice this would not have been possible due to the business being a legal firm regulated by the SRA but this level of knowledge was not required by candidates to tackle the question). Candidates must take the time to read and understand the question.

The main part of the question was to estimate the final cash position after the company had continued to trade taking into account the realisation of WIP and payment of wages, trading costs and creditor payments to allow the company the ability to continue to trade (including, for example, the continuation of the HMRC time to pay agreement to avoid HMRC issuing a winding up petition).

The outcome of doing this was significantly better than simply closing down and therefore the Directors would have made a sensible commercial decision to perform a managed wind down to allow a better return to creditors.

Part (a)

This required the comparison of the treatment of corporation tax liability on the sale of the freehold property sold prior to insolvency, in administration or in liquidation. Although the wording of the requirement made it clear that it was a generic question rather than one linked to the facts set out, a number of candidates missed this distinction and gave over complicated and invariably wrong answers to what should have been an easy question with three marks banked.

There were some straightforward marks available for noting that pre-appointment corporation tax liabilities are company liabilities and would rank as unsecured claims, whereas corporation tax arising during an Administration or Liquidation would be an expense of the process. This point was missed by a number of candidates. Additionally, only a handful of candidates referred to the Scale 11 rates, having checked the order of priority under the Insolvency Act.

Part (b)

This requested the preparation of an Estimated Outcome Statement which should have clearly identified the benefits of continuing to trade and effectively turning the WIP into cash.

It was evident that candidates were under time pressure, which resulted in missed easy marks. A more methodical approach, starting with a clear Estimated Outcome Statement structure and then working through the question, would have helped. Even without correctly applying the order of priority from Part (a), candidates could have secured marks for a structured EOS.

Some candidates correctly identified that Administration fees rank ahead of corporation tax in Part (a) but failed to apply this in Part (b) calculations. Few attempted to calculate bank interest, which was another opportunity to gain easy marks. There was also confusion around VAT on WIP and expenses, with candidates spending too much time reconciling figures for the pre-Administration period which was not required.

Question 3

This question was set dealing with the practicalities of a fellow Insolvency Practitioner, with 80 live cases, having to retire due to ill health.

One case that was being transferred, a Members' Voluntary Liquidation, had been reviewed by a member of the team and identified several issues that required the candidate to consider the next steps to be taken.

Part (a)

This asked candidates to explain the most efficient way of transferring the cases to another IP to allow the cases to be progressed and set out the legal and practical steps to do so. This was seeking candidates to identify that a Block Transfer Order would be the most efficient way to deal with the matter and to set out how this would be done.

Again, familiarity with the Act and Rules would have put the candidate in a good position.

Easy marks were missed by a lot of candidates by failing to state straightforward points such as the block transfer application would involve specifying the removal of the outgoing IP, the replacement incoming IP or simply explaining the reasons why the block transfer was required.

Part (b)

This asked candidates to explain what due diligence should generally take place when dealing with a Members' Voluntary Liquidation and distributions to shareholders.

Many candidates identified the fact that due diligence should have been increased due to the sector that the company traded in (the waste industry). Not many candidates identified the lease point or other practical points such as reviewing the company's accident book. Most candidates identified potential environmental issues.

Part (c)

This part requested candidates to set out the next steps once it was identified that the company was potentially insolvent. This was looking for candidates to set out the steps needed to convert the company into CVL and explain the potential implications for the directors.

Candidates with knowledge of the Act and Rules would have been in a better position on this matter as Section 95 of the Act provides a "checklist" for candidates to use as guidance but many missed it or simply repeated it verbatim and weren't selective. Some got stuck on the alternative methods of appointment of the CVL liquidator.

Part (d)

This required candidates to set out the potential recovery options available to the liquidators to recover monies from shareholders. This was looking for practical ideas such as call on the indemnity, issue statutory demand, issue bankruptcy petition etc.

Many candidates chose to describe what breaches had been committed by the directors/shareholders rather than what options were available to the liquidator to recover the monies – which would have been easy marks gained.

Question 4

This was a practical question dealing with a typical scenario of an engagement with an insolvent company with the potential of identifying a purchaser of the business and assets. The question then dealt with the additional requirements when dealing with a sale to a connected party.

Technical areas around the approval of pre-appointment costs, the placing of the company into administration following the issuing of a winding up petition and compliance were examined in the later parts of the question.

The overall standard of scripts in this question was mixed but generally, it was disappointing that candidates did not deal with this question well and percentage wise, was the worst performed question on the paper despite the requirements being broken down.

Part (a)

This required candidates to set out the financial position of each offer and make a recommendation.

Candidates performed well on this part of the question which was mainly a numbers question requiring the calculation of two different types of offers. Candidates scored well on this part.

Part (b)

This part required candidates to explain the definition of an interested party which could generally be lifted from Schedule B1 to the Act. Again, knowledge of the Act would assist candidates in the exam and in general was not answered well.

Part (c)

This required candidates to set out the additional steps and requirements since the sale was to take place with a connected party.

This was examining the requirements of The Administration (Restrictions on Disposal etc. to Connected Persons) Regulations 2021 setting out that the sale could not be concluded without the approval from creditors, or more likely, an independent Evaluator's Report. Many candidates appeared to be unfamiliar with the requirements and few presented acceptable answers

Part (d)

This part required candidates to detail the legal documentation required to execute the sale.

This was not answered well with easy marks available for setting out the items that might be included within a sale and purchase agreement and licence to occupy.

Part (e)

Originally, it was the intention that the Directors were going to appoint Administrators. A winding up petition was issued which required candidates to explain the implications and other ways the company could be placed into administration. Too many candidates struggled with this.

Part (f)

This required candidates to explain how pre-appointment costs would get approved following the appointment of administrators but was not answered well.

Part (g)

This part was examining candidates' knowledge of compliance following the sale of business and assets in a pre-pack sale. Again, this was not answered well.

QUESTION 1

- (a) List the powers and possible actions available to a Liquidator to bring legal proceedings either as Office Holder or on behalf of the Company.**

S165 and
Schedule 4 of the Insolvency Act sets out the powers available to a Liquidator regarding legal proceedings
Sch 4 – (3A) – Liquidator has power to bring legal proceedings under s213, 214, 238, 239, 242 or 423
Sch 4 (4) – has power to bring legal proceeding in name and on behalf of the company

(2 marks)

- (b) Explain what due diligence you would perform on the financial position of the Respondents before deciding whether or not to issue legal proceedings.**

On both individuals and associated company

Consider instructing search agents to carry out financial due diligence
Land registry searches
Companies House searches to identify any shareholdings
Court search to identify any existing legal actions

Individuals

Request personal statements of assets and liabilities (unlikely to be provided under the circumstances)
General internet / social media searches
Credit reference agency report

Related Company

Companies House search to identify financial position

(3 marks)

(c) As there are no monies available in the case, explain what options may be available to you to fund the pursuit of the claims. Set out the risks, advantages and disadvantages of each option for both you and the creditors.

OPTIONS AVAILABLE

1. Approach creditors to fund legal actions

Consider approaching all or key creditors to ascertain whether there is any appetite to fund legal action
If a committee exists, approach the committee
Liquidator would need to set out the claims and the likely level of funding required
The options to creditors would range from fully funding the case to partially funding the case
The advantages to creditors of them fully funding the case is that they get a higher proportion of the Award (ie no Success Fee on legal fees or Premium required for funding / insurance)
The risk to creditors is that if they provide funds to cover the whole costs including the adverse costs is they carry all of the litigation risk (ie they pay all the legal costs including the other sides)
There could be a mix of options where for example, solicitors work on a contingent basis and take a Success Fee but creditors fund the adverse costs etc
The Liquidator would need to cover the risk by seeking a cash deposit or significant assets / security to cover the potential adverse costs

2. Litigation Funding

There are several organisations that will provide funding to an Insolvency Practitioner ...
to fund all legal costs and the potential adverse costs
Typically these are done by the Funder either taking an assignment of the claim (see below) and taking full control of the claim
Or by providing direct funding the IP for all costs and the IP retains control of the case
Ultimately, this high risk investment for the Litigation Funder comes at a cost with them requiring a "Success Fee", repayment of costs funded etc
The disadvantage for the creditors is that they will see a lower amount of net realisation if successful
Ultimately, there is a risk for the Liquidator in the event that the Litigation Funder is unable to meet the funding commitments should it fail in any way.
Ultimately the proceedings are brought by the Liquidator and the litigation risk remains with the Liquidator

3. Sell / Assign the Claim

Similar to above, there are organisations that will offer to buy the claim and ultimately take control
The advantage, to both liquidator and creditors, is that they cover all of the costs of the litigation including the adverse costs
The proceedings are issued by the purchaser of the claim following the assignment
Downside is that Liquidator loses control / decision on settlement etc
Liquidator needs to be reasonably comfortable that the case has merit of success prior to assignment to avoid being criticised / sued from defendant

(8 marks)

- (d) To assist you in the mediation, provide an estimate of the net outcome to creditors from the litigation should you be successful in a Court Proceedings. You should assume that judgment is obtained for the full value of the claims.

OPTION 1 - WORK OUT ALL INCOME AND EXPENDITURE			
Claim value			1,000,000
Award of costs			
Solicitors Fees	70,000		
Counsels Fees	35,000		
Disbs /witness	20,000		
Claim fees	40,000		
			165,000
Total award			1,165,000
Costs			
Issue Fees	40,000		
Solicitors Fees	100,000		
CFA	100,000		
Counsels Fees	50,000		
CFA	50,000		
Insurance policy	175,000		
Witness costs	10,000		
Disbursements	10,000		
			535,000
Additional Liquidators Fees			100,000
Total costs			635,000
Net amount available for creditors			530,000

OPTION 2 - WORK OUT THE DEAD / IRRECOVERABLE COSTS			
Claim value			1,000,000
Dead costs			
	Solicitors Fees	30,000	
	Counsels Fees	15,000	
	Not claimable post LASPO		
	Solicitors Fees - Success fee	100,000	
	Counsels Fees - Success fee	50,000	
	Insurance policy	175,000	
			370,000
	Additional Liquidators Fees		100,000
	Total costs		470,000
	Net amount available for creditors		530,000

(4 marks)

(e) Set out your thoughts on the offer and on the potential advantages and disadvantages of settling the claims without issuing proceedings.

