

CAAV EDUCATION AND EXAMINATION COMMITTEE
REPORT OF THE CHAIRMAN OF THE WRITTEN BOARD

The Chairman and Mr. Nixon attended the meeting of the Education and Examination Committee in Birmingham in May when the division of the subjects between the Written Board and the Practical Examiners was agreed. The full Written Board then met at the Farmers Club in London in June, prior to which the Chairman had circulated the members, following the meeting in Birmingham, and the examiners had chosen their subjects and prepared questions in readiness for that meeting. Paper 1 in the morning sets three questions out of which two have to be answered and Paper 2 in the afternoon sets five questions of which three have to be answered. A system has been set up whereby the retiring examiner, under the five year rota, who is the Chairman in that last year, sets one question and the new examiner also sets one question, whilst the remainder set two each. This seems to be working quite well.

As last year, there was quite a large number of candidates and the Chairman received answers to all the questions which were then circulated to the examiners in the period between the sitting of the examination and our meeting to mark the papers. In that way, we could all agree to each others answers and the marking schedules well in advance of our meeting at Ross-on-Wye.

The pass rates in each of the questions was as follows.

Paper 1 Question 1 - 34 out of 62 (54.8%)
Question 2 - 13 out of 22 (59.09%)
Question 3 - 26 out of 62 (41.93%)

Paper 2 Question 1 - 19 out of 34 (55.88%)
Question 2 - 19 out of 35 (54.28%)
Question 3 - 39 out of 58 (67.24%)
Question 4 - 19 out of 29 (65.51%)
Question 5 - 34 out of 63 (53.96%)

Of the total of 73 candidates sitting the examination, 42 passed, a pass rate of 57.53%.

Each of the examiners has prepared a written report on his/her questions which is attached to this report. The usual problems were encountered, i.e. bad writing, grammar, punctuation and spelling; poor layout of reports and letters and a seeming inability to read the question properly or, perhaps, more accurately, a failure to answer the question that was being asked.

The Written Board for 2004 comprised Miss Ellie Allwood, Miss Lindsey Burtenshaw, Mr. Michael Mashiter (Chairman), Mr. Simon Nixon (New member for 2004) and Mr. Andrew Robinson.

Under the rota system which is now working properly, the Chairman retires and will be replaced as Chairman by Mr. Andrew Robinson.

As the representative of the Education and Examination Committee on the Future Policy Committee, the Chairman will be attending a meeting on the 12th January, 2005 and will report back to the meeting on the 20th January, 2005 on any relevant matters.

Michael Mashiter
Chairman
December, 2004

REPORT ON CAAV EXAMINATIONS – NOVEMBER 2004

PAPER ONE - QUESTION 1

This was sat by 62 candidates, of which 34 candidates reached the pass mark in this individual paper. Generally, this question was approached in a constructive and well presented manner. There was a lot to write, and allowances were made for this. However, there is absolutely no point in regurgitating information which is irrelevant or even repeating parts of the question.

Obviously, there were quite a few standard requirements for each tenancy and there was no problem if you produced one standard schedule of information required for every tenancy and then merely added to this the specific information you required to know from your client and specific terms for each tenancy when you dealt with the four separate cases.

The principal terms for all the tenancies were:

- Name and address of landlord
- Name and address of tenant
- Identity/description of the property to be let
- Term of tenancy
- Rent due and payment dates
- Forfeiture/termination clause
- Prohibition against assignment/subletting/parting with possession (subject to any comments you may wish to have made on the grain store)
- Rates –drainage rates, business rates or council tax.

The specific issues regarding each case were as follows:

20 ACRE GRASS FIELD

Date of commencement of the tenancy. Most candidates understood that 1st September 1995 was an important date, but not always the full implication. A tenancy granted more than 10 years ago will NOT automatically be an FBT! Some candidates did pick up on the point that it was a grass field and suggested it may have been a grazing licence and this was a useful line of interpretation, if the reasons were put forward. Otherwise, it was crucial to state the reasoning behind the requirement to serve a section 6 notice. Few candidates, however, realised the significance of the ability to assign.

Many candidates commented on the possibility of agreeing alternative terms with David Brown, e.g. FBT rather than an AHA tenancy. However, the standard response expected was to advise on the full implication of not serving a section 6 notice. Candidates who advised their clients of the pros and cons of trying to negotiate an FBT, rather than immediately serving a section 6 notice, tended to do this well. However, there were a surprising number of candidates who apparently did not even consider serving a section 6 notice and glibly assumed it would be an FBT.

