

Answering questions in contract law – 2 ways to structure your answer

As you will remember, the previous podcast introduced you to some generally recognised assessment criteria which are important when faced with the task of answering questions in contract law. These criteria are:

- use of relevant authority – case law and/or statute law
- clarity of expression
- clear structure/logical presentation
- accuracy
- identification of legal issues raised by the question;
- definition of relevant legal concepts / principles
- explanation of relevant legal concepts / principles
- application of relevant legal concepts / principles to the facts at hand

The previous podcast covered the first four of these assessment criteria which are of general importance. This podcast covers the last four points on the list (identification, definition, explanation and application of the relevant law) and, in particular, addresses the question of how you can make sure that your answer ‘covers’ these criteria.

In fact, there are two approaches both of which are intended to provide a helping hand when it comes to answering questions in contract law: the ‘IDEA approach’ and the ‘IRAC approach’. This podcast will first outline the ‘IDEA approach’ and then also briefly consider the ‘IRAC approach’. There is no advantage of one over the other: both are equally valid and good ways to structure your answer and both cover essentially the same things; they are only different ways of helping you to remember what is important when answering a question in contract law and to achieve a relevant and focussed answer.

First, the ‘IDEA approach’ – this stands for:

- **I – identify** the relevant legal issues raised by the facts of the questions
- **D – define** the legal rules which are relevant in relation to the legal issues raised by the facts at hand
- **E – explain** these relevant legal rules
- **A – apply** these legal rules to the facts of the question

In ‘contrast’, IRAC stands for

- **Issue:** identify the relevant legal issues raised by the facts of the questions
- **Rules:** set out and explain the relevant legal principles and rules as contained in case law and statutes
- **Application:** apply these legal rules to the facts of the question
- **Conclusion:** state the outcome of the application of the relevant legal rules in relation to the point you have discussed

The following outlines in more detail what this means in relation to either approach:

- **IDENTIFICATION of the relevant legal ISSUES (the ‘I’ in IDEA and the ‘I’ in IRAC)**

This is the first step in analysing a question is to identify the legal issues which are raised by the facts of the question. The identification of the relevant legal issues is an important part of your answer as it points you in the direction of those 'things' which your answer needs to address and thereby helps you to stick to the relevant points – remember that relevancy of what you are saying is an important assessment factor. For example, in a problem question, you will usually be asked to advise a named party. You should start by considering what the legal issue is upon which this party needs to be advised, i.e. what is his / her problem in terms of contract law? You should then proceed to consider what legal issues your answer ('your advice') depends upon, i.e. you need to ask yourself what the legal issues are which need to be addressed to resolve or, at least, address that problem.

The next step is then to

- **DEFINE /SET OUT the relevant legal RULES and to EXPLAIN them (the 'D' and 'E' in IDEA and the 'R' in IRAC)**

Once you have identified what the legal issues are which are raised by the question, you need to set out the relevant legal principles that will help you resolve those issues. In other words, you need to define and explain these rules as you can only properly apply these rules AFTER you have outlined and explained what they mean and what their respective requirements are. In other words, you must explain technical terms and concepts to demonstrate your knowledge. It is very important not to assume knowledge on the part of the examiner; remember it is your understanding that is being assessed not that of the examiner.

This brings us back to the issue of relevancy: in contract law, the legal rules which will help you to resolve the issues raised by a set question might come from case law as well as from statute. This means that, for you to define and explain the rules properly, you must have a clear idea of the relevant law. This also means that, under no circumstances, you should yield to the temptation of writing all you know about that area of law: whilst you should not assume knowledge on the part of the examiner, you should not fall victim of the 'everything but the kitchen sink' approach and write everything you know about a particular area of contract law. To hope that something you have written in relation to e.g. the issue of 'promissory estoppel' will fit is a vain hope as such an approach does not show your understanding. Instead, all it does is to demonstrate that you have not understood what is relevant; it is not your examiner's job to pick out what is relevant – it is for you to show to the examiner that you know what is relevant, only then will you be able to achieve a good mark. Relevancy in this context means relevant in relation to the issues raised by the scenario; therefore only consider those areas of law which relate to the issues you have identified as being relevant to the question at hand. So, for example, if a question raises the issue of damages, do not discuss the law relating to other remedies such as injunction or specific performance. Similarly, if the question raises a question which depends upon a provision from a statute (such as UCTA 1977), you will need to outline and explain this provision and, where necessary, you will have to interpret the relevant parts of that statutory provision by means of the process of statutory interpretation (which, in turn, will require you to identify the relevant rules for statutory interpretation and possibly also to define and to explain these rules).

This means for you that you should always clearly set out the relevant legal principle and you should also refer to the case from which it emanates or state the relevant statutory provision. Also, where this is necessary, you should explain any complications which are inherent in the legal principle you are discussing – in other words, you need to ask yourself if the principle applies in view of the facts at hand and / or if there are any exceptions to the rule which mean that it doesn't apply because of the facts as stated in the scenario.

Furthermore, some questions might invite you to discuss problematic/uncertain areas of law as the relevant legal principle might actually fall in an area where the law is unclear or where there are conflicting authorities or where the case law is inconsistent. In such a situation you are actively EXPECTED to discuss these problems/uncertainties and to indicate these in advising a client as to the law's application.– Remember: your client wants PROPER and COMPLETE advice, it does not help him if you only present him/her with the 'good bits', s/he needs to know about potential risks too! – A good answer will consider these difficulties, e.g. by saying "... if the first line of authority is followed then it would appear that there will be an enforceable contract on these facts, however, if the second line of authority is followed it appears unlikely that the court will find that an enforceable contract exists: it is therefore necessary to consider which line of authority is most likely to succeed on these facts ...".

The next step then is to

- **APPLY the law (which you have outlined and explained) to the facts of the question and draw your CONCLUSION (the 'A' in IDEA and the 'A' and 'C' in IRAC)**

The success of your applying the law to the facts of the question very much depends upon the precision and clarity you have exercised in relation to the first three steps (identification, definition and explanation) as outlined before: if you have not done this, then the process of applying the law to the facts will be more difficult or even impossible. Be clear and precise when setting out the relevant law, it will make the application so much more easier!

This means that you must demonstrate how the law (as you have outlined and explained it) applies to the facts of the question, i.e. you must show what the rule you have just outlined means for the scenario at hand. In this context, it might be helpful to you to look at how courts have dealt with a similar issue. At any rate however, you will have to APPLY the law to THE FACTS of the scenario in front of you, which means that you will have to refer to the DETAILS of that scenario when applying the relevant legal principle in order to substantiate your argument.

For example, if the scenario involves the question whether a contract has been concluded between A and B, then the obvious points to consider are 'offer' and 'acceptance'; after having defined and explained what e.g. an offer is in the eyes of the law, you then need to apply the requirements for an offer to the case, i.e. you need to point out/explain why, in view of the facts of the scenario, something might or might not be an offer.