The exam comprised four compulsory questions in an closed book format. All questions required students to give advice having regard to factual scenarios.

Most candidates answered four questions in accordance with the instructions. A few students answered some questions in considerable detail and made only a minor attempt at the other questions and I assume that these students may not have allocated sufficient time to properly attempt all four questions. It was also clear that a few students did not read the questions properly.

Although most candidates presented their answers in a clear and legible way, the handwriting of some candidates was difficult to read.

All candidates answered four questions in accordance with the instructions. Some students answered some questions in considerable detail and made only a minor attempt at the other questions and I assume that these students may not have allocated sufficient time to properly attempt all four questions.

Question 1

This question involved advising a parent in relation to a parenting dispute in circumstances where that parent wished to relocate the residence of the children, interstate. This question was generally well answered by most candidates although a number of students confused the commencement dates of the referral of powers (by New South Wales to the Commonwealth) over ex-nuptial children with that for de facto financial matters, which was quite concerning. Most candidates discussed the likely application of presumption of equal shared parental responsibility on the facts, and the consequences of its application on the consideration of time arrangements, in the context of the other parent’s work commitments. Most students also correctly identified the difference in weight that would be given to each child’s views, having regard to the difference in their ages; the impact of the proposed relocation on the children; and the likely appointment
of an independent children’s lawyer and requirement to obtain a s60I Certificate, as a relevant issue. Better students clearly articulated the approach of the court in determining parenting orders in circumstances where a parent wished to relocate.

**Question 2**

This question involved advising James about a potential property settlement claim consequent upon the breakdown of his de facto relationship.

This question was generally well answered.

Most students referred to the relevant gateway provisions also correctly identified the statutory paragraphs relevant to property division and identified and applied the preferred four-step approach to the facts, as modified by Stanford’s case citing and applying relevant principles drawn from the authorities.

While most students correctly advised James about his obligation of full financial disclosure in the context of the inheritance which he would soon receive, few students correctly identified the inheritance as property rather than a financial resource.

The better answers discussed the relevant principles relating to the treatment of James’ initial contribution of the Manly property and the contributions made by James’ mother in the context to the significant non-financial contribution made by David.

While most students identified the parties’ respective contributions, however, some students did not provide an assessment of the likely percentage range arising from contribution-based entitlement. Similarly, while most students correctly identified relevant future needs factors in relation to each party, some students did not indicate whether an adjustment would be likely, and if so, the range.

It was disappointing that only a few students advised James about orders that a court is likely to make, although the question specifically required this to be done.

**Question 3**

This question was in 2 parts.
**Part A** involved advice in relation to a potential claim for partner maintenance. This question was reasonably well answered, although the range of answers was quite mixed. Most candidates correctly identified the statutory paragraphs relevant to partner maintenance. While most students adequately discussed and applied the law to the facts, a few students simply did not address the actual facts given in the question, and these facts would be important for the court exercising its discretion.

It was concerning to note that a few students advised the client to seek an income tested pension, rather than partner maintenance.

**Part B** concerned the availability of seeking injunctive relief (s 114) against a de facto partner. This question was very poorly answered. Only a few students identified the availability as the issue in the question; and fewer of these students applied the relevant law to the facts.

Many students incorrectly identified the availability of urgent maintenance pursuant to s 90SG as the relevant issue.

Again, it was concerning that a few students advised the client to seek an income tested pension, rather than injunctive relief.

**Question 4**

This question was in 2 parts.

**Part A** involved advice involved advice in relation to the requirements for a financial agreement to be binding and circumstances in which such an agreement may be set aside. This question was generally well answered.

Better students also advised in relation to the merits of seeking orders by consent rather than a financial agreement.

**Part B** involved advising Jack, whose application for administrative assessment of child support has been refused, of the availability of seeking a declaration under s106A of the Child Support Assessment Act and the likelihood that a court would make an order for paternity testing under the Family Law Act, to determine the issue. This question was very poorly answered which was very disappointing.