A few candidates referred to the schedule 1 matters but, unfortunately, some candidates apparently assumed that you could automatically introduce rights to regain part possession, subsidy entitlement clauses, etc. Generally, this part was well answered, except for a few candidates who apparently had not grasped the significance of the risk of an 86 Act tenancy.

FBT

Improvements

- Landlord's consent **CANNOT** be subject to a write-down
- Statutory basis for compensation – increase attributable to the improvement in the value of the holding at the termination of the tenancy, as land comprised in a tenancy.
- If landlord does not give consent then tenant can proceed to arbitration (unless requesting consent to obtain planning permission).
- Arbitrator has to take into account all terms of the tenancy, including its length, and all other relevant circumstances, including circumstances of landlord and tenant.

Fixtures

- If tenant does not have consent, then item treated as a tenant's fixture. Can be removed at any time during the tenancy, provided he puts right any damage caused.

SPECIFIC COMMENTS

New Grain Store – Manor Farm

The 500 tonne store exceeds requirements for Manor Farm. Improvement compensation likely to be limited to appropriate compensation for, say, 350 tonne store not 500 tonne store.

Although succession rights under tenancy, not certain John will succeed (some candidates picked up the significance of the size of Church Farm and the possible implications for John for succeeding). This would require detailed advice to the client and for the purposes of this letter it would have been sufficient to comment on the uncertainty of the future of this tenancy (and suggest offering specific advice on this subject) and therefore the risks for investing at Manor Farm.

A general comment on the usual treatment of laterals, tunnel and electric fan, as a fixture, whereas a concrete drying floor and fan house, if treated as a fixture could not be removed.

Church Farm

Candidates needed to pick up on the significance of a potential break clause being operated in two years' time and also the overall length of the FBT. Many candidates commented on the opportunity to discuss a longer term with the landlord and/or even landlord's investment at either Church Farm or, indeed, Manor Farm. The one candidate who suggested the landlord may wish in future to diversify into storing grain once the FBT had ended showed remarkable faith in British agriculture! Although not essentially required by this question, some candidates did comment on the possibilities of designing a more general purpose building, but that was outside what was required for answering this question.

Snail Breeding House at Manor Farm

Why is this not agricultural?! Snails are bred for food – try them, they're delicious! Candidates generally advised treating this as a fixture, for either the simple practical reasons that it could be removed and erected elsewhere if the tenancy at Manor Farm ended, or because they picked up on the significance of it being a specialised building and therefore this would potentially limit the compensation as an improvement.

an exchange of notices before the tenancy is entered into, but not commented on the 14 day delay period required and the tenant's declaration.

Several candidates commented on the additional tenancy terms, such as working hours, permitted use, access, liability for business rates and obligation to obtain planning consent and candidates who commented on a need to agree particular terms to limit the potential impact of this letting on the remainder of the farm illustrated that they had a practical knowledge of such situations.

RELETTING OF 80 HECTARES

Some candidates stated that they assumed that their tenant knew all about the terms of the FBT as the client had previously let it – read the question! No written agreement, just inherited farm!

This is relatively straightforward, as it was anticipated to be let on a straightforward FBT, but candidates were expected to refer to the need to advise on agreeing specific terms regarding entitlement. In addition, several candidates commented on the length of the FBT and suggestion that it should be agreed for a longer period of time and the reasons why. Those who did generally answered the question well.

In addition to the standard terms, therefore, we were looking for comment on obligations of the tenant to establish entitlements and transfer back in return for a compensation clause. Requirement to use for agricultural purposes and practical issues such as the reservation of shooting rights, mineral rights and rights to regain part possession also helped add to the marks.

GENERAL COMMENT

Generally, most candidates knew what they were talking about, with the exception of one or two howlers. Part 2 on Farm Cottages was answered least well, mainly because people did not read the question. There is one very easy way of wasting time in an exam and that is to regurgitate information which was not asked for and could have been avoided by simply planning the answer and reading the question.

Some candidates also chose to write up to a page on tax issues and planning issues. This was not required for this question other than if the candidate wished to make brief reference, but if you know so much tax and planning, why not do the tax and planning questions?!

The one or two candidates who commented on the need to serve a change of landlord notice on David Brown and the teacher did score an extra mark! Those who signed their letter off FRICS and FAAV most certainly did not!

Final comment – this was a straightforward question. You may be very clever in your lateral thinking, but **please** demonstrate you know the basics first!

