



GCE A LEVEL EXAMINERS' REPORTS

**LAW
A LEVEL**

SUMMER 2023

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A150U10-1 LAW (EDUQAS) A LEVEL

GCE A LEVEL

Summer 2023

COMPONENT 1

THE NATURE OF LAW AND THE ENGLISH LEGAL SYSTEM

General Comments

Component 1 was generally well received, and the questions covered a range of the specification. It was pleasing to note that there were minimal rubric infringements with the vast majority of candidates attempted all required questions. This is commendable, especially considering the compulsory questions on the paper and the specification range present on the paper.

Some candidates seemed unprepared for the specific nature of the 5-mark questions on the paper. Centres are reminded that these questions can examine a small and, sometimes, niche area of the specification. Some candidates seem to be intent on 'writing all they know' about a topic rather than focusing on the question itself; this was more evident in some questions than others, particularly question 1, 2 and 6a.

A Level Law Component 1 is split between Section A and Section B. Section A consists of two compulsory questions followed by one question from a choice of two. Section B consists of one question (part a) and b)) from a choice of two. The report below is divided between Section A and Section B observations.

- The compulsory nature of Questions 1 and 2 and the chosen part 6a), in particular, caused some problems for candidates who hadn't revised, resulting in lots of brief, confused and in a few cases, unanswered questions.
- There was some use of legal authority and this is to be encouraged in all questions. Whilst detailed facts of cases are not needed, an explanation of the relevance of the case is desirable, especially in the questions that require application or analysis and evaluation.
- Section B was generally well received with most candidates writing a detailed response for the section B, part b). What was weaker was the lack of focus on the specific nature of the section B, part a) questions and for part b) questions, a lack of authority to support.
- Generally, there is a lack of legal authority in analysis and evaluation questions and an absence of an appropriate essay structure.

Comments on individual questions/sections

SECTION A

Q.5

(5 marks)

The response to this question was satisfactory where candidates focused on the affirmative and negative resolution procedures. Most candidates were able to put their answers in context with some information about the nature of delegated legislation, however, some candidates spent far too long on the types of delegated legislation without then progressing on to the two specific Parliamentary controls in the question. These scripts did not attract a mark beyond band 1. Due to the specific nature of the question, few candidates achieved the top marks, perhaps not expecting a question with such a definite focus. Some had clearly revised court controls and spent the answer discussing these, attracting no credit. Where answers were focused on negative and affirmative resolution, some of the strongest scripts also considered the super-affirmative procedure and considered reasons for Parliament retaining some level of control over delegated legislation.

Q.2

(5 marks)

As with question 1, responses to this compulsory question were generally satisfactory. Most candidates were able to explain the position of the Court of Appeal in relation to the operation of judicial precedent in the court hierarchy. Again, there was a general lack of focus on the specific nature of the question with overly long answers explaining everything about judicial precedent but lacking a focus on the Young exceptions. These answers attracted minimal credit and candidates should be reminded to focus their responses more quickly on the specific nature of the question. Quite a number of candidates confused the Young exceptions with the Practice Statement. There was also very little reference to any additional case law regarding the use of the exceptions.

Both questions 1 and 2 assess AO1 – explanation; knowledge and understanding. This is the most accessible of the three AOs and candidates did not perform as strongly as in previous years with the demands of these shorter questions. Centres and candidates should be prepared for questions on specific areas of topics in the 5-mark questions rather than perhaps more general questions.

Q.3

(15 marks)

Question 3 is one of two questions on Section A where candidates get a choice. This was the less popular between 3 and 4 and in general candidates performed less well applying avoidance techniques for judicial precedent for this question than they did applying the rules of interpretation for question 4.

The assessment objective being examined in this question was A02 (for 15 marks) which requires candidates to apply the law. It is similar to the application questions that featured on the old LA2 specification. Despite the A0 being application, some explanation of the related legal issues is inevitable and expected in order to frame the application. Consequently, candidates were not able to access the higher mark bands without this context. Many did this and the general standard of responses was good, especially for question 4.

The scenario provided was typical of those applying precedent. Better candidates placed their answers in context with some information about the operation of judicial precedent. Candidates are to be reminded, however, that this is an application question and therefore reference to the scenario and the overall issue, is needed early in the response.