It is estimated that, if the case is won at court, Liq would get c£530k
As the offer is relatively close, must be considered
Acceptance avoids litigation risk (risk of losing)
Allows case to be progressed and closed
Could win the case and defendants might not have money (despite due diligence carried out)
The only potential disadvantage is the lower estimated realisation but this could be eliminated by the negotiations
On balance, seems acceptable

(3 marks)

Total: (20 marks)

QUESTION 2

- (a) Compare and contrast the treatment of any corporation tax liabilities arising on the sale of a freehold property by a limited company prior to its entering into any formal insolvency process with the liabilities arising on a sale by that company's administrator or liquidator after formal insolvency proceedings have begun.

LIQUIDATION

In Liquidation, Rule 6.42 deals with the general order of priority of costs
Corporation Tax on chargeable gains is included with 6.42 (i)
..... ahead of the balance of remuneration of the Liquidator (6.42 (j) which exceeds the amount payable under the Schedule 11 scale (per 6.42(h))
In effect, in situations where there are insufficient funds to allow repayment of tax in liquidation, Liquidators are effectively fixed at scale rates

ADMINISTRATION

In Administration, Rule 3.51 deals with the general order of priority of costs
Corporation Tax on chargeable gains is included with 3.51 (j)
Administrators Remuneration ranks ahead of the tax on chargeable gains (3.52 i)

SALE PRIOR TO APPOINTMENT

If sold by the company, pre insolvency, any tax on profit of sale would be a liability of the company
Corporation Tax falls as an unsecured creditor claim in both Administration and Liquidation

(3 marks)

- (b) Prepare an estimated outcome statement which sets out the likely outcome for creditors of the Company under each of the two scenarios being considered by the Board. Assume in each case that the freehold property is sold by the Administrator or Liquidator as the case may be.

	Managed wind down £	Shut down now £
Assets subject to Fixed Charge		
Property	750,000	750,000
Estimated agents and legal fees	(37,500)	(37,500)
Holding costs	(5,000)	(30,000)
	<u>707,500</u>	<u>682,500</u>
Owed to bank		
Term Loan	(768,750)	(768,750)
Overdraft		(200,000)
Shortfall to the bank	<u>(61,250)</u>	<u>(286,250)</u>
Assets subject to floating charge		
Cash from WIP and debtors	933,000	
Sale of WIP		100,000
	<u>933,000</u>	<u>100,000</u>
Less : Costs		
Liquidators fees - scale rate		(10,750)
Tax on prop sale - CVL (ranks after fees at scale rates) (shortfall in CVL for CGT bill)		(90,625) 1,375
Administrators Fees	(50,000)	
Tax on prop sale - ADM (ranks after ADM fees)	(90,625)	
	<u>(140,625)</u>	<u>(100,000)</u>
Available for primary preferential creditors	<u>792,375</u>	<u>0</u>
Primary Preferential creditors		
Employees - primary	0	36,000
Employees - holiday pay	0	100,000
	<u>0</u>	<u>136,000</u>
Surplus / Shortfall to primary	<u>792,375</u>	<u>(136,000)</u>
Secondary Pref Creditors		
HMRC - TTP	300,000	500,000
HMRC - other		287,000
	<u>300,000</u>	<u>787,000</u>
Net property / shortfall to preferential creditors	<u>492,375</u>	<u>(923,000)</u>
Prescribed part retention	101,475	0
Available to Bank under Floating Charge	<u>390,900</u>	<u>(923,000)</u>
Shortfall to Bank under Fixed Charge	(61,250)	(286,250)
PP retention added back	101,475	
Surplus available for unsecured creditors	<u>431,125</u>	<u>(1,209,250)</u>
Unsecured creditors		
Employees - salary	0	89,000
Employees - redundancy pay	562,500	562,500
Run off cover	500,000	500,000
	<u>1,062,500</u>	<u>1,151,500</u>
Distributon available to unsecured creditors	<u>40.58</u>	
TOTAL DEFICIT TO CREDITORS	<u>(631,375)</u>	<u>(2,360,750)</u>

Notes

1 Cash generation from VIP - managed wind down			
Net WIP	3,000,000		
Salaries	-1,100,000		
Overheads to Feb 26	-200,000		
retention bonus	-125,000		
Hol pay	-100,000		
Debtors	145,000		
	<u>1,620,000</u>		
Creditor payments			
HMRC - TTP payments			
5 @ £40k	-200,000		
HMRC - Liabilities at 31 oct 25	-287,000		
Bank overdraft	-200,000		
	<u>933,000</u>		
2 VIP - shutdown			
5% £2,000,000	100,000		
3 Employees - redundancy (both situations)			
45 redundancy @ @12.5k	562,500		
4 Employees - salaries (Salary accrual relevant in Liquidation scenario only)			
45 Pref @800	36,000		
Balance - Unsecured	89,000		
5 Employees - holiday pay (in Liq scenario only)			
HP	100,000	all pref	

QUESTION 3

(a) What is the most expedient way to deal with the change in office holder and what are the legal and practical requirements to do so?

In general, there are only certain circumstances where an IP can “step down” as Liquidator or Administrator
These include ill health, intention to cease as an IP, conflict of interest or change in personal circumstances (R3.62, R5.6, R6.25)
In the situation where there are lots of cases to deal with (like in this particular case), the practical way to deal with change in office holder is by a “Block Transfer” under R12.35 to R12.38
In this case, although the IP appears to be ill, it would not seem practical to resign and seek the appointment of a new liquidator on 80 cases when there are provisions for a BTO

Practical Steps

Obtain a list of the “Outgoing” IP’s appointments
For the IP who is taking the cases, ensure that no ethical or other issues prevent the acceptance of the appointment
Make a file note of any issues and conclusions following this review
Consider issuing a firm wide conflict review email to ensure no conflicts exist
Instruct a solicitor, experienced in dealing with BTO, to prepare legal documentation required (Application, witness statements,
Arrange practicalities of how cases are to be dealt with between now and BTO being made (signing, is there a joint appointee etc?)
Liaise with Bond provider to advise of the impending BTO
Inform relevant RPB prior to issuing new bordereau submission detailing new appointments (influx of new appointments may cause concern)
Give notice of the intended application to the Sec of State on or before application is made (Dear IP 91) R12.37

Legal requirements

An application to the Court is required to be made requesting the Block Transfer Order (“BTO”)
... together with a schedule of those cases to be transferred appended ..
..... with information on the type of case, the “Outgoing Office-holder” and replacement IP
The Application for a BTO to be made to the registrar or District Judge requesting:
<ul style="list-style-type: none">• Transfer of those cases not before the High Court to be transferred to the HC (and then transferred back after the BTO made)
<ul style="list-style-type: none">• The removal of the “Outgoing Office-holder” from the listed cases
<ul style="list-style-type: none">• The appointment of a replacement officeholder
The Application, in this scenario, may be made by:
<ul style="list-style-type: none">• The Outgoing office-holder (if well enough)• A joint appointee

<ul style="list-style-type: none"> • The proposed replacement office-holder • A creditor • A RPB • The Secretary of State
There must be evidence attached to the Application (a Witness Statement)
..... setting out the circumstances as to why it is expedient to appoint a replacement office holder
... and a consent to act from each replacement office holder

(6 marks)

(b) Explain what due diligence should have been carried out and what protective measures should have been taken by the Liquidator prior to making the interim distribution to the shareholders.

The Liquidator (L) should have obtained an indemnity from the Shareholders prior to making any distribution to cover the scenario of an overpaid distribution
L should have placed a notice in the London Gazette requesting creditors to prove their debts by delivering proofs to the L
L will have the Statement of Assets and Liabilities appended to the Statutory Dec of Solvency for information
It is noted that the Company may have recently traded in the waste sector which would indicate a potentially higher level of Due Diligence may be required.
Due diligence should be carried out prior to issuing a distribution. This could include:
- a review of the latest financial statements to review the liabilities contained
- a general internet search to see if any news stories available or details of any regulatory issues
- make contact with the Company's accountants to make enquiries as to the most recent statutory accounts
..... and if they finalised all tax liabilities with HMRC on closure (e.g. final Corporation Tax returns etc)
- Make contact with the company's solicitors to request details of cases worked on / obtain client files
- Review the Trade Debtors to ensure they are recent, collectible etc. Write to the Debtors immediately on appointment, and contact them to ensure they are likely to be realised.
- Make enquiries to the Environment Agency in relation to any Waste Permits still live (that may need disclaiming)
.... And request details of any potential ongoing claims or actions
- Make enquiries to the former land position (either landlord or new owner if sold) to enquire as to any potential clean up liability / dilapidations etc
Review books and records of the Company to see if any
- Minutes of board meetings where such matters discussed
- Correspondence with solicitors
- Accident book
- Copies of risk assessments
- Correspondence with EA

- Any insurance claims / policies
- Details of any guarantees / indemnities provided
- Copies of leases

(6 marks)

(c) In view of the liabilities to creditors, what steps should now be taken by you and what are the potential implications for the Directors of the company?
Steps

On the facts of this case, it would appear that the Company may be insolvent on the basis of the recoverability of the Trade Debtors, the Liabilities exceeding £1.5 million etc
Where L is of the opinion that Company will not be able to pay its debts in full (together with stat interest) within the period set out in the original stat dec of solvency
Before the end of the period of 7 days beginning with the day after the opinion formed
..... L must make out a Statement of Affairs verified by a Statement of Truth (in the prescribed form as set out in R6.2) and...
.... Send it to the company's creditors
L must seek a nomination from the creditors (under R6.11) for a liquidator in the CVL by: <ul style="list-style-type: none"> - a decision procedure or - the deemed consent procedure
Together with the S of A, the L must send a Notice of Deemed Consent Procedure (that complies with R15.7) or Notice of a Decision Procedure (that complies with R15.8) setting out the decisions being sought
The Decision Date must not be later than 28 days after the L formed the opinion that Co will not be able to pay its debts in full
A Notice must also be delivered to Creditors (with the S of A + Notice of DCP/DEC PROC).....
.... Providing the contact details of the existing L and
...with a statement advising that of nominations for an alternative L are provided the existing L will be the L in the CVL
IP needs to ensure any ethical threats presented by the prior conduct of the case have been fully assessed, mitigated and documented and that it remains appropriate for them to accept the appointment as CVL Liquidator.

