

Examiner's comments
CILA S1 and S2 Subsidence - April 2015

Overview

The exam comprised 3 questions of equal marks. Candidates must answer 2 out of 3 questions. Only the first two were attempted.

From a review of the examination scripts the examiner recommends that candidates:

- Take account of the allocated marks and provide an appropriate level of detail for each section of the question.
- Avoid the tendency to evidence their knowledge and understanding of topics with which they are most familiar.
- Clearly read the question and answer all aspects (see S1 b below).

Comments on specific questions.

The comments below give an indication of the approach and topics that should be included in an answer. They are not however presented as complete or model answers.

	<p>This question was worth 20 marks and was generally well answered and included the normal points required such as age, type of construction, extension etc. plus the discovery and comment on the flood</p> <p>Candidates were expected to discuss possible causes and describe the type of damage distortion and crack widths with reference to BRE as appropriate.</p> <p>Consider the initial investigation, monitoring, temp repairs to cracks etc.</p> <p>Then discuss the policy liability and in particular the exclusion around defective design / workmanship</p> <p>Consider the subrogation and the potential parties involved .Comment on the VAR and in particular the advice given on the previous claim</p> <p>Consider how the reserve might be set including best and worst case scenarios.</p> <p>The area that required further details was that that candidates failed to considering the full circumstances of the previous claim and how that was possibly relevant to the current claim.</p>
S1 a	
S1b	<p>This is an example of a question where it was only partially answered.</p> <p>The question asked what investigations you would expect an engineer or surveyor would make to establish the cause of the problem and explain the importance / reason for each type of investigation.</p>

	<p>Candidates concentrated on the physical site investigations rather than looking at desk top surveys , monitoring distortions surveys and enquiries with other potential parties . Also very little reference was made to the importance / reason for such investigation.</p>
S1c	<p>This part of the question related to any potential subrogation action following the collapse of chalk mines.</p> <p>The candidates were expected to review and outline the typical trail required to consider whether any of the parties has been negligent or whether there was a breach of a statutory duty.</p> <p>Candidates were confused and miss quoted the Coal Mining Subsidence Act. They appear to understand the case law in respect of tree root damage. They were not expected to quote all case law but be aware of the principles.</p> <p>In particular there was little reference to enquiries regarding a negligent / Contractor and / or designer.</p> <p>Candidates did not outline and understand the implications of Murphy v Brentwood in respect of the Local Authority position in respect of approving building regulations.</p>
S2	<p>This question was worth 10 marks. It asked what investigations/ enquiries would you wish to undertake given the circumstances and the scale of the problem. Explain the benefits / reasons for each step.</p> <p>Candidates outlined many of the enquiries / investigations required but failed to outline the benefits and a reason for those enquires / test.</p>
S2b	<p>This question related to the 8 provisos of the ABI change of Insurer agreement. It was clear that candidates had an awareness of the agreement and outlined the various aspects of the agreement and other details. However the question asked about the proviso's and example of which is;</p> <p>I.e. notification to other insurer within 12 months.</p> <p>Candidates were not expected to repeat the proviso word for word but be able to understand what each one meant.</p>
S2c	<p>This related to the drafting of a letter to the local authority regarding a potential recovery action. It was well answered. The letter needed to cover; the background, who they were acting for, advising that it was an actionable nuisance, advising to notify their insurers/ foreseeability and mitigating action.</p>
S2d	<p>This question related to monitoring techniques. Candidates were expected to outline all forms of monitoring and generally this was reasonably well answered but required more detail on the anticipated period and frequency and timing depending upon when monitoring commenced.</p>
S2e	<p>The question asked the candidates to prepare a brief report in bullet form to the Insurance company outlining what course of action you would recommend together with the rationale for your actions.</p> <p>This was gain only partially answered. Typical points that were expected to be raised related to ownership of sewer, type of damage and when occurred, detail of any building over arrangement/recommendations , options for re-routing if viable or boring</p>



	<p>under existing structure , reference to Building regulations and the transfer of sewers October 2011 , potentially seeking of legal advice</p>
S2f	<p>The final part of the question related to how you would provide advice to the Insurer on whether the customer could proceed to the FOS. Candidates were also asked to outline a course of action.</p> <p>Candidates were expected to confirm when a customer is eligible to go the FOS. There was no recommendation whether an independent review should be undertaken and the need to get the referral made to the appropriate level within the Insurance company.</p>