Though knowledge of general avoidance techniques was demonstrated by a majority of candidates, focus on the Practice Statement was weaker, with a significant minority missing this point entirely. A 'stock' response going through the main avoidance techniques was not sufficient to access the top mark bands and, in addition, the option of reverse was not available (with only a minority acknowledging this). Candidates needed a specific focus on the Practice Statement; in many cases, wider case law was not cited to demonstrate use of the statement.

Q.4

(15 marks)

Many candidates are now approaching SI apply questions using the suggested method. Consequently, this was the stronger of the two section A choice responses. Centres are again to be commented for teaching their learners how to deal with such an application question. The 4 rules, were generally explained and case law used to illustrate their application. The most sophisticated responses also considered the narrow and wide approach to the golden rule. Case law was also used well and cases were generally explained rather than just being 'dumped'. Better candidates set the scene explaining the need for statutory interpretation in context. There were some quite sophisticated responses to the scenario, with CANDIDATES drawing not only on the rules but also on the aids and rules of language. Conversely, in a few instances, however, a lack of understanding of the rules themselves was evident in a student's inability to apply them and occasionally candidates did not comprehend the differences between the mischief and purposive approaches.

Some candidates also included evaluation of the rules in their responses but failed to gain additional marks as the question did not accommodate AO3 points.

SECTION B.

General observations – candidates appear to be managing their time in the exam, allowing enough time for a detailed, proportional response to Section B, particularly part b). The Section B questions covered a good specification range.

Q.5 (a)

(10 marks)

Responses to this question were generally satisfactory. Most candidates focused well on the role and composition of tribunals (composition being done less well). There was some good citation of authority such as the Tribunals, Courts and Enforcement Act 2007 and good reference to key terms such a domestic/administrative/employment and the Upper/First Tiers.

(b)

(15 marks)

Responses to this question were very varied. Stronger responses focused on CFAs but these were comparatively rare. Many responses wrote in more general terms about legal funding which was not the focus of the question. Of those candidates that did focus on CFAs, many merely explained the law rather than develop this into evaluation. Candidates are reminded of the need to analyse and evaluate for the part b) of Section B questions. Stronger responses included evaluation with a reference to access to justice issues. These responses tended to also have a good essay structure with a clear introduction, paragraphed main body and conclusion that addressed the question. Centres are reminded to also train candidates in structuring essays appropriately and using connective words and phrases to enhance evaluation skills.

Q.6 (a)**(10 marks)**

Though candidates generally demonstrated a good knowledge of the role of lay Magistrates, only the stronger candidates focused on their appointment, which was the specific focus of this question. A not insignificant number of candidates wrote about juries as opposed to lay Magistrates which attracted no credit.

(b) Evaluation of tribunals**(15 marks)**

This question was answered reasonably well albeit a bit nebulously with little reference to any authority to support the response. There were many 'common sense' answers that could have been produced by a student without any legal education. Candidates are to be reminded of the need to include legal authority in the form of cases, statute, examples, statistics to support their evaluation. They should also relate this then back to the question posed. Only a minority achieved this, which is a shame as this was an accessible question on a topic traditionally favoured by candidates. As with part a) of question 6, a not insignificant number of candidates evaluated juries as opposed to lay Magistrates, attracting limited credit.

As with 5(a), stronger responses were structured appropriately for an evaluative essay and also considered some suggested reforms as part of their evaluation.

Summary of key points

- Candidates need to be prepared for niche areas of the specification to feature as a 5 mark question.
- Candidates need to be encouraged to read and answer the question set – there were a lot of answers that missed the focus of the question or wrote about something completely different. For the evaluation questions on Section B candidates should be assessing and evaluating throughout their answers and not just in the final paragraph.
- Candidates need to be reminded of the importance of supporting their points with relevant legal authority where possible, this will elevate their answers into the higher mark bands.
- The longer 15- mark part b) (section B) answers should be structured with a clear introduction, paragraphed (and linked) main body and a clear conclusion.
- Candidates should not waste time on peripheral context for the short answer responses in section A.