Implications for the Directors

The Statutory Declaration of Solvency is sworn under oath by the Directors (the number depending on the number of directors)
The declaration says that they have made a full enquiry into the Company's affairs and having done so, have formed the opinion, that the Company can pay its debts in full with stat interest within 12 months (from the passing of the resolution)
As it is made under oath, a false statement is perjury, and anyone guilty shall be liable on conviction
..... potentially subject to a fine, imprisonment up to 2 years or both
Dear IP, Chapter 20, Offences and Prosecution advises that IP's should submit a report to the Insolvency Service where a Declaration has been made under S89 without having reasonable grounds for the opinion that the Company will be able to pay its debts in full

(6 marks)

(d) Assuming the Directors and Shareholders are to be pursued for financial recovery and they have the appropriate financial means, what recovery options are available?

Make a call under the indemnity for the overpaid distributions
If they do not repay the amounts, consider instructing solicitors
If it is considered that they have the financial means, it may be sensible to make formal demand for the repayment of the monies and issue statutory demand
If undisputed and/or ignored, issue bankruptcy petition with a view to making bankrupt
If disputed, liaise with solicitors – may need to issue proceedings to recover monies (cost implications)
Asset the nature of the personal assets available to satisfy any judgement obtained and the various enforcement remedies most appropriate to the asset types (freezing orders, charging orders, attachment of earnings, bankruptcy).
Attempt to negotiate a beneficial settlement which adequately compensates creditors for their losses.

(2 marks)

Total: (20 marks)

QUESTION 4

(a) Appraise both offers, setting out any advantages and disadvantages of each. Giving your reasons, make a recommendation for which of the offers should be accepted.

The estimated return from the sale to the connected party is higher when the debtor collection fee is built in
The advantage of the competitor bid is higher amount of cash available immediately (£3.65 m vs £3.525 m)
However, estimated collection fee of £450k takes net down to £3.2m (vs £3.525m)
Competitor – deferred consideration vs MBO team cash on completion
On balance, MBO team offer appears to offer the best realisations

	Comp	MBO
P&M	1,750,000	1,250,000
Stock	900,000	1,350,000
Goodwill	250,000	200,000
MF	750,000	725,000
	<u>3,650,000</u>	<u>3,525,000</u>
Collection fee / diff in debtor collections	(450,000)	
	<u>3,200,000</u>	<u>3,525,000</u>

1 DEBTORS

EITHER

A Collection fee		
Debtors		2,500,000
Bad debts		(500,000)
Collected		<u>2,000,000</u>
General provision		(200,000)
		<u>1,800,000</u>
Coll Fee	25%	(450,000)
		<u>1,350,000</u>

OR

B Debtor realisations difference		
Debtors	2,500,000	2,500,000
Bad debts	(500,000)	(500,000)
	(200,000)	(200,000)
Collected	<u>1,800,000</u>	<u>1,800,000</u>
Coll Fee	25%	(450,000)
		<u>0</u>
	<u>1,350,000</u>	<u>1,800,000</u>

2	Stock		
	Book value	1,500,000	1,500,000
	Obsolete	(200,000)	
	ROT	(300,000)	(150,000)
		<u>1,000,000</u>	<u>1,350,000</u>
90%	Competitor	900,000	
	MBO team		1,350,000
3	Motor Fleet		
	Offer	1,000,000	725,000
	Finance	(250,000)	
		<u>750,000</u>	<u>725,000</u>

(8 marks)

(b) In the context of Administrations and pre pack sales, what is the definition of a connected party?

Defined in para 60A (3) of Sch1 B1 to IA1986
Means either a relevant person in relation to the Company or ...
This could be: <ul style="list-style-type: none"> • A director, other officer, or shadow director of co • Associate of any of the above • Associate of the Company • which includes a shareholder entitled to exercise one third or more of the voting power at a general meeting
A company connected with the Company
i.e. if any relevant person of one company is or has been a relevant person of the other

(2 marks)

(c) Explain the additional steps that you, the MBO Team and any relevant third party will need to take in order to reach the position where you are satisfied that the sale to the MBO Team can proceed.

The relevant legislation is The Administration (Restrictions on Disposal etc. to Connected Persons) Regulations 2021 ("the Regulations") which sets out
that Administrator ("ADM") is unable to complete this sale to the MBO team within 8 weeks of the ADM appointment without: <ul style="list-style-type: none"> • the approval of creditors or • An independent written opinion from an Evaluator
Creditor Approval <ul style="list-style-type: none"> • ADM will need to include a statement in the proposals and issue to creditors • Sale can be completed if creditor approval is obtained (with or without modifications agreed by ADM) • Approval may be given via a Deemed Consent Procedure (NOT Deemed approval process), per Dear IP 126
Independent Evaluators Report <ul style="list-style-type: none"> • ADM needs Evaluator's report before the sale can take place • The Report can be obtained before or after the appointment of ADM • but not after the completion of the sale

It is the responsibility of the MBO Team to obtain the Evaluator's Report ...
and provide it to the Administrator
The MBO Team are responsible for selecting the Evaluator but ...
the ADM will need to be satisfied that the Evaluator has the relevant knowledge, experience and independence

The MBO team can (and practically should) liaise with the ADM or proposed ADM to make sure their choice is going to be suitable
The Evaluator, who is able to provide a report:
<ul style="list-style-type: none"> • does not need to hold any specific professional qualifications
<ul style="list-style-type: none"> • must have professional indemnity insurance
<ul style="list-style-type: none"> • must be independent / have no conflict of interest
<ul style="list-style-type: none"> • must not have been at any time been convicted of dishonesty or deception
<ul style="list-style-type: none"> • must not be in a current formal arrangement with creditors / currently or ever been made bankrupt
<ul style="list-style-type: none"> • must not be or previously been disqualified director or provided undertaking not to act as director
Practically, the Evaluator will be from the pre Pack Pool or from a selection of independent Evaluators
THE EVALUATOR'S REPORT
The report:
<ul style="list-style-type: none"> • has to be in writing • be dated and signed by the Evaluator • be provided by an individual (and not a company)
The Regulations set out various information that must be contained in the report including:
<ul style="list-style-type: none"> • details of the property to be disposed of
<ul style="list-style-type: none"> • details of the consideration to be paid including value
<ul style="list-style-type: none"> • whether, or not, the Evaluator is satisfied that the consideration and grounds for the sale are reasonable and
<ul style="list-style-type: none"> • how Evaluator has reached that conclusion
<ul style="list-style-type: none"> • detailed information of PI insurance
<ul style="list-style-type: none"> • details of the connected parties and explanation of connection
<ul style="list-style-type: none"> • details of the Evaluator's relevant knowledge and experience

(11 marks)

(d) Following your decision to proceed with the best offer, set out the key legal documentation you would require in order to complete the transaction and the main provisions that you would expect to see in each document.

Sale and Purchase Agreement

Agreement setting out the terms of the sale and purchase
Main provisions
Consideration – how much being paid and how?
Assets included (as detailed within the question)
Assets excluded (debtors, cash at bank etc)

Exclusion of personal liability for the Administrators
Safeguarding of the Company's books and records – typically majority of records retained by purchaser and made available to Administrator to perform statutory duties
Treatment of VAT as a TOGC
Completion particulars – when, time etc
Recognition that Third Party items (Leased assets etc) will be left on site at completion and Purchaser will deal with them (ie get new agreements or allow lease companies to collect etc)
Procedures on how to deal with ROT claims
Collection of Debtors – procedures, how to deal with unallocated debtor receipts, buyer acting as Company's agent to collect etc
Exclusions of warranties by the Seller
Details of any warranties provided by the buyer
Employees and TUPE – including warranties from Buyer regarding responsibilities
Apportionment provisions – any costs incurred by the company, where purchaser gets benefit – payment of etc
Schedules of assets being sold

LICENCE TO OCCUPY

•	Agreement setting out the terms of the Purchasers use of the Premises
•	Lease remains with the Company and document allows Purchaser to use the premises for a Licence Fee
•	Generally, the Licence Fee, covers the Company's costs of occupying the property
•	Allows the Purchaser time to negotiate with the landlord regarding an assignment of the current lease, negotiation of new lease or to allow time to move premises
•	Main provisions
•	Licence Fee – how much being paid and how?
•	Obligations of the Purchaser
•	Termination provisions
•	Details of the premises
•	Exclusion of personal liability

(5 marks)

(e) Explain the implications of the winding up petition being issued on the proposed strategy to place the Company into Administration and any potential changes to the strategy that may be applicable.

Original strategy was for the Directors to appoint administrators under Para 22 of Sch B1 to IA86
However, winding up being issued stops Directors ability to do this
Most practical solution would be to ask the Bank to appoint under their QFC.
If they feel uncomfortable, the Directors could invite them to appoint administrators

Explain to the Bank the benefits of taking control vs other alternatives (i.e. Application to Court for ADM and CVL)
Application to Court – not practical in this case – takes longer amount of time due to availability of court, court hearing etc
.... More costs involved (require a barrister, application, report by IP etc)
... business may not be able to continue in the longer period (e.g. wages may not get paid, employees leave etc)
CVL – again not practical – longer than above + would need top negotiate with petitioning creditor to dismiss petition

(5 marks)

(f) Explain whether the pre appointment costs can be recovered and, if they can be, how you would seek to ensure that all involved get paid for their work.

Pre appointment costs can be recovered (Rule 3.52)
Where a committee is formed, it is their responsibility to approve the basis of unpaid pre-administration costs
Where no committee or committee doesn't determine the basis:
If Para 52 1 b statement made – consent of each secured or ...
... if distribution to prefs – consent from secured creds + from the Prefs in a decision process
If no para 52 1 b made Approved by a decision of creditors by a decision Procedure
The definition of "pre administration costs" and unpaid "pre-administration costs" are included within R3.1
In the event that the Committee or Creditors do not approve, the Administrator can apply to Court for determination
(R3.35 (10))The ADM must include within the Statement of Proposals:
<ul style="list-style-type: none"> • A statement of pre-administration costs charged by ADM (or any other person qualified to act as an IP) • A statement that payment of unpaid pre adm costs is subject to Rule 3.52 and not part of the Proposals (subj to approval under P53)
The statement under R3.36 must include:
- Details of any agreement re fees and expenses, including the parties
- Details of the work done
- An explanation of why the work was done and how this has helped achieve the purpose
- Details of the pre appointment costs (fees charged by ADM, expenses incurred, fees and expenses incurred by any other IP)
- Details of any amounts already paid
- Details of who has paid any pre-admin costs
- A separate statement of unpaid pre-admin costs

(6 marks)

(g) What are the statutory requirements and associated timescales for notifying creditors of your appointment and the transaction in the circumstances set out above?

