



SQE2 sample question and discussion of answer

Legal drafting (Dispute Resolution)

November 2020

Candidates will undertake 16 assessments in SQE2. To pass SQE2 candidates will need to obtain the overall pass mark for SQE2.

This sample question and discussion of answer is an example of a legal drafting assessment. This is a computer-based assessment and candidates will have 45 minutes to complete the task.

For further detail see the SQE2 Assessment Specification.

Please note that the sample questions are provided to give an indication of the type of tasks that candidates could be set. They do not represent all the material that will be covered in SQE2. Future questions may not take exactly the same format.

Question and additional candidate papers

Email to Candidate

From: Partner
Sent: 3 December 2020
To: Candidate
Subject: Addison Builders Limited

You will recall that we have been waiting for a response to the Letter Before Claim that we sent to Maria and Ian Humphries on behalf of Addison Builders Limited. The couple have instructed solicitors, Faulkners and Co. We have now received a letter in response, denying that any further payment is due to our client on the basis that there were significant defects in the work carried out by Addison Builders Limited¹. The allegation that there were significant defects is denied by our client.

I attach a draft initial statement from John Evans, the managing director of Addison Builders Limited which should provide you with all the information you need. You will notice the draft initial statement at paragraph 4 makes reference to a written agreement. We don't have a copy of this at present but John Evans has assured me that he will provide it for us and that its terms are as stated in his witness statement so you should proceed on that basis.

We are instructed to commence proceedings. I intend to send the Claim Form to the County Court Money Claims Centre for issue with the Particulars of Claim on 8 December 2020. **Please draft the Particulars of Claim using the template provided.** Some fields have been pre-populated by our case management system.

The written agreement has no provision for interest so please include a claim for statutory interest pursuant to s 69 County Courts Act 1984 at the rate of 8% per year, the figures for which are:

154 days to 8 December at 8% is £5,265.26 with a daily rate of £34.19 per day (**note to candidates: you should assume these figures are correct**).

John Evans will sign the statement of truth.

Thanks

Partner

Attachments:

Draft witness statement of John Evans
Particulars of Claim Template

¹ The letter of response is not supplied for the purpose of this assessment

Draft statement of John Evans

I, John Evans of 4, Dawlish Road, London N3 4SS, will say as follows:

1. I am the managing director of Addison Builders Limited, a company based in North London. The company specialises in building and renovating luxury residential homes. I set up the company in 2017 with my two brothers and it is very much a family-run business.
2. On 3 September 2019, I was contacted by Maria Humphries, who had been given my name by a previous customer. Maria and her husband, Ian, had bought a very run-down property in North London (6 Highbury Way, N7 5RD), which had land around it. The couple wanted to transform this into a six-bedroom luxury house. They had already had the plans drawn up by the architect and had received planning permission for the build.
3. On 4 September 2019, I visited Maria and Ian at the premises and drew up a detailed costing of the work involved. The work was extensive as the existing property was badly in need of renovation and needed to be extended to a six-bedroom property. I calculated the total cost of the work to be £220,000 and estimated that the job would take approximately nine months.
4. On 6 September 2019, I met again with Maria and Ian and provided them with our standard form building services contract². This clearly set out the schedule of payments required and the detailed specification of the work. Maria and Ian were happy with the contract and signed it that day. It was agreed that work would commence on 23 September 2019 and the job would be completed by 8 July 2020.
5. Under the terms of our contract, the payments were staggered in four instalments, in accordance with the following:
 - 20% (£44,000) of the cost was required within seven days of the contract, by 13 September 2019;
 - 25% (£55,000) within three months of the contract, by 6 December 2019;
 - 25% (£55,000) within six months of the contract, by 6 March 2020; and
 - 30% (£66,000) on completion of the job.
6. Maria explained to me that they were currently in the process of selling their existing apartment in London, which would fund the majority of the work on the new house, although the initial payment would come from their savings. However, she assured me that the payment schedule would work for them as they had already found a buyer for their apartment and were due to exchange contracts in two weeks.
7. On 13 September 2019, I received the first payment from Maria and Ian, of £44,000.
8. We started the work on Maria and Ian's home on 23 September 2019. The next scheduled payment was due on 6 December 2019. However, on 5 December 2019 at a meeting at 6 Highbury Way, Maria and Ian told me they had still not sold their apartment and asked me if I would be prepared to wait a couple of months more for the money. I had developed a good working relationship with the couple by this stage and I could see the difficult predicament that they were in and so I agreed

² Note to candidates: this contract will be supplied by John Evans

when I spoke to them to allow them, without penalty, to pay the next instalment on 6 February 2020 when, hopefully, their property would have sold.

9. In February 2020 Maria and Ian had still not sold their apartment as their new prospective buyers were experiencing delays in the property chain. However, Maria had managed to borrow some money from her parents and was able to offer me £20,000 to keep the work going. At a meeting with Ian and Maria at 6 Highbury Way on 6 February 2020 I agreed to accept £20,000 on this basis. Maria was 4 months pregnant and was desperate to be in the new home when the baby was born. Maria paid me the £20,000 on 6 February 2020, bringing the total amount paid to date up to £64,000.