LAW
GCE A LEVEL
Summer 2023
COMPONENT TWO
SUBSTANTIVE LAW IN PRACTICE
A15OU20-1

General Comments

Since one of the purposes of this report is to help centres identify areas for further improvement, it necessarily includes comments of a critical nature. These should not be taken as applying equally to all centres, nor are they intended to detract from the overall fine performance of many candidates.

Whilst examiners fully appreciate the time issue in examinations there was a significant number of scripts where the handwriting was practically unintelligible; can centres please remind the CANDIDATES about the importance of legible handwriting, as examiners have to be able to read their work.

A Level Law Component 2 is split between Section A, Section B., Section C and Section D. Candidates answer three questions from three different sections.

Component 2 was generally well received and the questions covered a range of the specification.

Candidates seemed better prepared for some questions rather than others, this was evident in the quality of their responses, and the questions selected.

- Significant lack of case law citation generally, especially in the tort and criminal law questions where there is a plethora of case law that could be used to support the application, and thus give a holistically better quality answer. Whilst detailed facts of cases are not needed, an explanation of the relevance of the case is desirable. There was also evidence of weak case citation – for example, ‘a case where....’
- Candidates seem to spend a lot of time on conclusions, which essentially repeat what they have said in the main body - this is not sensible practice as the time could be better spent on more detailed application or knowledge of the law.
- It may be the lack of exam practice, but candidates need to be reminded of general exam housekeeping – for example, labelling questions correctly. There were many examples where examiners had to guess where part a) ended and part b) started. Whilst candidates are encouraged to answer questions in the order in which they are comfortable, numbering is even more important when candidates choose to answer in a non-chronological way.
- There was also evidence of lots of unacceptable abbreviations – for example, AR for actus reus, PACE for Police and Criminal Evidence Act – whilst abbreviations of statutes are acceptable once the Act has been cited in full in its first citation, abbreviations of general terms are not appropriate at this level.
- Some candidates seem to be intent on ‘writing all they know’ about a topic rather than focusing on the question itself; this was more evident in some questions than others, particularly question 8
- Candidates need to be encouraged to read the question – there were many answers that missed the focus of the question. This was particularly true of question 6.

Comments on individual questions/sections

SECTION A

- Q.1** Most candidates correctly identified the presence of an exclusion clause and were able to discuss the rules of incorporation.

Application of the rules on incorporation tended to be vague and did not make full use of the facts provided in the scenario. For example, many candidates did not apply the rules on a previous course of dealings (*Spurling v Bradshaw*) to the fact that Ashlee had used the same company 10 years previously.

Some candidates demonstrated excellent understanding of implied terms under the Consumer Rights Act 2015, and were able to apply s.9, and s. 10 to the scenario. However, there was a missed opportunity to apply the Unfair Contract Terms Act 1977 s.6 - cannot exclude liability under CRA 2015.

Few candidates discussed s. 49 CRA 2015 and the issue of whether Better Boilers had exercised reasonable care and skill.

Conclusions tended to be tentative and could have been strengthened by advising Ashlee on the steps he could take. For example, complaining to the trader under CRA 2015 s. 62.

Weaker responses briefly identified an exclusion clause, but then discussed the requirements of a contract (such as offer and acceptance and intention to create legal relations).

- Q.2** The vast majority of responses were able to write confidently about the aspects of a valid contract with supporting legal authority, with a large number discussing the difference between unilateral and bilateral offers and how this would apply in the scenario. The best responses dealt with the two parties (David and Mary) separately. Those that attempted to deal with the issues chronologically (and thus jumping between David and Mary) tended to produce responses that did not fully explore all of the issues raised in sufficient depth. Furthermore, a number of responses were quite repetitive, explaining the same point of law (e.g. the validity of an invitation to treat) for both David and Mary, thus missing the opportunity to explore the fine points surrounding valid acceptance in sufficient detail. Additionally, a number of responses did not mention Mary other than she had made an offer.

Section B

- Q.3** Responses were generally well detailed to this question with the best responses following the logical pattern of establishing duty, breach of duty and causation. This approach allows for appropriate explanation and detailed application.

A majority of answers contained too much focus on *Donoghue v Stevenson* in establishing a duty of care with an explanation of *Caparo* added on afterwards.