The Administrator must send a "SIP 16 Statement" to creditors with the first notification to creditors and in any event within 7 calendar days of the transaction
In this situation, notification of the appointment and details of the transaction must be sent to creditors within 7 calendar days
The SIP 16 statement should provide creditors with sufficient information To enable a conclusion to be made that the ADM has acted in the interests of creditors
ADM needs to explain to creditors with details and justification of the sale and what alternatives were considered
Ideally, the ADM proposals should be issued at the same time
Information to be disclosed within the SIP 16 Statement
- Where the matter was introduced from
- Extent of administrator's pre appointment involvement
- Alternative options considered
- Details of registered charges and dates of creation
- Details of marketing (or reasons for not marketing)
- Details of the valuations and who carried out the valuations (inc qualifications)
- Date of the transaction
Details of the Purchaser and details of any connections / relations (as in this case)
Details of the assets sold and consideration paid
In this particular case, a copy of the Evaluators Report is to be attached to the SIP 16 report

(4 marks)

Total: (40 marks)

JOINT INSOLVENCY EXAMINATION BOARD
PERSONAL INSOLVENCY PAPER
EXAMINER'S REPORT AND MARK PLAN FOR THE NOVEMBER 2025 SITTING

Question 1

- a) **For the two proofs of debt relating to the bank guarantee and the landlord, set out the steps that you would take in order to be in a position to adjudicate on these proofs. In each case explain what further information or documentation you would require in order to complete your adjudication. (6 marks)**

Of the four parts of this question, this part was generally the best answered by candidates. Marks were lost for answers being too brief, and the usual issue, whereby the candidate states that legal advice should be taken without giving the reason for this, i.e. where there is uncertainty about the validity or enforceability of the personal guarantee, appeared a few times.

The better answers identified the need to establish if Mr Durres was the sole guarantor, as well as check that the personal guarantee was valid, that demand had been made by the bank in accordance with the terms of the personal guarantee, and the liquidator had been contacted to check whether any distribution had been made within the liquidation that would impact the bank's claim in the bankruptcy.

The claim by the landlord was generally well understood by the candidates. Many were able to correctly identify the documentation the trustee required, along with the impact of the disclaimer. Poorer answers failed to appreciate that the trustee's interest in the lease had already been disclaimed or incorrectly stated the effects of a disclaimer on a landlord's claim.

- b) **Explain, giving reasons, whether or not you would admit the proofs of debt received from the spread betting company, Mr Durres's former wife and the Council (5 marks)**

The part of the question relating to the spread betting debt was poorly answered by the majority of the candidates, as most wrongly determined that this was a gambling debt, and not provable.

Most candidates recognised the fact the matrimonial debt was provable and would survive bankruptcy. The stronger answers identified that there may be limitation issues based upon the date of the order, so further information about what payments had been made and when was required.

A large number of candidates correctly identified that all the council tax claim was provable. The better answers stated the need to establish whether Mr Durres was the sole occupant of the property, in terms of the correct rate being applied and/or whether other occupants were also liable.

- c) **Giving your reasons, explain whether the sum of £200,000 is likely to be sufficient to enable Mr Durres to seek an annulment of the bankruptcy order pursuant to section 282 (1)(b) of the Act. Clearly state any assumptions that you make. (6 marks)**

Most candidates correctly set out what would need to be paid, such as the Official Receiver's administration fee, the Official Receiver's general fee, the costs of the petitioning creditor (although some gave very low values for these, and did not receive credit if the value was given as less than £3,000), statutory interest, and the trustee's costs. The majority of candidates concluded that an annulment would be possible based upon the figures. Stronger answers identified that VAT would not be recovered, legal fees would be incurred as a result of the annulment, and estimated the trustee's future costs.

- d) **Assuming that, with his mother's financial assistance, Mr Durres decides to seek the annulment of the bankruptcy order, what steps should you take as Trustee? (3 marks)**

Most candidates set out the content of the required report by the trustee and lost out on potential marks by failing to add anything more. There was an alarming number of candidates who, despite the content of the question as well as the statutory provisions for annulment, insisted that it would be the trustee who would or should apply for the annulment application. The better answers included the need to advise Mrs Durres to take her own legal advice, do AML checks in relation to any funds provided, write to the creditors who had not

yet proved, and consider whether the basis of trustee's remuneration needed to be altered with the creditors' approval.

Question 2

- a) **Identify the particular risk factors faced by an Authorised Insolvency Practitioner who is an office holder on a high number of IVA cases. Explain how each of the risk factors might be mitigated. (14 marks)**

There was a full spread of performance by candidates on this question. Some were done very well, some managed to hit some of the relevant points and some were extremely poor. Whether they had heard of the Guidance Paper at all, and how familiar they appeared to be with it, was the most significant factor in performance for part a. There were clearly some candidates who had never heard of it, some who appeared to have a vague knowledge of it and some who had none at all. Candidates who specifically referenced the Guidance Paper received higher holistic marks.

Many candidates had missed the fact that the question referred to a joint appointment, and others focused on this as specific risk in the answer which had nothing to do with the volume. A lot of the poorer answers also simply recited the "five fundamental principles".

- b) **Explain the issues which an Authorised Insolvency Practitioner should consider prior to his firm instigating an advertising and marketing campaign. (6 marks)**

For part b, candidates generally either performed well, or very poorly. Where they performed poorly, they appeared to miss anything of relevance to the advertising campaign, save for possibly the issue regarding the resources of the firm and ability to deal with a potential sudden increase of enquiries as a result.

Question 3

This was a question that required candidates to consider three distinct areas of the Personal Insolvency syllabus, namely Money Laundering, Post Petition Dispositions and Complaint Handling. Each scenario gave candidates the opportunity to show their knowledge of legal principles but also practical steps that they could take. Unfortunately, too many marks were missed by not providing practical solutions to the situations.

a) Set out your proposed course of action in relation to Mr Berat's suggestions and the motor vehicle. (9 marks)

It was pleasing to see that nearly all candidates recognised most, if not all, the red flags of potential money laundering. Most candidates knew they had to report the situation to their firm's Money Laundering Reporting Officer and that they should not 'tip off' the individuals concerned. Many also knew that a Suspicious Activity Report would be required. However, it was still concerning that a small number of candidates thought it acceptable to receive £80,000 in cash from Mr Berat. Whilst many explained what they would do as far as the Money Laundering situation was concerned, far fewer candidates explained what they would do with the vehicle, i.e. carry out a HPI check to see if there was any outstanding finance, check if the car was taxed, have it valued by a specialist valuer, assess if a replacement vehicle was required for Mr Tirana, etc. This resulted in marks being missed.

b) Set out the actions that should be taken by you in relation to the property. (8 marks)

This question was not particularly well answered. Whilst many candidates recognised that the date of the Bankruptcy Petition was issued two days before the Property Adjustment Order ('PAO'), many were not brave enough to state that the PAO was a post-petition disposition and therefore void. Many candidates suggested it might be a possibility and if it was it could be void, but only the higher scoring candidates were confident to confirm.

Marks were missed again for not setting out the practical steps for dealing with the property i.e. obtaining a valuation of the property, obtaining a redemption statement (if a mortgage exists), liaising with the ex-wife, considering if there were any exceptional circumstances that would preclude an Order for Possession and Sale or investigating whether there were equitable accounting / exoneration issues. These issues would need to be identified before issuing a court application for Possession and Sale.

c) Set out the action that should be taken by you following receipt of Miss Elbasan's complaint. (3 marks)

This part was generally well answered although some candidates focused on how the income payments order was obtained and whether it could be appealed rather than the complaint that had been made. Most candidates knew to acknowledge the complaint, deal with it in a timely fashion, explain the background and offer to meet Ms Elbasan. Higher scoring candidates referred to the Insolvency Guidance Paper: Dealing with Complaints and that Ms Elbasan should be advised to take her own legal advice.

Question 4

- a) **Prepare a monthly cash flow for the 12-month period ending 31 October 2026 demonstrating the surplus funds available to facilitate a repayment to HMRC. Show your workings and clearly state any assumptions that you make. (13 marks)**

Candidates were required to prepare a detailed 12 month cashflow forecast setting out income and expenditure for an individual who owned a small portfolio of tenanted properties and who had accrued a substantial historic tax liability; to prepare a memo to a colleague on the individual's options for dealing with the HMRC liability based on the cashflow forecast; and to prepare a comparative estimated outcome statement (EOS) for a managed sale of the tenanted properties as opposed to an immediate sale with tenants in situ.

On the whole, whilst "formatting" was good, candidates struggled to produce both the cashflow forecast and the EOS to a high standard, failing to recognise the changing financial position as properties were sold or were empty, and how that might affect the final outcome. For instance, few candidates actively considered on-going taxation obligations, as well as the historic debt, and were unable to calculate potential Capital Gains Tax (CGT) arising on the sale of properties. Costs were often incorrectly applied and in the wrong period, and few candidates provided detailed workings or assumptions in support.

- b) **Prepare an email to Mr Morris giving your observations on the cashflow and outlining a proposal which could be made to HMRC. (7 marks)**

The result of the poorly answered cashflow was that the memo to the colleague was also poorly answered and candidates produced a very wide range of (largely incorrect) answers. Many answers also focussed heavily on discussing formal insolvency procedures such as an IVA or bankruptcy and thus failed to grasp the point of the question. Many "memos" also appeared in a "bullet point" format, rather than a clearly set out memorandum.

- c) **Prepare an estimated outcome statement which assumes that Mr Smiles is made bankrupt. Compare the estimated returns to creditors if the Trustee immediately markets the properties for sale or if time is allowed following the Trustee's appointment to secure vacant possession of the properties. Clearly state any assumptions that you make and comment on the factors which should be considered when determining the sales strategy for the properties. (20 marks)**

The EOS saw a wide range of answers in terms of quality and understanding. Unfortunately, many candidates failed to grasp that the managed sale of the portfolio produced a significantly better outcome to creditors than an immediate sale and could not be awarded marks as a result. Further, some candidates failed to appreciate that in the context of an individual, corporation tax is not payable and that an individual cannot grant a floating charge. Where a candidate displays a lack of understanding of personal insolvency through making such references, they should expect to receive a lower holistic mark.