Report on CAAV Written Examinations

November 2004-12-24

Paper 1 Question 2

20 Candidates answered this question of which 13 attained a pass mark or better

PART 1

The question was intended by means of either the Livestock or Arable options to test the Candidates knowledge of the Current IACS system and demonstrate the transition budget to the first year of the Single Payment Scheme. To do this a logical approach is required to budgets and it was expected Candidates would make all necessary assumptions if information was not provided within the question.

In preparing the SPS 2005 budget, a calculation of the history was required to enable a budget figure/hectare to add to the proportionate regional payment.

The best answers took likely deductions for National Reserve and Modulation into account. Account needed to be taken of the Set Aside area in calculating the history.

The methodology and not the exact budget was the far more significant aspect of the answer.

PART 2

Again the answer to some extent depended upon assumptions made. Points to debate before reaching conclusions included:-

- [1] Maintaining the right to the history and avoiding trading name change
- [2] Completing SP 3/4 forms as necessary and IACS 26/27 forms
- [3] Being aware of the potential of National Reserve
- [4] FBT considerations as to the name of tenant
Consideration of previous cropping
Ensuring Digital Registration

Ultimately whatever advice is given, full confirmation from Defra as to the certainty of the inheritance of the farming history is essential.

On balance, it was wise to consider the inclusion of the son as partner, after the initial 2005 IACS claim year, ensuring no risk to the entitlements crystallized in 2005.

The question overall was well answered by the majority who answered it. Those who failed to achieve a pass mark, either did not complete the question or did not approach the question from a logical structured viewpoint, as hinted at in the questions themselves.

CAAV WRITTEN EXAMINATION – NOVEMBER, 2004
EXAMINERS REPORT ON QUESTION 3, PAPER 1

The question set out the scenario that the client owned a large estate on which there were farms let on tenancies under the Agricultural Holdings Act 1986 and on tenancies under the Agricultural Tenancies Act 1995. The question asked for the preparation of a note in order to attend a meeting at which you were to compare and contrast the two different methods of treating rent reviews under the two Acts, including methods of Dispute Resolution, the basis of the assessment of the rents, what could be taken into account, what could not be taken into account and what had to be disregarded. The question also asked for a brief comment as to the general level of rents payable for a similar farm held under the two regimes.

The answers would have included, under the Agricultural Holdings Act 1986, a reference to the notice requirements, the factors mentioned in Schedule 2 of the Agricultural Holdings Act 1986, the timescale for settling the dispute, the dispute resolution method, i.e. arbitration. Under the Agricultural Tenancies Act 1995, matters covered would include a reference to the notice requirements, the bases on which rents could be reviewed, the fallback provisions and the dispute resolution procedure under the Arbitration Act 1996.

It was expected that the answer would be in the form of bullet points and would cover no more than two sides of an A4 sheet of paper. However, several of the candidates who answered the question chose to write an essay type answer. The question, as can be seen, was about fairly basic matters under the two Acts and it was expected that it would be well answered. However, out of the 62 who answered the question, only 26 passed, some 41.93%, which was very disappointing and reflected a lack of basic knowledge.

CAAV

WRITTEN EXAMINATION

PAPER 2 QUESTION 1

EXAMINERS COMMENTS

Candidates generally defined the steps that must be taken in accepting instructions as a single joint expert effectively.

They did not however organise their notes well so that it became clear what factors were relevant for the preparation of a report and valuation. Whilst methodically setting out obvious detail (acreages, services, access, details of dwellings etc) they did not set down the information to be gathered prior to commencing the Valuation such as.

- a. Copy of Tenancy Agreement for Farm.
- b. Copy of Company Accounts.
- c. Title Deeds and Modern Farm Plan.
- d. Milk Quota Printout.
- e. IACs information.
- f. Option Agreement.
- g. Contracts of Employment.
- h. Copies of Assured Shorthold Tenancies.
- i. Copies of Planning Permissions.

They also generally failed to point out that both individual assets and company assets would have to be valued.

They also failed to list that the directions of the Court would be vital and the precise manner in which the Valuation would have to be set out for the Court.

My impression was that candidates understood Red Book Valuations well but then failed to use that knowledge to think through a practical report and valuation task.

Sally 31 January 19

REPORT ON CAAV EXAMINATIONS – NOVEMBER 2004

PAPER TWO - QUESTION 2

This was sat by 35 candidates, of which 19 candidates reached the pass mark in this individual paper.

A straightforward question if you knew the difference between an improvement and a fixture under each Act and the basis of the compensation. This is straightforward, basic stuff!

This question gave an opportunity to write a bold follow up letter (a meeting had already taken place when you could have explained this all in detail), which only required a summary of the implications for improvements and fixtures under either Act and you could have focused on bullet points for the terms to discuss with the landlords. As you were advising a client, you did not need to have to recite section numbers if you couldn't remember them.