For duty of care, the updated principle in *Robinson* was not consistently applied or explained well. It is important to remind candidates of the need to discuss the approach taken in *Robinson v Chief Constable of West Yorkshire Police* (2018) (SC).

This case established that decisions on whether a defendant owed a duty of care should, firstly and where possible, be based on precedent and if there is no precedent, the law should be developed incrementally from analogous cases. If no analogous cases exist and the situation is completely novel then the Caparo tests can be used.

Therefore, it is totally acceptable for candidates to conclude for duty of care, using Robinson, that on the facts of a given scenario question, that there would likely to be an established precedent or analogous case on owing a duty of care; therefore they would not need to apply the Caparo tests. Candidates can still achieve the top mark band taking this approach. It is also an acceptable approach, when discussing duty of care, for candidates to conclude that in the event that judges consider this to be a novel situation or relationship, the Caparo tests should be applied to establish duty of care.

Most responses applied the breach of duty well, but some candidates wrote at length about the different standards expected of a reasonably competent person in a variety of situations (e.g. children/medical professionals) without focusing on that which was immediately relevant to the scenario.

Legal causation proved troublesome with many not discussing remoteness correctly (or at all).

A significant number of candidates' explored damages, often at the expense of other areas of the scenario and a number of responses wrote about contributory negligence but with varying degrees of detail.

Of the two tort law options, candidates performed better on this than question 4.

Q.4 This was an accessible question, but some candidates misinterpreted it as a pure negligence scenario and were therefore not able to gain much of the credit available.

There was also some confusion over the scope of OLA 1957 and 1984, thus causing mistakes in AO1. Pleasingly, a significant number of responses mentioned the categories of visitor under *Wheat v Lacon*, however there were a number of 'narrative' responses that contained minimal case law, particularly in relation to Amanda.

The majority of responses referred to the doctrine that occupiers must prepare for children to be less careful than adults, but this was not always supported with accurate legal authority. Furthermore, very few respondents discussed that Joel becomes a trespasser after he enters the cafe. However, there were a large number that discussed the warning signs and reasonable precautions that had been taken.

Section C

Q.5 This was one of the strongest responses on the paper and most candidates who attempted this question accurately moved through the law on theft with good citation of case law.

Most candidates were comfortable explaining the principles of theft and this was supported with appropriate legal authority. Sometimes, however, this felt a little prescribed and as such, on occasion application was not fully developed.

Additionally, there were some responses that did not mention the updated test for dishonesty from Ivey (e.g. R v Barton & Booth (2021)) and others that spent time explaining the old Ghosh test in detail before briefly mentioning that it no longer applied.

A number of responses did not mention robbery but those that did generally did so with supporting legal authority.

Furthermore, discussion of burglary was inconsistent. A number of candidates did not cover this at all, whilst others did not identify (and thus explain and apply) that both burglary offences could have been committed.

- Q.6** Most candidates were able to explain the definition of murder, however a large number wrote about the elements of this definition (e.g. “Human Being”) and applying in detail where this then impacted upon their ability to explain and fully apply causation, which was the focus of the question.

Both factual and legal causation were on the whole handled well with legal authority used appropriately to support the explanation and allow sufficient depth of application. The potential intervening act of the doctor was mentioned in the majority of responses however, there was a lack of case law to support legal causation.

Candidates focussed on the actus reus of murder rather than the mens rea and the mens rea was often incorrect or failed to mention direct/oblique intent. A portion of candidates opted for unlawful act manslaughter and did not consider murder at all.

Voluntary manslaughter was not done consistently. A number of candidates explained both diminished responsibility and loss of control in detail before a perfunctory line that dismissed the availability of one or both of these partial defences, this then prevented these candidates from developing a sustained and well-rounded application of the law

A minority of candidates confused this question with non-fatal offences, which is incorrect.

Other common errors seen included referring to the ‘defence’ of unlawful act manslaughter and confusing voluntary and involuntary manslaughter.

Section D

- Q.7** Overall, candidates use of legal authority was good on this question with specific and accurate knowledge of PACE and other legislation evident.

However, some responses were very formulaic, describing in detail the requirements for stop and search before dismissing these as not being relevant to the scenario. Candidates are to be reminded to answer the question asked, which focussed here on arrest and detention, and not to write everything they know about police powers, as this approach will limit their ability to fully focus on the relevant law.