In addition, candidates provided limited workings and assumptions to allow the marker to consider whether any point made outside of the model answer was markworthy. If the requirements of the question make it clear that assumptions are to be stated, marks will be lost if the assumptions that have been made when preparing the cashflow forecast/ outcome statement are not provided.

Overall, candidates appeared to struggle with this question and obtain good marks.

**Personal Insolvency England Exam
November 2025
Mark Plan**

Question 1

- (a) **For the two proofs of debt relating to the bank guarantee and the landlord, set out the steps that you would take in order to be in a position to adjudicate on these proofs. In each case explain what further information or documentation you would require in order to complete your adjudication.**

(6 marks)

The personal guarantee (PG).

A copy of the PG should be requested. The PG should be reviewed to check:

- i) That it was properly executed, dated and delivered;
- ii) Whether Mr Durres is solely liable for the guaranteed debt or if the PG was given jointly with one or more others. If the PG was given jointly, enquiries should be made to establish whether any of the other guarantors have made payment of some or all of the debt such that the amount claimed should be reduced.
- iii) Check that demand has been made in accordance with the terms of the PG.
- iv) Check that the amount claimed is below any limit specified in the PG.

If there is any uncertainty regarding the validity or enforceability of the PG, legal advice should be sought.

The PG was given on 2 May 2022. As the bankruptcy order was made on 8 May 2025, the PG was granted within 5 years of the presentation of the bankruptcy petition.

It would need to be established:

- i) Whether the bankrupt received any benefit from the grant of the PG i.e. were further funds advanced to the company and did he benefit from those funds e.g. did the loan enable continued trading allowing him to draw an income?
- ii) Whether the PG was given at a relevant time. Whilst it was given within 5 years of the petition being presented, it is only a relevant time if Mr Durres was insolvent at the time, or became insolvent in consequence of the granting of the PG.

The fact that Mr Durres has not paid the order made in matrimonial proceedings in 2018 could be indicative of insolvency. However, an analysis of his assets and liabilities would need to be undertaken to establish whether he was insolvent when the PG was granted.

Enquiries should also be made of the liquidator to establish whether there has been, or is likely to be a dividend paid in the liquidation and to advise them of the bankruptcy order made against the director. Check Companies House to see whether the loan to the limited company was secured by way of fixed/ floating charge or was unsecured. If a dividend has been paid, the creditor cannot prove for the full £50,000 in the bankruptcy.

Check whether the liquidator has identified any actual or potential causes of action against the director – overdrawn loan account, misfeasance etc. If they have, check whether they will be filing a proof of debt. If they intend filing a proof of debt, this could impact whether or not Mr Durres can seek an annulment (*credit to be given if this point is made in (a) or in (c)/(d)*)

Landlord

A copy of the lease should be obtained in order to verify the rent payable. Check whether a rent deposit was provided and if it was, whether it has been taken into account when calculating the claim in the bankruptcy. A statement of account should be obtained to confirm the arrears position. Assuming that the rent payable was £1,500 a quarter, the amount claimed in respect of arrears should be admitted.

£24,000 is claimed in respect of future rent. This equates to 4 years of rent. Disclaimer determines, from the date of disclaimer, the rights, interest and liabilities of the company in respect of the disclaimed

property, i.e. the lease. S178(6) IA86 permits a person who has sustained loss or damage in consequence of the disclaimer to prove for the loss or damage in the liquidation.

As the lease has been disclaimed, the landlord cannot prove for future rent but is entitled to statutory compensation to be calculated on the same basis as if he was claiming for breach of contract i.e. loss of rent for remainder of the term less market rent. An allowance/ discount is to be applied to take account of any accelerated receipt (Rule 14.44 IR2016)..

Given that the lease was disclaimed almost 6 months ago, enquiries should be made to establish whether the premises have been re-let and if so, on what terms.

The lease should be reviewed to check that the landlord is entitled to claim for dilapidations. A schedule of dilapidations and accompanying photographs evidencing the work required should be requested to check that the work was required to be undertaken and the amounts claimed are reasonable.

- (b) Explain, giving reasons, whether or not you would admit the proofs of debt received from the spread betting company, Mr Durres's former wife and the Council.**

(5 marks)

Spread-betting contract

Spread-betting contracts are not covered by the Gambling Act 2005. They are a regulated activity for which the FCA has oversight.

Any debt due under a spread betting contract entered into by the bankrupt is a provable debt.

Based on the contract and trade statement, the claim should be admitted.

Matrimonial debt

An obligation to make a lump sum payment in matrimonial proceedings is a provable debt (Rule 14.2(2)(c)(ii). It is not released on discharge and Mr Durres will remain under an obligation to pay if not discharged through the bankruptcy.

The order was made more than 6 years ago. A copy of the order should be requested to establish when the sum of £30,000 became payable (i.e. was it payable immediately or was payment postponed to a future date). If it was immediately payable, you will need to establish, through taking legal advice, whether limitation could mean that the debt is no longer provable. Enquiries should also be made of the bankrupt to establish whether any payments have been made pursuant to the order.

Council Tax

Mr Durres is the owner and occupant of the property. If Mr Durres occupies the property with a spouse/ civil partner, they are also jointly and severally liable. Check BPIQ to establish whether Mr Durres is married / has a civil partner who is also liable and/ or has discharged the debt.

All outstanding liabilities (all arrears and future instalment payments) for council tax for the year in which the insolvency commences are provable debts unless the debtor moves during that year. Here the Council can prove for the arrears and for Council tax falling due until the end of the council tax year i.e. to April 2026.

- (c) Giving your reasons, explain whether the sum of £200,000 is likely to be sufficient to enable Mr Durres to seek an annulment of the bankruptcy order pursuant to section 282(1)(b) of the Act. Clearly state any assumptions that you make.

(6 marks)

Calculation of amount required to annul bankruptcy order

Official Receiver's administration fee	£3,300
Official Receiver's general fee	£7,200
Petitioning creditor costs	£7,200 (£6,000 plus vat)
Trustee's fees	£12,000 (£10,000 plus vat) (current)
Trustee's estimated fees to closure	£6,000 (£5,000 plus vat)
Trustee's disbursements	£500 (incurred)
Estimated future disbursements	£3,600 (£3,000 plus vat)
Creditor claims	£151,000
Statutory interest*	£8,141.58
Total	£198,941.58
Less petition deposit of £1,500	£197,441.58

Therefore, £200,000 should, based on the assumptions set out below, be sufficient to enable all of the liabilities, costs and expenses of the bankruptcy estate to be discharged in full.

Assumptions

No realisations to date. Only receipt is the Official Receiver's deposit paid by the creditor on presentation of the petition of £1,500.

Mr Durres is not VAT registered and VAT cannot be recovered.

Credit will be given for a reasonable estimate of petition costs. Given that disbursements (service of statutory demand, court fee, Official Receiver's deposit, service of petition and cost of arranging attendance at the hearing) will be at least £2,100, petition costs are likely to be a minimum of £3,200 (inclusive of VAT). *Credit will not be given to candidates who state that petition costs are less than this.*

Trustee's fees. The Trustee has been in office for 6 months. The circumstances of the case do not suggest that a significant amount of work has been undertaken other than disclaiming the lease. The estimate assumes that a resolution has been passed by the creditors which entitles the Trustee to charge on a time cost basis.

Estimated future costs. The Trustee will be required to prepare and file a report pursuant to Rule 10.133 and is required to attend the hearing (whether in person or via a solicitor/ Counsel). The Trustee may also need to make payment to the creditors, discharge petition costs, prepare a final account pursuant to Rule 10.141, and close the ISA account.

Trustee's disbursements. The Trustee will have incurred the cost of bonding, insurance, and statutory advertising.

The costs of solicitors to attend the annulment hearing (if not attending in person) will be incurred. Estimated at £3,000 plus vat. This estimate assumes that annulment is granted at the first hearing and the costs of attendance at a second hearing are not incurred.

None of the creditors are entitled to charge interest.

Statutory interest – is payable on creditor claims at the rate specified in section 328(5) IA86 (currently 8%) from the date of the bankruptcy order until the date of payment. Here, assuming that annulment is sought,

it is likely to be January 2026 before the hearing of the annulment application could take place. 12 May 2025 to 12 January 2026 is a period of 246 days at £33.09 a day. Total payable in respect of statutory interest if paid in full is therefore likely to be in the region of £8,141.58.

Pursuant to Rule 10.138 in determining whether to annul a bankruptcy order under section 282(1)(b) the court may, if it thinks just, and without prejudice to the generality of its discretion under s282(1) take into account whether any sums have been paid / secured in respect of post commencement interest on the bankruptcy debts which have been proved. The use of third-party funds cannot be used to avoid payment of statutory interest. In practice, on annulment creditors would be contacted and asked to confirm in writing whether they are prepared to waive their entitlement to statutory interest. *Credit will be given if a candidate identifies i) that statutory interest is payable ii) the rate that is payable and iii) indicates whether an assumption has been made about whether it is payable.*

(d) Assuming that, with his mother's financial assistance, Mr Durres decides to seek the annulment of the bankruptcy order, what steps should you take as Trustee?

(3 marks)

What steps should be taken upon a Trustee being notified that a debtor intends proceeding with annulment under s282(1)(b)

A Trustee needs to be satisfied that there are sufficient funds available to discharge the bankruptcy costs and expenses in full. An estimated payment in full calculation should be prepared and shared with the bankrupt/ third party as they may not have taken into account all of the costs and expenses that have to be met in addition to creditor claims.

Where creditors are known to the Trustee (for example disclosed in the BPIQ) who have not yet proved, letters should be sent to the creditors asking them to submit a proof of debt.

If the Trustee is advised that creditors have been discharged by a third party on behalf of the bankrupt, written confirmation will be required from the creditor that they have been paid in full and that their proof of debt in the bankruptcy is withdrawn. The letter should also address the issue of statutory interest and whether the creditor requires it to be paid.

Check that the basis of the Trustee's remuneration has been fixed by the creditors. If not and following a request, the creditors have failed to fix the basis of the remuneration, the Trustee would only be entitled to the realisation / distribution scale which would not be appropriate if creditor claims are discharged by third parties and not through the bankruptcy.

Mrs Durres' mother should be advised to seek her own independent legal advice prior to advancing the funds.

AML checks will need to be carried out to verify the source of any funds advanced by Mrs Durres.

Once the application has been issued, the Trustee is required to prepare and file with the court a report which summarises the bankrupt's asset and liability position, details of all known creditors, details of the trustee's remuneration, what arrangements have been made for paying off/ securing the bankruptcy debts, whether the trustee supports or opposes the application together with any other information considered necessary. A copy of the report must be sent to the bankrupt.

