



THE WAFFLE TRAP

Waffling wastes exam time and earns no marks. Doug Williamson explains how to avoid its sticky embrace and get out fast if you accidentally fall in

What is waffle? Waffle is true – but irrelevant – material in an exam answer. Waffle earns no marks because it does not answer the question we’re being asked. Waffle is extremely common, appearing somewhere in almost every script that ACT examiners mark.

Waffle causes four problems:

- (1) Waste of time on a question.
- (2) Time overruns, eating into time for later questions.
- (3) The illusion of doing well, because we’re writing so much. We believe – or hope – we’re answering the question asked, so we don’t check.
- (4) Waffle hides other good points from our marker.

The alluring waffle trap

Like the honey trap, waffling is seductive and deadly. We believe we’ve found the exam question we’ve been dreaming of, and fall in

love with our illusion. We write far too much about our dream question, getting tangled in the sticky embrace of our irrelevant answer. We’re temporarily blinded to what’s really required, and are hoodwinked into telling all we know.

Escape is possible. But, as with many traps, we can only get free if we first admit we’ve been caught. We’ll see how to escape from a waffle trap later. Even better, of course, is avoiding getting caught in the first place.

How to avoid waffling

- (1) Invest substantial time in learning the course material thoroughly.
- (2) Read questions carefully, until you know exactly what they’re asking.

Each step is essential. To avoid the waffle trap entirely, you must take both steps.

The fewer gaps we have in our knowledge, the less likely we are to misread exam

questions. We’re prepared and confident to answer different detailed questions within each broad topic. We will then carefully read and understand exactly what’s being asked of us. We’re unlikely to ‘dive in’ prematurely to answer the wrong question.

Let’s look at a recent example, illustrating question interpretation.

Once more unto the breach

With reference to English contract law, identify the main remedies for breach of contract and describe the key features of each remedy you have identified.

You are not required to discuss the factors that may limit the liability of the party in breach.

Business Law compulsory question A1, April 2013

HELP FOR ACT STUDENTS

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Contract law lies at the very heart of every business transaction and commercial relationship. For this reason, it is a practical and frequently examined topic in the ACT's exams.

This recent question is about a particular important aspect of breach of contract. Breach of contract is a wide topic. But this question's scope was restricted by its detailed wording.

Enjoy reading the question again, calmly and carefully. There are two or three crucial limiting words that narrow the scope of this question. What are they? Read the question again for yourself. Don't look at the answer.

One key limiting word is 'English' in the first sentence.¹ Another key word is 'remedies'. Taking account of these crucial words 'English' and 'remedies', this question is specifically about, and only about:

- (1) English contract law.
- (2) The main English law remedies for breach of contract.
- (3) The key features of each (English law) remedy.

This question was NOT about Chinese, French or US contract law remedies. These topics are all in the ACT syllabus,² but they weren't examined in this sitting.

Another key limiting word is 'not' in the second sentence. The question was NOT about factors that may limit the liability of the contract breaker. What candidates wrote in response to this part of the requirement was very unexpected.

Two bad waffles

A number of candidates did not focus their answer on English contract law, and a notable number of candidates concentrated on the factors that may limit the liability of a contract breaker, despite clear instructions in the question not to do so.

Examiner's Report, Business Law, April 2013

Sadly, those candidates earned no marks for the irrelevant parts of their scripts, and they wasted precious exam time.

Why did the candidates waffle?

These two waffles appeared to have two different causes. Remedies under Chinese law had indeed been examined in the very last exam. Candidates who'd practised this recent paper probably had the knowledge fresh in their minds, and they couldn't resist sharing it again. Answering last time's

question – instead of this time's – is the most common type of waffle.

Some of us ignore 'not'

The second irrelevant topic candidates wrote about was the one expressly excluded by the wording of the question: "You are not required to discuss the factors..."

Research shows that many of us ignore the word 'not'. This is quite surprising. But on the evidence of the exam scripts, a notable number of candidates interpreted this part of the question as if it had said exactly the opposite, namely: "You are required to discuss the factors that may limit the liability of the party in breach."

All these candidates disregarded the word 'not'.

To solve the problem of ignoring 'not', draw a big circle around the word 'not' whenever you see it on your exam paper. Then you won't miss it.

This covers our essential second step of reading all exam questions very carefully.

Remember, the first step is to learn the examinable material, in detail. There is no escape whatsoever from investing the substantial study time needed to learn the course material.

Going back to the exam itself, it is possible to escape from a waffle trap if we stumble into one on the day. We'll finish by learning how to get out of a waffle trap.

How to get out of a waffle trap

Two essential steps to getting out of the trap are (1) diagnosis, then (2) cure.

Starting with diagnosis, we can never escape from the waffle trap unless we recognise we are in it. The only way to find out if we've been waffling is to reread the exam question. The best prevention – or the earliest diagnosis – is to keep the question open in front of us at all times as we write our answer.

If your answer doesn't match the question, *stop writing immediately*. This avoids wasting any more time, and gives an opportunity to replan.

We're half-cured already. We've stopped wasting time. What we need to do next

depends on our remaining time.³ If time for the question is up, move on now. This will feel wrong, but it's absolutely essential to keep your exam-passing prospects alive.

If there's any time remaining for this question, make brief notes only during the remaining time. You will certainly get part credit for your relevant notes, for example, along the lines below.

English law remedies for breach of contract

Rescission
Damages
Specific performance
Injunction

Rescission means cancelling the contract, if possible.

Damages compensate the innocent party; they don't punish the contract breaker.

Specific performance may be ordered where damages are not adequate.

Prohibitory injunctions prevent future breaches; mandatory injunctions 'undo' breaches.

When time is up, move on ruthlessly.

¹ Did you look at the answer without trying to figure it out for yourself? If you did look, this proves the surprising insight that some of us ignore 'not' and 'don't'. If you tried to work it out for yourself first, thank you.

² Detailed knowledge is required for Business Law. Awareness is required for other papers.

³ See *The Test of Time*, *The Treasurer*, September 2012, page 62.



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