Most responses discussed at length the powers of arrest but did not give sufficient weighting to the legality of how these were used in the scenario.

Furthermore, arrest was not always complete – necessity tests and caution were often missing.

Few candidates explored all aspects of custody, time limits were often overlooked as was whether samples could be retained, but most identified the phone call and solicitor issue (though only a minority discussed delaying these rights). Some candidates made links with human rights.

Some candidates did not accurately cite PACE which was a little concerning. A large number of answers contained no section numbers of PACE, this will significantly limit their ability to move above band 2.

Q.8 Less popular than the police powers question but answered generally well.

Most candidates spent time on the preliminary stages relating to the organisation and conditions of a procession/assembly.

A significant number of candidates failed to discuss the potential public order offences under sections 1 – 5 of the Public Order Act 1986, particularly lacking in a discussion of the placards and section 5 of the POA 1986.

Few candidates discussed whether there was potential breach of the peace, which was relevant on the facts of the scenario

There was little reference to ‘noisy protests’ under the new Police, Crime and Sentencing Act 2022. Also, note the new Public Order Act 2023, which has introduced a range of new offences (e.g. locking-on) and powers aimed at trying to limit the disruption caused by protests. Though not necessary this year, it will be needed next year, should this topic feature

Summary of key points

- Candidates need to be reminded of the importance of supporting their points with relevant legal authority. This could be case law, statute law or other supporting authorities, depending on the nature of the question.
- Cases – whilst copious facts are not required, candidates need to do more than merely ‘case drop’. Cases should be explained in relation to the point of law that they established. Case citation is often a little vague; with lots of instances of “The case where...”, rather than direct citation. At the other extreme, there was lots of evidence of copious recounting of facts of cases, which is a waste of precious exam time.
- Candidates need guidance in terms of structuring answers to a problem question, as a significant number of answers were not very well structured or logical. Weaker candidates provided a re-hash of the facts provided in the scenario, rather than providing a solid application of the law
- It seems that candidates are increasingly making use of model answers. As a strategy, the use of model answers can be clearly beneficial in helping candidates to structure their answers, and as a general aid to memory, however it is not always helpful in application questions which require candidates to use their own judgment
- Candidates need to be encouraged to read and answer the question set – there were many answers that missed the focus of the question.

A150U30-1 Law (Eduqas) A Level
GCE A LEVEL
Summer 2023
COMPONENT 3
PERSPECTIVES OF SUBSTANTIVE LAW

General Comments

Component 3, similar to component 2, has four substantive areas of law from which a candidate must select one essay style question to 3 of the areas studied. The choice of one from two questions allows candidates to focus on areas of strength. Each question is worth 25 marks and is divided into assessment objective 1 (AO1), 10 marks for knowledge and understanding of the English legal system and legal rules and principles. Assessment objective 3 (AO3) 15 marks requires a candidate to analyse and evaluate legal rules, principles, concepts and issues.

This was the first year where no advance information of any type was available to candidates. It therefore provided an interesting and up to date insight into how candidates handled the demands of external examinations.

Candidates seemed better prepared for some questions rather than others and this was evident in the quality of their responses and the questions selected. Candidates should be familiar with all the content and amplification sections.

Essay skills also need to be refined as, although candidates did well to explain the law clearly, this was not always brought back to the question posed and there were few instances where this evaluative theme was a strong feature of the response. In addition, essays should be structured appropriately with a clear introduction that unpacks the question, a paragraphed and focused main body and a clear conclusion that directly addresses the question posed.

There is an issue with the legibility of some candidates' handwriting. Legible and clear handwriting gives candidates the best opportunity to clearly convey the point they are trying to make. At times, some handwriting was practically unintelligible and therefore centres are reminded about the importance of legible handwriting as examiners have to be able read the work produced.

As a general rule across all sections and questions, whilst AO1 knowledge and understanding was often of a high standard, the analysis and evaluation for AO3 was much weaker in comparison. Centres are reminded that evaluation is worth 15 of the 25 marks.

Centres should encourage candidates to write in a more academic style using the third person when proposing ideas, rather than in the first person.