The Trustee must either attend or be represented at the annulment hearing.

Question 2

- (a) Identify the particular risk factors faced by an Authorised Insolvency Practitioner who is an office holder on a high number of IVA cases. Explain how each of the risk factors might be mitigated.

(14 marks)

As Skopje & Co has over 5,000 cases in which one or more person has acted as a Supervisor in the last 12 months, it is classed as a Volume Provider (the definition having been agreed and adopted by the RPBs). Even if case numbers drop below 5,000, it will remain classed as a Volume Provider for the next 12 months.

Insolvency Practitioners are required to have regard to risk factors in order to address existing and emerging threats to the effective control of cases. IPs should ensure that they are involved in all high-level decision-making processes which may impact their role and responsibilities and not be unduly influenced by any non-IP business owners.

Having a large portfolio of cases can bring additional risks. In a Volume Provider the risk factors to which an IP should have particular regard are set out in the Insolvency Guidance Paper on the Control of Cases. The guidance paper sets out the following risk factors:

Volume. Each IP is dealing with a much higher number of appointments than in a traditional practice. However, the IP remains responsible for all advice, proposals and IVAs to which they are appointed and has an obligation to ensure that their cases are properly controlled.

Staff - Training. Risks include a higher percentage of staff who are lacking sufficient experience and/ or qualifications. High volume providers can experience a high turnover of staff which can affect the retention of skills within the practice.

Mitigation. Recruit suitably experienced or qualified staff. Ensure that a suitable training programme is in place and regularly assess that training programme to ensure that it keeps up with market developments, guidance etc. Ensure that all training is logged to ensure staff are attending. Create training manuals for staff to refer to. When a member of staff leaves, ensure that there is an effective handover of cases to another suitably experienced/ qualified member of staff.

Provide re-training where gaps in staff knowledge or skills are identified.

Staff – Supervision. With a volume provider there is likely to be increased delegation of work to staff at all stages of a case meaning that the IP may have only limited involvement with the individual and the case. Given the number of employees there is a risk that staff are not adequately supervised.

Mitigation – Ensure that adequate supervision and monitoring processes are in place for all staff, including staff working remotely. Monitor capacity to ensure that cases are distributed fairly and managed by those with sufficient capacity to do so. Look to recruit additional staff if numbers are not sufficient to manage the volume of cases.

Carry out regular case reviews with staff.

Review calls to ensure that staff are adhering to scripts and decision trees. Ensure that scripts and decision trees are routinely reviewed to ensure that they reflect current practice and standards.

Staff – Remuneration. Performance incentives can be offered to staff in addition to their base salary.

Mitigation – ensure that any performance incentives (such as commission or bonuses) do not negatively affect outcomes i.e. do not reward quantity rather than quality of outcomes.

Procedures / Systems – the volume of cases means that there is increased reliance on systems and procedures.

Mitigation – ensure that the systems are fit for purpose, comply with insolvency law and relevant standards and that there is not an overreliance on automated processes and/ or AI. Given the volume of cases, procedures should be put in place for the recording and retention of advice provided to debtors by staff and work referrers including all oral communications, web chat transcripts and digital communications. Ensure that any standard letters are regularly reviewed to ensure that they are still fit for purpose.

Complaints Handling – the volume of cases means that the IP may only have limited control over the quality and timeliness of outputs and will be reliant upon unqualified staff.

Mitigation – implement a robust system of monitoring response times and reviewing the quality, relevance and timeliness of written and oral communications. Have a system in place to review the areas that are most complained about and ensure that any recurring issues are addressed through additional training, feedback to staff members etc. Ensure that all complaints are properly logged with outcomes i.e. how many complaints were satisfactorily resolved at an early stage.

Case Handling and Quality Assurance – the IP may have limited control over auditing and quality assurance processes.

Mitigation – consider having an internal compliance team which can carry out a regular review and audit of processes, procedures and systems to ensure that they are being followed and remain fit for purpose, to identify any areas for improvement and that they are carried out by adequately qualified assurance officers (internal or external). If any systemic issues are identified, corrective action should be taken across the portfolio. Regular external compliance reviews could also be instructed and carried out.

Consider having a designated closings team to ensure that cases are closed as soon as it is appropriate to do so, allowing other staff members to focus on the progression of live cases.

(b) Explain the issues which an Authorised Insolvency Practitioner should consider prior to his firm instigating an advertising and marketing campaign.

(6 marks)

Advertising and marketing by an Insolvency Practitioner or third party on their behalf

The Insolvency Code of Ethics provides that Insolvency Practitioners are responsible for the quality, accuracy and legality of their own advertising as well as those of any third parties referring work to them.

When an insolvency practitioner seeks an insolvency appointment or work that might lead to an insolvency appointment through advertising or other forms of marketing or promotional activity, there might be threats to compliance with the fundamental principles, including integrity and professional behaviour.

When undertaking marketing or promotional activities, an insolvency practitioner shall not bring the profession into disrepute. An insolvency practitioner shall be honest and truthful and shall not make: a) exaggerated claims for the services offered by, or the qualifications or experience of, the insolvency practitioner; or b) disparaging references or unsubstantiated comparisons to the work of others

If reference is made in advertisements or other forms of marketing to fees or to the cost of the services to be provided, the insolvency practitioner needs to be satisfied that the basis of calculation and the range of services that the reference is intended to cover has been provided. The insolvency practitioner needs to take care to ensure that such references are clear as to the precise range of services and the time commitment that the reference is intended to cover.

If an insolvency practitioner is in doubt about whether a form of advertising or marketing is appropriate, the insolvency practitioner is encouraged to consult with their authorising body.

Where an insolvency practitioner or the firm obtains work via a third party or a third party conducts marketing activities on behalf of the insolvency practitioner or the firm, the insolvency practitioner shall be responsible for ensuring that the third party follows the requirements set out above. In particular, insolvency practitioners should be aware of the FCA ban on the payment of referral fees to debt packager firms. It is not permissible to make payment to an organisation which exists solely to 'package' cases and refer them to an IP for a solution.

When obtaining work via a third party or using a third party to conduct marketing activities insolvency practitioners have a responsibility to ascertain that a referrer has conducted themselves in accordance with the Code because insolvency practitioners cannot do, or be seen to do, through others what they cannot do themselves.

Insolvency practitioners shall never promote or seek to promote their services, or the services of other insolvency practitioners, in such a way, or to such an extent, as to amount to harassment.

Insolvency practitioners need to ensure that any campaign does not breach Advertising Standards Authority's Advertising Codes through being misleading,

Insolvency practitioners cannot give a financial payment to any third parties for the referral of cases. An insolvency practitioner faces being sanctioned if they do provide a financial payment to third party referrers.

Regard should also be had to the practical implications of running a marketing campaign. For example, are there sufficient staff with the necessary skills available to deal with increased inbound enquiries.

Total: (20 marks)

Question 3

- (a) **Set out your proposed course of action in relation to Mr Berat's suggestions and the motor vehicle.**

(9 marks)

Mr Tirana

Whilst the Consultative Committee of Accountancy Bodies (CCAB) guidance provides that where an IP is appointed by court order, by a decision or deemed consent procedure or meeting convened by the Official Receiver or directly by the Secretary of State, without any prior involvement with the insolvent, some reliance can be placed on the order of appointment or the initial bankruptcy order to evidence the identity of the insolvent as part of the risk based Customer Due Diligence procedures, a check should be carried out to ensure that all necessary KYC checks have been carried out in respect of Mr Tirana . Were any risks of money laundering flagged when the checks were carried out?

Given that Mr Tirana does not have an obvious source of funds available to him to have purchased the Lotus, enquiries should be made to establish the source of the funds used to make payment. Bank statements could be reviewed and enquiries made of the Lotus dealership.

Enquiries should be made to establish Mr Berat's relationship with Mr Tirana and why he intends purchasing the Lotus.

The Lotus – practical steps

Check with National Crime Agency/ local police force whether the vehicle is already the subject of a POCA restraint or confiscation order. If it is, the Trustee cannot deal with Lotus without the consent of the NCA/ Police/ Court.

Finance checks should be undertaken to establish whether there is any outstanding finance. If there is, obtain a copy of the finance agreement.

Check on gov.uk website whether the car is taxed and has a current MOT.

A specialist agent should be instructed to inspect the vehicle, with a formal valuation obtained to establish current market value and saleability.

The value of the vehicle means that it would not be classed as exempt under s283(1) if required by Mr Tirana for use in his employment, business or vocation. If Mr Tirana does require a vehicle, generally the Trustee would have to account to the bankrupt with a sufficient sum to enable him to purchase a replacement vehicle. If the vehicle was being returned to the bankrupt following funds being advanced by a third party, this would not be necessary.

The vehicle has vested in the Trustee. If a sale of the Lotus is effected, it would be by the Trustee personally (rather than as agent in a corporate insolvency). KYC checks would have to be carried out on Mr Berat if the sale was to proceed. If the funds were to come from a bank account in his wife's name, KYC checks would also have to be carried out on his wife. The Trustee is also required to assess the risk of Money Laundering.

Where an agent is used to sell an asset, the agent might be regulated. If they are, reliance can be placed upon the KYC checks that they carry out subject to being satisfied that adequate checks have been carried out. If the agent does carry out KYC checks on your behalf, the agreement that they will do so should be recorded in writing. The Trustee should also carry out a documented assessment of the money laundering, terrorist and proliferation financing risk.

Mr Berat

Enquiries should be made to establish whether Mr Berat is the same individual who was convicted in relation to the supply of drugs in 2020.

If he is, there is the risk that the funds he proposes paying represent the proceeds of crime and/ or that Mr Berat is attempting to launder the proceeds of crime.

The Money Laundering, Terrorist Financing & Transfer of Funds (Information on the Payer) Regulations 2017 apply to persons acting in the course of business. This includes acting as an Insolvency Practitioner (s388 IA86)

Notify the firm's MLRO of the offer that has been made and the proposed source of funds. The MLRO can request a defence against money laundering SAR (DAML SAR). A DAMAL SAR can be made to the NCA for consent to proceed with a transaction. The transaction can only proceed if the NCA's consent is received or there has been no response to the DAML SAR within seven working days of receipt by the NCA of the request.