10. In May, the project was going well and I was expecting to finish the job on 8 July 2020 as planned. Maria and Ian had exchanged contracts selling their apartment but there was a delayed completion date as the buyer was overseas. To make things worse, Maria then gave birth to the baby 3 months early and she and Ian spent most of their time at the hospital with their newborn. I felt very sorry for the couple and I therefore met with them at 6 Highbury Way on 19 May 2020 and agreed, orally, that they could pay me all the outstanding payments on completion of the job provided they did so on the day the job finished. I agreed that this would replace our original agreement as to the scheduled payments.

11. On 8 July 2020, I finished work on Maria and Ian's new home and they seemed to be happy with it, although it was a difficult time for them as their baby was still not well enough to come home. I handed them a final bill in the amount of £156,000 on 8 July 2020.

12. On 12 July 2020 I had still not heard anything from the couple and I telephoned them to see what the hold-up was. I understood that their apartment in London had sold and that there should be no further reason why they could not make the final payment. I spoke with Maria on the telephone very briefly but she cut me short and simply told me that she would get Ian to ring me.

13. The next day, I had still heard nothing and so I sent an urgent reminder email telling Ian that I now needed the account to be settled immediately. He did not respond to this email. I sent a more strongly-worded letter on 15 July 2020 but they did not reply to this either. I heard from one of my contractors that there was some suggestion from Ian that the couple were not happy with the finish on the house, although I do not really understand this as they had not said anything like that to me.

14. On 28 July 2020 I realised that I had no choice but to contact solicitors on the matter. They have been dealing with this ever since.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

.....

John Evans

Dated: [] December 2020

Template

IN THE [insert name of court]

Claim No.

BETWEEN:

[insert]

Claimant

and

(1)[insert]

Defendants

(2)[insert]

PARTICULARS OF CLAIM

NHJF Law LLP

Dated:

STATEMENT OF TRUTH

[I believe][the (Claimant or as may be) believes]³ that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Claimant to sign this Statement

Signed:

Full name:

Office or Position Held:

Dated:

The Claimant's Solicitors are NHJF Law LLP, 1 The Churchyard, London, EC1 4PP, where documents should be sent

³ Note to candidates: You should delete as appropriate

Discussion of answer

Legal drafting: Points to note

The assessment criteria for legal drafting are as follows:

Skills

1. Use clear, precise, concise and acceptable language.
2. Structure the document appropriately and logically.

Application of law

3. Draft a document which is legally correct.
4. Draft a document which is legally comprehensive, identifying any ethical and professional conduct issues and exercising judgement to resolve them honestly and with integrity.

Marking is by solicitors who have been trained as assessors and whose marking has been standardised. It is based on global professional judgements rather than a tick box or checklist approach.

The starting point for these global professional judgements is the standard of competency of the assessment, namely that of the just competent Day One Solicitor ([The Threshold Standard](#)). Markers are flexible as to the approach taken by the candidate.

Marking is based on performance on each of the assessment criteria judged on a scale from A – F as follows:

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

For further details of the marking see the [Assessment Specification](#) and the Marking and Moderation Policy (to be published). The Assessment Specification provides further information about what is meant by clear, precise, concise and acceptable language, and correct and comprehensive application of law.

Key legal points include the following:

- Setting out a concise statement of the facts on which the claimant relies in a clear and logical manner to include:
 - the parties to the contract
 - the nature and terms of the contract (attaching the written agreement)
 - oral variations to the contract giving details
 - performance by the claimant (completion of the works)
 - part payment by the defendants
 - breach by the defendants (failure to pay)
 - the amount due
 - the claim for interest (in accordance with instructions)

- Using instructions to complete the heading and the statement of truth.

Note on sample answers:

Two sample answers are provided (Sample A and Sample B). Neither answer is perfect nor a model answer. You should not assume that everything in the samples is correct. A is a stronger answer than B but both at least reach the Threshold Standard.

IN THE COUNTY COURT MONEY CLAIMS CENTRE

Claim No.

BETWEEN:

ADDISON BUILDERS LIMITED

Claimant

and

(1) MRS MARIA HUMPHRIES

Defendants

(2) MR IAN HUMPHRIES

PARTICULARS OF CLAIM

1. The Claimant is and was at all material times a building company engaged in the provision of building services in North London. At all material times the Claimant acted through its Managing Director John Evans.
2. By a written agreement between the Claimant and the Defendants made on 6 September 2019 ("the Agreement"), the Claimant agreed to renovate the Defendants' property at 6 Highbury Way N7 5RD ("the Property") for which the Defendants agreed to pay £220,000. The Agreement is attached to these Particulars of Claim in Schedule 1.
3. The Agreement provided that work on the Property ("the Work") would commence on 23 September 2019 and would be completed on 8 July 2020. It was further agreed that payment of the price of £220,000 would be made in four instalments ("the Payment Schedule") as follows:
 - i) £44,000 by 13 September 2019;
 - ii) £55,000 by 6 December 2019;
 - iii) £55,000 by 6 March 2020; and
 - iv) £66,000 on completion of the work.
4. On 13 September 2019 the Defendants made a payment to the Claimant of £44,000 in accordance with the Payment Schedule.
5. On 23 September 2019, the Claimant began the Work.
6. A series of meetings were then held between the Claimant and the Defendants at the Property when oral variations to the Payment Schedule were agreed as follows:
 - i) on 5 December 2019 the Claimant and the Defendants agreed that the payment of £55,000 due on 6 December 2019 would be made on 6 February 2020;
 - ii) on 6 February 2020 the Claimant and the Defendants agreed that the Claimant would accept payment of £20,000 made by the Defendants in order to continue the Work;

iii) on 19 May 2020 the Claimant and the Defendants agreed that the balance of the price of the Work (£156,000) would be paid immediately on completion.

7. The Work was completed on 8 July 2020 to the apparent satisfaction of the Defendants and the Claimant handed the Defendants the final invoice for the payment of £156,000 then due.
8. Further requests for payment were made on 12, 13 and 15 July 2020, but the Defendants have failed to pay the sum of £156,000 or any part of it to the Claimant.
9. The Claimant therefore claims the sum of £156,000 owed by the Defendants to the Claimant.
10. Further, the Claimant also claims interest under s 69 County Courts Act 1984 on the sum of £156,000 at the rate of 8% per year from 8 July 2020 to 8 December 2020 (154 days) amounting to £5,265.26 and continuing at the rate of £34.19 per day until judgment or earlier payment.

NHJF Law LLP

Dated:

STATEMENT OF TRUTH

The Claimant believes that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Claimant to sign this Statement

Signed:

Full name: John Evans

Position Held: Managing Director of the Claimant

Dated:

The Claimant's Solicitors to whom documents should be sent are: NHJF Law LLP, 1 The Churchyard, London, EC1 4PP

SCHEDULE 1

The Agreement dated 6 September 2019 referred to in paragraph 2 of the Particulars of Claim

IN THE COUNTY COURT MONEY CLAIMS CENTRE

Claim No.

BETWEEN:

ADDISON BUILDERS LTD

Claimant

and

(1) MARIA HUMPHRIES

Defendants

(2) IAN HUMPHRIES

PARTICULARS OF CLAIM

1. The Claimant is a company specialising in building and renovating luxury residential homes.
2. The Claimant and the Defendants entered into a building services contract (the "Original Contract", see attached), executed by each of the Defendants and by John Evans on behalf of the Claimant, based on the claimant's standard form setting out the terms by which the Claimant would refurbish the premises.
3. The Contract set out the following essential terms: work would commence on 23 September 2019 and the job would be completed by 8 July 2020. The payments were staggered, in accordance with the following:
 - 20% (£44,000) of the cost was required within seven days of the contract, by 13 September 2019;
 - 25% (£55,000) within three months of the contract, by 6 December 2019;
 - 25% (£55,000) within six months of the contract, by 6 March 2020; and
 - 30% (£66,000) on completion of the job.
4. On 13 September 2019, the Claimant received the first payment from Maria and Ian, of £44,000.
5. As the Defendants failed to make the 6 December 2019 instalment, the Claimant and the Defendants agreed to orally amend the Original Contract to extend the payment date for the second instalment to 6 February 2020.
6. Instead of making the full £55,000 payment on 6 February 2020, and in breach of the revised term of the Original Contract, the Defendants made a payment of £20,000 bringing the total amount paid to that date up to £64,000.
7. On 19 May 2020, the parties agreed verbally to revise the term of the Original Contract such that the entire outstanding payment of £156,000 (the "Outstanding Amount") will be due on completion of the job provided that the Defendants would pay them in full on completion of the work.

8. The Claimant completed the job in accordance with the terms of the Contract on 8 July 2020.
9. The Claimant delivered a final bill of £156,000 on 8 July 2020 in accordance with the revised Contract.
10. In breach of the express term of the revised Contract, the Defendants have not paid any amount out of the final bill to the Claimant.
11. As a result, the Claimant suffered loss and damages.

Particulars of loss and damages

- a. Outstanding Amount of £156,000
- b. Interest

Particulars of Interest

Under s 69 County Courts Act 1984 on the sum unpaid at the rate of 8% from 8 July 2020 to 8 December 2020 amounting to £5,265.26 and continuing at the rate of £34.19 per day until judgment or earlier payment.

AND THE CLAIMANT CLAIMS:

- (1) The sum of £156,000
- (2) Interest set out at paragraph 11 above

NHJF Law LLP

Dated:

STATEMENT OF TRUTH

[I believe][the (Claimant or as may be) believes] that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth

I am duly authorised by the Claimant to sign this Statement

Signed

Full name:

Position Held:

Dated:

The Claimant's Solicitors to whom documents should be sent are: NHJF Law LLP, 1 The Churchyard, London, EC1 4PP