Comments on individual questions/sections

Section A Law of Contract

Q.11 Intention to create legal relations

Many candidates coped well with this relatively straightforward question on intention to create legal relations. Responses tended to start by putting this element of a valid contract into context. However, weaker responses spent too long on this and wrote at length about all elements of a contract, explaining in detail offer, acceptance consideration and privity. Time spent on this was often to the detriment of the main focus of the question.

There was generally good citation of case law and popular cases included *Edwards v Skyways*, *Esso Petroleum Ltd v Commissioners of Customs and Excise*, *Balfour v Balfour* and *Merritt v Merritt*.

Stronger responses outlined the general presumption with regard to social and domestic and commercial and business cases. Knowledge of case law was essential to develop the answer and to show an appreciation of when the presumptions could be rebutted. Most responses managed to then comment on the AO3 aspect of the essay and included comments about a lack of consistency, fairness and the need for reform. This brought the answer back to the focus of the question.

What hindered some candidates was the lack of focus on the specific nature of the question and a lack of evaluation. Indeed, at times, very weak responses considered criminal aspects of mens rea and intention.

Section A Law of Contract

Q.11 Frustration

This question on frustration was not as popular as the previous contract question. Responses varied from either very short with little relevant material to strong, clear and detailed answers. Where cases did appear popular ones included *Paradine v Jane*, *Taylor v Caldwell* and *Krell v Henry*.

Compared with the previous question, responses tended to be more general with a lack of case law and evaluation meaning that marks tended to the middle mark band.

At times, the answer appeared to be in a prepared format and referred to advantages and disadvantages of frustration rather than to the wording in the question which was fair and just. It would have taken very little to alter the answer to be more inline with the question.

Weaker answers focused on aspects not relevant to the question, such as offer and acceptance. Alternatively, they focused on other methods of discharge of a contract such as breach and performance.

Section B Law of Tort

Q.13 Trespass

There were many well answered, detailed responses which showed knowledge and understanding of the law on trespass to land. Such answers scored well on AO1 but due to a lack of evaluation, marks for AO3 were lower with most points being generic without any evidence to support them.

Stronger responses focused on the main elements of direct Interference, voluntary Interference, awareness of trespassing, actionable per se, defences and remedies. The very best answers were well structured with consistent use of cases for every single element of trespass which displayed excellent knowledge of the tort. At the end of each paragraph on AO1 there were clear AO3 evaluation points. Articulate responses also included comments on below the land legislation and discussed fracking and the 300 metre rule. Consideration of fairness included suggestions that to allow fracking generates money/jobs/energy source. However, many landowners would not be happy with fracking below their land due to environmental concerns/causes of global warming.

At times some candidates wrote all they knew about trespass rather than make the specific link to whether the law is fair to both landowners and trespassers.

A number of candidates misinterpreted this question as one about occupiers' liability and proceeded to write about the Occupiers' Liability Act 1984 compared with the 1957 Occupiers' Liability Act. Though attracting some credit, this was not the focus of the question. The law on trespass has a focus on the liability of the trespasser. Whilst occupiers liability concerns the obligations of those who occupy premises.

Weak responses not only focused on the wrong tort but were very short, lacking both case law and evaluation. In a small number of answers the tort of Rylands v Fletcher was discussed. Again not the tort in the question.

Overall, there was a lack of case law with some answers containing no cases at all.

Section B Law of Tort

Q.14 Private nuisance

Generally this tort question was better answered than the previous question on trespass. Popular cases included Wheeler v JJ Saunders Ltd, Miller v Jackson, Malone v Laskey and Hunter v Canary Wharf.

Stronger answers were well structured with evaluation following the knowledge and understanding point. Answers were at their best when they included indirect Interference, unreasonableness, damage, defences & remedies. Some excellent answers also compared the 3 cases for who can sue as an evaluation point, namely Malone v Laskey, Khornsandjan v Bush and then Hunter v Canary Wharf.

As was the case with other questions, candidates need to include more evaluation and focus on the question, which in this instance was the balance between those with an interest in land.

At times the unreasonableness factors were omitted or if they were mentioned there was a lack of case law.