If consent is withheld, you may be prevented from proceeding with the transaction for a period of 31 calendar days. Steps would have to be taken to ensure that Mr Berat is not tipped off during this period of the fact that notification has been made to the NCA.

Mr Berat proposes to make payment from an account held by his wife in Monaco. Monaco is a High-Risk Third Country. Enhanced due diligence to include understanding Mr Berat's wife's source of wealth would be required before payment could be accepted.

Payment in cash cannot be accepted.

(b) Set out the actions that should be taken by you in relation to the property.

(8 marks)

The Property

As the property is occupied by the bankrupt's ex-wife and was occupied by her on the date of the making of the bankruptcy order, section 283A IA86 applies. Unless the Trustee takes action to realise his interest, the property will re-vest in the bankrupt at the end of the period of three years beginning with the date on which the bankruptcy order was made or, if the bankrupt does not notify the Trustee/ Official Receiver of his interest in the property before the end of the period of 3 months beginning with the date of the bankruptcy order, the date on which the Trustee becomes aware of the bankrupt's interest in the property.

Check whether a notice pursuant to s283A was given to the bankrupt and the bankrupt's former spouse that the property falls within s283A. If not, notice should be given as soon as possible. Rule 10.167 IR2016 requires notice to be given no later than 14 days prior to the third anniversary of the making of the bankruptcy order.

Whilst an order was made in matrimonial proceedings pursuant to which the property was to be transferred into the sole name of the bankrupt's ex-wife, the order was made following the presentation of the bankruptcy petition.

Section 284 IA86 states that where a person is made bankrupt, any disposition of property made by them in the period to which the section applies is void except to the extent it is or was made with the consent of the court or was subsequently ratified by the court.

The fact that an Order was made in the matrimonial proceedings does not mean that the disposition was made with the consent of the court. This is a matter for the bankruptcy court rather than the matrimonial courts.

A transfer of an interest in a property pursuant to a matrimonial order constitutes a disposition for the purposes of s284 IA86. (*Treharne and Sands v Forrester*)

In the circumstances the bankrupt retains an interest in the property which you will be required to deal with prior to the third anniversary of the making of the bankruptcy order.

Steps will need to be taken to establish the value of the estate's interest in the property.

A letter should be sent to the bankrupt's ex-wife to notify her of your appointment, to explain that the property adjustment order is void and that the bankrupt's interest in the property is vested in you as his Trustee and to request that access to the property be afforded for the purposes of an internal valuation being carried out.

If you do not receive a response or access is refused, a drive by valuation should be instructed.

Obtain up to date official copies of the register of title for the property. Ensure that a restriction is registered giving notice of your appointment even if the OR has already registered a restriction.

Obtain any other documentation relevant to the ownership of the property to include TR1 in relation to the purchase and any charges registered against the title.

If there is a charge registered against the title, contact the mortgage company and request details of the amount required to redeem the mortgage, including any redemption penalties. The mortgage company should also be asked to confirm whether there are any arrears and/ or if they have taken or intend taking any action to enforce their security.

The ex-wife should also be asked to confirm who has been responsible for meeting all of the outgoings on the property since its purchase and whether any significant work has been undertaken since the divorce was finalised. Consider whether in the circumstances she could have a claim for equitable accounting or if an equity of exoneration could apply.

Once the level of equity has been established, a letter should be sent to the ex-wife to explain that the matrimonial order is void and to establish whether she is in a position to make an offer to purchase your interest in the property.

Whilst you would ordinarily seek to engage with the co-owner regarding a consensual sale or the purchase of your beneficial interest, it is highly unlikely that you will be able to realise your interest in the time that is available. Action will need to take action to prevent the re-vesting. To prevent the re-vesting a Trustee can:

- i) Issue an application for possession and sale of the property;
- ii) Apply for an order pursuant to s313 IA86;
- iii) Agree with the bankrupt that the bankrupt shall incur a specified liability to the estate; or
- iv) Apply to Court to extend the 3-year time period for realising your interest.

Option ii) would generally only be pursued if there was some reason why the bankruptcy estate's interest in the property could not be realised at this time. Enquiries should be made of the ex-wife to establish whether there are any exceptional circumstances that would preclude an order for possession and sale being made and also whether there are any other parties in occupation of the property.

Solicitors should be instructed to review all available information/ documentation in relation to the property and to advise on the most appropriate course of action in the circumstances. Generally, this would be issuing an application for possession and sale. In the circumstances it is likely that such an application would also seek a declaration that the property adjustment order is void pursuant to section 284 IA86.

Following issue, if constructive discussions take place with the ex-wife regarding the purchase of the Trustee's interest/ a voluntary sale take place, the proceedings can always be stayed or a lengthy adjournment agreed to enable a proposed purchase to be progressed.

(c) Set out the action that should be taken by you following receipt of Miss Elbasan's complaint.

(3 marks)

Dealing with the bankrupt's complaint

Given that the complaint relates to the deduction of funds pursuant to the terms of a court order, it does not appear that the bankrupt has any legitimate grounds for complaint regarding the deduction from income made by her employer. However, the complaint should still be addressed and dealt with in accordance with the firm's complaints handling process.

Details of the bankrupt's complaint should be passed to the Trustee in Bankruptcy as soon as possible.

The firm's complaints handling process should be complied with. This is likely to include acknowledging receipt of the complaint by letter or email and confirming the timescale within which a formal response will be provided. Reference should also be made to the Insolvency Guidance Paper: Dealing with Complaints.

Review your records in relation to the obtaining of the IPO to check whether the bankrupt engaged in the proceedings and/ or acknowledged receipt of the application and the order made at the hearing. If solicitors were instructed in relation to the application, consult with them regarding any contact from the bankrupt. If the bankrupt played no part in the proceedings, consider whether she may not be aware of the fact that the application had been made.

If it is ultimately determined that the bankrupt's complaint is unjustified, a letter should be prepared which explains a clear explanation of why i.e. that the deduction was made pursuant to an order of the court obtained following an application being made. The bankrupt should be advised to seek her own legal advice regarding the JPA and her ability to seek to vary or amend its terms.

The bankrupt could be offered a face to face or teams meeting to discuss matters further if the bankrupt continues to feel aggrieved following the initial letter being sent.

Question 4

- (a) Prepare a monthly cash flow for the 12 month period ending 31 October 2026 demonstrating the surplus funds available to facilitate a repayment to HMRC. Show your workings and clearly state any assumptions that you make.

(13 marks)

Q4 (a)														
Cashflow	Note	Nov-25	Dec-25	Jan-26	Feb-26	Mar-26	Apr-26	May-26	Jun-26	Jul-26	Aug-26	Sep-26	Oct-26	Total
		£	£	£	£	£	£	£	£	£	£	£	£	£
Income														
Rental Income														
6 Wells Crescent				1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	
27 Wells Crescent		1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	
52 Wells Crescent		1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	
1 Fountain Place		1,400	1,400	1,400	1,400	1,400								
14 Fountain Place		1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	1,300	
5 Spring Road		1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	
Total		7,150	7,150	8,250	8,250	8,250	6,850	6,850	6,850	6,850	6,850	6,850	6,850	87,000
Net proceeds of sale	1									60,840				60,840
Total Income		7,150	7,150	8,250	8,250	8,250	6,850	6,850	6,850	67,690	6,850	6,850	6,850	147,840
Expenditure														
Interest payments														
6 Wells crescent		396	396	396	396	396	396	396	396	396	396	396	396	4,750
27 Wells Crescent		525	525	525	525	525	525	525	525	525	525	525	525	6,300
52 Wells Crescent		825	825	825	825	825	825	825	825	825	825	825	825	9,900
1 Fountain Place		674	674	674	674	674	674	674	674	674				6,064
14 Fountain Place		625	625	625	625	625	625	625	625	625	625	625	625	7,505
5 Spring Road		825	825	825	825	825	825	825	825	825	825	825	825	9,900
		3,870	3,870	3,870	3,870	3,870	3,870	3,870	3,870	3,870	3,196	3,196	3,196	44,419
Property service Charges			1,500			1,500			1,500			1,333		5,833
Maintenance		250	250	250	250	250	250	250	250	250	208	208	208	2,875
Insurance		500	500	500	500	500	500	500	500	500	417	417	417	5,750
Income Tax	3													-
Renovation 1 Fountain Place						*	*		4,000					4,000
Capital Gains Tax on sale of 1 Fountain Place	2											18,682		18,682
Total Expenditure		4,620	6,120	4,620	4,620	6,120	4,620	4,620	10,120	4,620	3,821	23,836	3,821	81,559
Net cash inflow/(outflow)		2,530	1,030	3,630	3,630	2,130	2,230	2,230	- 3,270	63,070	3,029	- 16,986	3,029	66,281
Opening Balance		10,200	12,730	13,760	17,390	21,020	23,150	25,380	27,610	24,340	87,410	90,439	73,453	
Net cash inflow/(outflow)		2,530	1,030	3,630	3,630	2,130	2,230	2,230	- 3,270	63,070	3,029	- 16,986	3,029	66,281
Closing Balance		12,730	13,760	17,390	21,020	23,150	25,380	27,610	24,340	87,410	90,439	73,453	76,481	

Note 1 - Proceeds from sale of 1 Fountain Place

Valuation achieved	220,000	
Mortgage	154,000	
Estate Agency - 1.5%	3,960	Estimated - assumed VAT not recoverable
Legal Fees	1,200	Estimated - assumed VAT not recoverable
Net Proceeds	60,840	

Note 2 - Capital Gain on Sale of 1 Fountain Place

Valuation achieved	220,000	
Purchase price	120,000	
Costs of sale (above)	5,160	
Costs of Purchase (SDLT)	10,000	Estimate - any reasonable figure acceptable
Improvements	4,000	Assume that nature of work to be done pre sale is improvement and not wear and tear
Gain	80,840	

Annual Exemption	3,000
CGT payable at 24%	18,682
Capital Gains Tax should be reported and paid on the sale of most UK property within 60 days	

Note 3 - Income Tax on rental income in y/e 5 April 2025 would be due in January 2026. This liability has been included in Raymond's calculation of the debt due. A tax liability continues to accrue for the period since 6 April 2025 including the period of the cash flow. This is based on rental income less allowable expenses offset by a tax credit of 20% of interest payments

Assumptions

Deposits will be received from the new tenants at 6 Wells Crescent and will be due to be refunded to the tenant at 1 Fountain Place. However, it is assumed that the deposits are with a 3rd party and returned directly to the tenants/placed immediately on deposit therefore not impacting cash flow

The tenants are due to vacate 1 Fountain Place on 31 March 2026. Credit will be given where the renovation costs are included during April, May or June 2026 (i.e. before expected sale in July 2026)

(b) Prepare an email to Mr Morris giving your observations on the cashflow and outlining a proposal which could be made to HMRC.