The general advice required was:

IMPROVEMENTS ON MANOR FARM

- Improvement requires landlord's written consent to qualify for compensation, otherwise treated as tenant's fixture.
- Compensation can be limited to a write down, but unconditional consent gives rise to the statutory compensation of an amount equal to the increase attributable to the improvement in the value of the agricultural holding as a holding, having regard to the character and situation of the holding and the average requirements of a tenant reasonably skilled in husbandry. Candidates were not expected to know this word for word, as they were advising a client, but they did need to understand the implications.
- If the landlord does not give unconditional consent, the tenant has a right to apply to the ALT, provided the improvement has not already been carried out.
- Improvement has to be relevant to the holding.
- Landlord can carry out the improvement and charge additional rent to the tenant.
- Compensation is paid at the end of the tenancy.
- No automatic right for the improvements to transfer from father to son on succession – implications if father has to claim compensation at end of tenancy and landlord then relets to son, either additional rent to reflect improvements or requires son to pay father, as outgoing tenant. Ideally Landlord allows son to purchase for £1.00

FIXTURE

- No automatic right to compensation.
- Can be removed, but only if served one month's notice on the landlord of intention
- If landlord opts to purchase, amount paid is fair value to an incoming tenant.
- Can be removed up to two months after the end of the tenancy, but only if tenant puts right any damage caused in removing them.

FARM COTTAGES

Agricultural worker Cottage

Unfortunately many candidates simply did not read the question. You were **NOT** asked to recite the legislation history for cottages let to agricultural workers. You were clearly asked to advise on terms for a cottage **to be let**. Far too many candidates simply wasted time talking about the Rent (Agriculture) Act 1976, etc. You simply had to advise on the need to serve a prior notice in the prescribed form, served in accordance with the Housing Act 1988, schedule 2A, paragraph 9 (as inserted by schedule 7 of the Housing Act 1996) – extra half mark if you can remember all the schedule numbers, but this was a letter to a client, so not necessarily expected. The client did need to be advised of the implications of not serving this notice and on the ability to terminate the tenancy if granted as an agricultural assured shorthold tenancy and to charge a market rent, on cessation of the worker's employment.

Unfortunately, some candidates assumed that an agricultural worker would be occupying as a service tenant and therefore his occupation would end on cessation of his employment! Other candidates seemed not to recognise the significance of it being an agricultural worker at all.

The additional terms for the tenancy would be similar to a standard assured shorthold tenancy with, possibly, particular comment regarding any extended rights that an agricultural employee may enjoy because he is an employee, e.g. use of other buildings, etc – are these to be included within the tenancy or not.

School Teacher Cottage

Most candidates understood the significance of requiring further information, to establish when the tenancy started, i.e. was it pre or post February 1997, and therefore whether a section 20 notice had been served, to ensure that this was an assured shorthold tenancy. Again, a brief comment on the implications regarding the rent and ability to regain possession was required. Unfortunately, several candidates seemed to assume that assured shorthold tenancies, or even assured tenancies, carried with them succession rights. One or two candidates were able to comment that if this was a "new" residential tenancy, then there was a very limited requirement under statute for a written tenancy, if requested by the tenant. Very few candidates commented on the need to establish from what other information was available as to the unwritten terms of this tenancy, so they could be committed to writing.

In addition to the standard tenancy terms, then one would be looking to agree with the tenant a rent review provision, original term date of the tenancy, rent payable and rent dates (supported by other evidence) and such practical issues as use of the cottage/garden/garage and limiting the property to personal residential use.

LETTING OF OLD GRAIN STORE TO A LANDSCAPE GARDENER

Some candidates obviously considered this as a horticultural use and therefore considered an FBT. The question was actually aimed at a letting of a commercial tenancy under the Landlord and Tenant Act 1954. Generally, most candidates recognised the significance of a commercial tenancy and the need to advise a client to exclude the renewal provisions under 24 to 28 of the 1954 Act. Also, most candidates understood that there was a requirement for

New Kitchen and Bathroom at Manor and Church Farms

Candidates generally commented on the general significance of repairing obligations and possible obligation of a landlord to replace. They also commented on the potential length of both tenancies and the need, even if treated as fixtures and therefore removed, to leave behind a basic kitchen and bathroom at the end of the tenancy. The candidate (I presume male- but perhaps that is sexist!) who commented that client should resist in investing at either farm as a new kitchen/bathroom would not improve the profitability of the farming business (unless it meant installing an Aga!), did raise a smile!