Section C Criminal Law

Q.15 Theft

This was one of the strongest responses on the paper and most candidates who attempted this question accurately moved through the elements of the law on theft and evaluated well with relevant legal authority. Such responses also included reference to the appropriate section numbers in the Theft Act 1968.

The focus on the 'need for reform' was less strong but there was good citation of case law and reform has come that way, especially with the dishonesty element.

A number of candidates also decided to explain the law on burglary and robbery, perhaps as they did not know enough solely on the law of theft to justify a long, evaluative response. Though creditworthy where the discussion related to common elements, these other property offences were not needed to achieve the top marks and discussions needed to only focus on the law of theft, as per the question.

Some candidates appeared to be unaware that the Ghosh test was no longer used for dishonesty. This test is creditworthy, especially with regard to an evaluation point, as it can be compared with *Ivey v Genting Casinos UK Ltd* and then a further discussion of the Barton and Booth test.

Weaker responses provided little more than an inaccurate definition with little or no case law in support. Section numbers were not always present but when they did appear they were often incorrect.

Section C Criminal Law

Q.16 Consent

As with the previous criminal law question on theft, this question produced strong answers. As is usual candidates seem to get on well with criminal law questions.

Answers tended to be very well structured, particularly in terms of explaining the law on consent as a defence. Often a good range of case law was included with comments on consent and murder, horseplay, children, fraud, sports and sexual activity.

What was weaker was the link to the question and a discussion of the extent to which the courts are prepared to recognise consent as a defence. As a result, few achieved the top band for AO3. Centres are reminded that AO3 analysis and evaluation is worth 15 of the 25 marks. All too often evaluation points were too general, with a lack of specific points relating to consent.

Weaker responses failed to appreciate the legal effect of a successful consent defence. Some suggested it was a partial defence and reduced a conviction to a lower offence with a reduced sentence. Missed points related to consent and surgery, dangerous exhibitions, chastisement and body modification.

Section D Human rights law

Q.17 Police Powers

A police powers evaluative essay is now firmly established as a possible feature on Component 3, as well as traditionally forming part of a Component 2 scenario. Many candidates seemed well prepared for this question having perhaps just revised it for Component 2. Most were able to explain a wide range of police powers but the focus was on detention and so responses that started with a discussion of stop and search and arrest (as per a traditional police powers question) did not necessarily leave sufficient time for the focus on detention. This displays the need to carefully read questions and not just produce a pre-planned revision answer.

In the better responses there was generally good citation of legal authority. AO1 was again stronger than AO3 but there were some good attempts to draw the discussion back to the question posed and the central issue of the protection of the rights of suspects during detention.

As this is on the human rights section of the specification, it was expected that candidates would refer to human rights issues such as article 5 ECHR and case law such as Gillan and Quinton.

In weaker responses there was a lack of section numbers which limited AO1 marks. As did the lack of Codes not being discussed. Where section numbers were included they were often incorrect. This may be a question where candidates would benefit from writing a plan prior to commencing an answer.

Section D Human rights law

Q.18 Right to a private life

This was not as popular as the previous police powers question and often not as well answered. There were very varied responses to this question and credit was given accordingly.

Article 8 is a pervasive right throughout a wide range of legal areas. Whilst the expected focus was on the right to privacy and breach of confidence, a significant number of candidates discussed defamation. This was not the focus of the question but it was acknowledged, when considered appropriately, there is some level of overlap.

Some candidates produced a sophisticated consideration of the balance between articles 10 and 8. A large number of candidates also considered harassment laws which was an interesting take.

This question shows the need to carefully consider the choice of question in a section and to ensure a clear understanding of what it is asking.

Summary of key points

- As is generally the case with this paper, candidates need to focus more on the question. Answers should regularly link back to the posed question and provide commentary on it. Responses can agree or disagree but need to provide clear and detailed information in support.
- It is acknowledged that candidates struggle with the higher order skill of evaluation. However, centres should try to develop candidates ability to address the AO3 content. This is important as it carries 15 of the 25 marks available.
- Handwriting should be as clear and legible as possible, and all parts of questions should be clearly and accurately numbered. Centres should identify candidates who would benefit from alternative access arrangements.
- Candidates should be encouraged to write in an academic style, producing responses in the third, not first person.



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