

## OSCE Assessment - Sample Tutor's Feedback on Probate Mock Interview – Based on the SRA and Kaplan Marking Criteria

### Objective Structured Clinical Examination Outline Marking Criteria

A: Superior performance: well above the competency requirements of the assessment

B: Clearly satisfactory: clearly meets the competency requirements of the assessment

C: Marginal pass: on balance, just meets the competency requirements of the assessment

D: Marginal fail: on balance, just fails to meet the competency requirements of the assessment E:

Clearly unsatisfactory: clearly does not meet the competency requirements of the assessment F: Poor performance: well below the competency requirements of the assessment

G: Not applicable

### Interviewing

A B C D E F G

#### **Listening and questioning**

A- Comprehensive listening and questioning. Well done. You asked logical, pertinent questions. There are still things though that could be asked e.g. capacity intention etc. but you are not expected to remember everything!

#### **Language and explanation**

C The language and explanation you used was clear, however you advised the client, sometimes incorrectly. This could lead to you giving negligent advice. Remember, only answer direct client questions - **if appropriate**. Clearly neutral questions can be dealt with, if you are familiar with the answer (e.g. advice re IHT is not dependent on the will being valid). Also don't forget to keep a note of information you require from the client and use it in the 'wrap up' to the meeting along with your next steps.

#### **Professional manner**

B+ Very professional manner throughout, although please don't advise during the interview, unless it is appropriate. Remember the client is not legally qualified and is not assessing legal advice (see marking criteria.) Clearly, you do not want to mis-advise the client and face the possibility of being negligent. For example, you incorrectly advised the will was valid (although I accept you qualified that you needed to look into the matter further). Obviously, without the qualification your advice would have been negligent.

### **Client- focused**

A Your advice was client-focused, although some questions you asked e.g. about aunts, uncles and cousins for example were not needed as you already had detailed information regarding the family relationships in the case of intestacy.

### **Builds trust and confidence**

B+ Clearly you will not instill trust and confidence in the client if you inaccurately advise, or perhaps change your advice.

### **Attendance note**

A B C D E F G

### **Non-legal aspects**

#### **Obtained all relevant information**

A- you obtained most relevant information. However, you, do at times write down irrelevant information/detail. Try and be more discerning to avoid any client confusion.

I note you did not keep a record of how long you spent writing up your answer. In reality, I think it would be very unlikely to be able to write the amount of detail you provided in 25 minutes. I would expect the written advice part of the attendance note was likely completed in at least 1+ hour? Clearly, you will have to ensure that you can keep to the timings of the interview and attendance note(s) as you appear to have exceeded your time in both parts of the assessment. The assessors will not mark beyond the stated time limits for the assessment, so your great legal skills and knowledge will not be rewarded with the high grade you should be able to achieve, if you continue to run over.

#### **Identified appropriate next steps**

B You identified some of the solicitors/clients next steps and docs required in the interview, but not all. Your 'wrap up' of the meeting petered out and you could make so much more of this, to help cement trust and confidence you have instilled in the client.

#### **Advice is client-focused**

B Oral advice in the interview was not always accurate. This was remedied after my oral feedback and your attendance note.

### **Legal content**

#### **Legally correct**

B+ Advice was not always accurate, particularly in the interview. Also there was some confusion re advice on house as you say house goes into residue and then suggest that it is likely not to go to John. If it falls into residue, then Binnie Singh will inherit the house not her husband. I also found it difficult to follow the outcome of your advice re testamentary expenses, it seemed confused/conflicting. Your advice that specific gifts are adeemed if no longer in existence but the position with regards to the shares was not really explored during the interview. This problem was largely remedied in the attendance note.

**Legally comprehensive** A- As already discussed, your advice was comprehensive (but not always accurate). This improved when you noted down your answers in the attendance note.

**Professional conduct** B Remember you may be in breach of professional conduct if you do not accurately/negligently advise the client orally or in writing. Clearly, If you are not sure of the advice you are giving please clarify with the client (as you did) that you will investigate further (giving full details proposed investigations) and return to the client within a specified time (which you forgot). Always check the basis of your advice. If you incorrectly advise in the interview and realise it when writing the attendance note it is not too late to 'notify' the client of your error via the attendance note. This should avoid negligence being leveled against you. Also, only advise (particularly in the interview) if appropriate.

Overall, as discussed, a great 1<sup>st</sup> effort. Well done. Can I suggest you practise interviews with other friends/colleagues or students at QLTS School in the QLTS practice questions and mock exams. This will help you improve your performance for the upcoming assessments.