Planning Permission for Church Farm

Most candidates understood the significance of intangible advantage and the ability to claim compensation and then the significance that if the planning permission was then implemented, the subsequent works were tangible works and therefore separate consent would have to be granted for that as well. In answering this question, there simply wasn't enough time to debate the pros and cons of undertaking this work by the tenant and/or the landlord. However, those candidates who commented on a potential risk of the landlord being able to implement a break clause on part of the tenancy where planning permission had been granted and/or the risk of breaching an agricultural use clause did score an extra point if they had lost a point elsewhere.

Land Drainage System

Has anybody heard of pipe drainage any more? It seemed that many candidates assume this is mole drainage and therefore short term improvement on Manor Farm. They therefore missed the point about requiring consent to claim compensation

Manor Farm

General comments on need to obtain landlord's written consent before the works were carried out was all that was required, as the comments on the risk of no succession had been dealt with elsewhere.

Little Farm

The significant point here was that this FBT only had five years to run potentially and if the landlord would not give consent, then an arbitrator would have to take this into account in considering it was reasonable. Surprisingly, nobody commented as to whether the opportunity to bring lower productive land back into production was considered relevant in the light of subsidy changes.

GENERAL COMMENTS

Some candidates did spend time on dealing with other issues such as planning and grant availability, particularly when dealing with part 4. Whilst a general comment on the possibility that the landlord may object to the proposed works at Church Farm for an IHT reason could have gained an extra mark. This was not crucial to the question.

Generally well answered and approached, although candidates must understand that write down for compensation for improvements under an FBT is not the accepted answer.

CAAV WRITTEN EXAMINATIONS – 2004

Examiner's Report on:-

➤ Paper II. Question 3

This was a very straightforward question and required notes on 3 out of 5 taxation terms. (One candidate did manage to write notes on all 5, but a mark would have been deducted for not answering the question!)

The question should have provided a relatively easy way to gain marks, but disappointingly it was a struggle to give a pass mark to all but a handful of candidates. However, the final pass rate was nearly 70% by the 57 candidates who attempted the question.

A good answer would have been under 3 headings with concise notes being given in only 5 or 6 lines describing the reliefs or other taxation terminology. Long essays were marked down as was another paper that was illegible. Many candidates gave answers that were muddled and they could not differentiate between APR and BPR for IHT purposes and there was also confusion as between IHT and CGT reliefs.

➤ Paper II. Question 5

A high percentage of candidates (62) attempted the question but unfortunately only 34 gained a pass mark. Invariably the reason for this was that not enough detail was provided and therefore it seemed that candidates may have used this question as a last resort, writing a rather convoluted letter to complete their paper before time was called.

The question was aimed at the planning issues surrounding a range of redundant buildings and asked for detail on 3 matters. A good answer would have provided the following:

Under (1) – Planning Procedures and National Policies, there would have been a description on the process of make a planning application and the alternative appeal procedures plus a comment on how planning policies are structured at a national level. A mention of listed building consent would have been good.

Under (2) – The alternative possible uses of the buildings as between residential, commercial, community or recreational purposes and the factors that might impact on those uses such as access, services, sustainability and condition of the buildings.

Under (3) – Grants and subsidies might include Rural Enterprises Scheme and Rural Development Agency. VAT was worth a mention as was possible grants for listed buildings.

Many candidates omitted to include a final comment on market research on feasibility and tax as other factors to consider.

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WRITTEN EXAMINATION

PAPER 2 QUESTION 4

EXAMINERS COMMENTS

Candidates set about dealing with SSI's, ESAs, Entry Level Schemes, Asbestos and NVZs and the more obvious issues posed by this question with some success.

They however did not structure their letters to Mr Gold at all well and generally failed to:

- a. Give clear thought to practical issues concerning the Mansion.
- b. Make it clear that in certain areas their personal knowledge was limited and that expert reports would be required.
- c. To mention the possibility of "fallen stock" and general farm tips and the resulting contamination issues.
- d. To consider that there may be a sheep dip and the problems that would stem from this.

I was left with the impression that many wished to write very fully on what they knew but were not prepared to think more widely and highlight the further issues that should have been listed.

As valuers we are faced with a wide variety of issues on a regular basis and must be prepared to deal with these in a professional and clear manner without necessarily having full and detailed knowledge.

I consider it vitally important that we discover whether or not candidates are capable of writing a letter and providing clients with broadly based advice where their own knowledge is limited. As ever one must not be frightened to admit ones own lack of in depth knowledge on a subject but in addition must be capable of advising a client where to seek specialist advice.

Sally 29 joined by 19