(7 marks)

The cashflow suggests that the portfolio will generate £66,000 in the year ending 31 October 2026 towards the debt at 5 April 2025 of £80,000. Consideration will need to be given to how the remaining balance due to HMRC of circa £14,000 can be discharged and over what time period.

Of the £66,000, circa £38,000 is generated by the sale of the property at 1 Fountain Place and the balance generated through trading. It assumes that the CGT liability in relation to the property sale is met within 60 days of the sale.

This does not include any provision for income tax on the ongoing profits from the period since the returns were made up at 5 April 2025. As a condition of agreeing time to pay, HMRC will require ongoing liabilities to be met and tax returns to be submitted. Therefore, ongoing tax liabilities should be factored in before deciding on the amount of any payment proposal for historical debt to be made.

In addition to the cash surplus generated of £66,000, Mr Smiles should consider how much of the £10,000 funds in hand could be added to the proposal to get closer to paying the full debt in one year. However, he should think about what contingency he may need for repairs, void periods, unpaid rent, unexpected expenditure and other matters where you have statutory obligations such as boiler repair and certification.

There is also no contingency in the plan for any payment which Mr Smiles would have to make for the stabilising work under Spring Road. The possible timescales and funding for this should be considered in any proposal made.

The proposal made would be more attractive if regular payments were proposed and then maintained in line with the proposal rather than the payment all being made at the end of the year. HMRC are more likely to look favourably upon the proposal if he submits future tax returns, maintains ongoing liabilities and makes future payments on time. Providing HMRC with a copy of the valuation of Fountain Place together with evidence (in due course) that the property is being actively marketed for sale could give comfort that the realisation of Fountain Place is being actively pursued.

Mr Smiles could consider whether the proposal could be accelerated by marketing 6 Wells Crescent, which is currently empty, for sale. This property would release a similar level of equity to 1 Fountain Place and has a lower monthly rental income. However, the same lender has security against all 3 properties in Wells Crescent and whether any funds could be released for unsecured creditors will depend on whether there is an all sums security/ consolidation clause in place.

If he has not already done so, Mr Smiles could consider applying for a moratorium to allow him time to reach an agreement with HMRC/execute this strategy before any enforcement action can be taken.

(c) Prepare an estimated outcome statement which assumes that Mr Smiles is made bankrupt. Compare the estimated returns to creditors if the Trustee immediately markets the properties for sale or if time is allowed following the Trustee's appointment to secure vacant possession of the properties. Clearly state any assumptions that you make and comment on the factors which should be considered when determining the sales strategy for the properties. (20 marks)

Part © Estimated Outcome Statement Bankruptcy of Mr Smiles					Note
Comparison of Immediate sale to securing vacant possession of properties					
	Immediate sale		Managed Sale		
	£	£	£	£	
Realisations from Properties		163,499		268,925	1
Trading in realisation period		0		11,717	2
Cash at Bank		10,200		10,200	3
Official Receiver's deposit		1,500		1,500	
IPA/IPO		0		-	4
Total realisations		175,199		292,342	5
Costs of realisation					
Petition costs	3,000		3,000		
Trustee's Fees	48,000		60,000		6
Secretary of State / OR fees and disbursements	11,000		11,000		7
Legal Fees	6,000		12,000		8
Capital Gains Tax	20,134		46,396		9
Income tax	0		2,344		10
		88,134		121,008	
Funds available for unsecured creditors		87,065		171,334	
Unsecured creditors					
HMRC	80,469		80,469		11
3* credit cards	20,000		20,000		
Shortfall on 5 Spring Road	43,793		29,125		
		144,262		129,594	
(Shortfall to creditors)/Funds available for payment of statutory interest		-57,197		41,740	
Statutory Interest				10,343	12
Surplus to debtor				31,397	

Conclusion re position for HMRC

In a managed sales process in insolvency, HMRC would recover 100p plus statutory interest most likely at the end of the first year accounting period. Their current claim would have to be adjusted to include the additional tax liability for the partial year, however, on the basis of the information available this would also be covered by the assets available.

With an estimated £75,000 reduction in an immediate sale of all properties with tenants in situ HMRC are likely to receive around 60p in the £1 and there is likely to be no surplus to Mr Smiles.

Observations on outcome

Immediately marketing all properties for sale as a portfolio would reduce top line realisations by 10%. As shown below, the impact on the total sales price is £105k.

There is considerable equity in the properties, c£162k in an immediate sale. However, after the shortfall on 5 Spring Road and the other unsecured debt, and costs, it is not sufficient to pay HMRC in full and it would be a strategy that Mr Smiles should be keen to avoid.

As the best outcome is likely to be achieved by sales with vacant possession it is suggested that tenants are given notice and once vacant the properties are marketed. In a no fault eviction a minimum of 84 days notice (12 weeks) must be given.

Further advice should be taken from the surveyor regarding the impact on price of putting 6 properties on the same development on the market at around the same time. It may be better to stagger the notice periods given.

In the figures above, it is assumed that in a managed sale strategy, the sales can be timed to avoid the redemption penalties at 30 June 2026. The redemption figures are accordingly higher in a forced sale scenario.

There is now negative equity in Spring Road. While there is no benefit to the estate in selling it, there would be a benefit to Mr Smiles if the claim is crystallised during the Bankruptcy and he is not pursued for any shortfall.

While there is no benefit to a sale for unsecured creditors crystallising the loss on this property would increase unsecured claims, either reducing any surplus that would otherwise be available to Mr Smiles or diluting the unsecured dividend.

There are significant capital gains on the property portfolio of £282,425 if sold in a managed way. At 24% this is a liability of £68k.

The loss which could be realised on 5 Spring Road, could shelter some of this gain.

Mr Smiles may be less likely to co-operate in an immediate sale. An immediate sale could still take time and it would be necessary to appoint a Managing Agent to manage the properties in this period. Typically this would cost 10% of what is likely to be limited rental income. In addition the maintenance costs would be higher due to the savings currently being achieved by Mr Smiles carrying out this work himself.

Conversely if a managed sale strategy was adopted, it would be in Mr Smiles interests to work with the Trustee and continue to manage the properties and carry out repairs to keep the costs as low as possible.

Notes/assumptions												
(1) Return on sale of properties												
Immediate Sale						Managed Sale						
	Sales price	Redemption	Estate Agency	Legal costs	Return	Sales price	Redemption	Estate Agency	Legal costs			
6 Wells Crescent	149,400	104,000	2,241	1200	41,959	165,000	100,000	2,475	1800	60,725	Costs	
27 Wells Crescent	144,000	120,000	2,160	1200	20,640	160,000	120,000	2,400	1800	35,800		
52 Wells Crescent	225,000	180,000	3,375	1200	40,425	250,000	180,000	3,750	1800	64,450		
1 Fountain Place	198,000	154,000	2,970	1200	39,830	220,000	154,000	3,300	1800	60,900	100vs 90%	
14 Fountain Place	189,000	164,320	2,835	1200	20,645	210,000	158,000	3,150	1800	47,050	Early redemption	
					163,499					268,925	Showing gross return	
5 Spring Road	139,500	180,000	2,093	1200	-43,793	155,000	180,000	2,325	1800	-29,125	No return to estate	
	1,044,900	902,320				1,160,000	892,000					

(2) The cashflow showed that the property rentals generated £28,123 pa before tax. Assuming that Mr Smiles continues to manage and maintain these and on average they are occupied for a further 5 months to allow for notice periods and a staggered marketing this would generate £11,717. Assume nil recovery from trading on an immediate sale.

(3) Assume that the balance which Mr Smiles has in his current account would be frozen at appointment and transferred to the estate.

(4) Mr Smiles Income and expenditure would have to be assessed and an IPO/ IPA put in place in order that he could pay his surplus income to the bankruptcy estate for a period of 36 months. Assumed that coaching income covers his living costs and no IPA/IPO available

(5) It is assumed that Mr Smiles has no other assets but enquiries would have to be made, for example does he own a home or rent and does he have a motor vehicle

(6) The Trustee will have to deal with supervising the management of the tenancies, securing vacant possession and the management of at least 5 and possibly 6 property sales. It is assumed that the Trustee's fees are higher in a managed sale due to the increased time required for the process

(7) Official Receiver's fee is £3,300 and the general fee is £7,200. In addition there is the cost of open cover insurance, bonding

(8) Conveyancing costs are included in the estimate of recovery from property sales, however, costs will be incurred to serve notice on the tenants and secure vacant possession. It is assumed that these costs are less when selling immediately with tenants in situ.

(9) Capital gains tax

	Sales price	Base cost	Estate Agency	Legal Costs	Gain/(loss)	Sales price	Base cost	Estate Agency	Legal costs	Gain/(loss)
6 Wells Crescent	149,400	100,000	2,689	1200	45,511	165,000	100,000	2,970	1800	60,230
27 Wells Crescent	144,000	100,000	2,592	1200	40,208	160,000	100,000	2,880	1800	55,320
52 Wells Crescent	225,000	240,000	4,050	1200	-20,250	250,000	240,000	4,500	1800	3,700
1 Fountain Place	198,000	120,000	3,564	1200	73,236	220,000	120,000	3,960	1800	94,240
14 Fountain Place	189,000	140,000	3,402	1200	44,398	210,000	140,000	3,780	1800	64,420
					183,103					277,910
5 Spring Road	139,500	235,000	2,511	1,200	-99,211	155,000	235,000	2,790	1800	-84,590

Assume that Gains can be partially offset by the loss on Spring Road but that the Trustee is liable for CGT at 24%

(10) Provision for tax at the basic rate of 20% on the estimated profit in the trading period. No provision required for an immediate sale.

(11) HMRC debt to 5 April 2025 included. A return would need to be submitted for the final period of trading to appointment so that the final liability could be calculated

(12) Statutory interest payable at 8%. Assume that the unsecured creditors are paid in full at the end of year 1 so interest is payable for 365 days.

(13) VAT - it is assumed that the debtor's business as a landlord is exempt from VAT and therefore VAT cannot be recovered on expenses including estate agency, legal fees and Trustee's fees

Total: (40 marks)