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SAMPLE ASSESSMENT MATERIALS

Teaching from 2017



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For teaching from 2017
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GCE AS LAW

SAMPLE ASSESSMENT MATERIALS

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AS LAW

COMPONENT 1

The Nature of Law and the English Legal System

SAMPLE ASSESSMENT MATERIALS

1 hour 30 minutes

ADDITIONAL MATERIALS

In addition to this examination paper, you will need a 12 page answer book.

INSTRUCTIONS TO CANDIDATES

Section A: Answer **three** questions - question 1 **and** 2 plus **either** question 3 **or** question 4.

Section B: Answer **one** question – **either** question 5 **or** question 6.

Write your answers in the separate answer book provided.

Use black ink or black ball-point pen.

INFORMATION FOR CANDIDATES

The number of marks is given in brackets at the end of each question or part-question. The quality of your extended response will be assessed in answers to the following questions: 3(b), 4(b), 5(b) and 6(b).

You are advised to spend approximately 55 minutes on Section A, and approximately 35 minutes on Section B.

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Section A

*In Section A, you must answer three questions. Answer **both** questions 1 and 2 plus **either** 3 or question 4.*

Questions 1 and 2 require you to demonstrate knowledge and understanding of the English legal system and legal rules and principles, and the nature of law.

Credit will be given for the use of relevant supporting case law and authority.

*Answer **both** questions 1 and 2.*

1. Explain the controls on delegated legislation. [6]

2. Explain the techniques used by judges to avoid an awkward precedent. [6]

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*Answer **either** question 3 **or** question 4.*

*You must answer **both** part (a) and part (b) of your chosen question.*

Part (a) requires you to demonstrate knowledge and understanding of the English legal system and legal rules and principles, and the nature of law.

Part (b) requires you to apply legal rules and principles and the nature of law to a given scenario in order to present a legal argument using appropriate legal terminology.

Credit will be given for the use of relevant supporting case law and authority.

EITHER

Question 3

Read the text below and answer part (a).

"We sit here to find out the intention of Parliament and carry it out, and we do this better by filling in the gaps and making sense of the enactment rather than by opening it up to destructive analysis."

Source: Lord Denning, Magor and St Mellons RDC v Newport Corporation (1950)

(a) Using the text above and your own knowledge, explain the purposive approach advocated by Lord Denning to the interpretation of statutes. [6]

Read the fictitious statute and the scenario below and answer part (b).

Section 1**:** It shall be an offence to organise a party at a student residence after 11.30 p.m. on a weekday night.

Reduction of Student Noise (Local Authority) Fictitious Act 2016

Steve, a student, had completed his first year examinations and during the holidays he organised a discussion group with his friends. A number of friends came round where there was a passionate discussion on political matters and opinions. After the discussion had finished Steve prepared coffee and biscuits. At 11.30 p.m. the meeting came to an end when Jeremy who was helping with the washing up dropped a tray of cups which smashed. The noise woke up Sarah who lived next door. She complained to the police who investigated the matter and subsequently charged Steve under Section 1 of the Act.

(b) Using the scenario above and applying the rules of statutory interpretation, advise Steve as to whether an offence has been committed in this situation. [18]

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OR

Question 4

Read the text below and answer part (a).

'The making and passing of legislation is central to the law reform enterprise. Only the state can make legislation and the making of it is critical to the framework of any legal system. While not every activity of a Law Commission requires legislation, the achievement of its fundamental purpose does. Who makes legislation, how they make it and where a Law Commission fits into the legislative system becomes a critical issue in charting the future.'

Sir Geoffrey Palmer, Scarman Lecture, 24 March 2015

(a) Using the text above and your own knowledge, explain the purpose of the Law Commission in promoting law reform. [6]

Read the scenario below and answer part (b).

Tom, a young man, was being taken to hospital for minor injuries he sustained whilst playing rugby. On the way, the ambulance doors flew open, and he fell out. He suffered major head injuries, and went into a deep coma. At the hospital, he underwent two life-saving operations to relieve the pressure on his brain, but the operations left him with severe irreversible brain damage. His mother, Nicola is convinced that Tom will never recover and that the only way to end his suffering would be to end his life. Nicola is aware that euthanasia is against the law but wishes to campaign for reform to the law.

(b) Using the scenario above and applying your understanding of law reform, advise Nicola as to the other ways, apart from the Law Commission, in which she could try to promote reform of the law on euthanasia in England and Wales. [18]

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Section B

*In Section B, you must answer **either** question 5 **or** question 6.*

*You must answer **both** part (a) and part (b) of your chosen question.*

Part (a) of your chosen question requires you to demonstrate knowledge and understanding of the English legal system and legal rules and principles, and the nature of law.

Part (b) of your chosen question requires you to analyse and evaluate legal rules, principles and concepts, and the nature of law.

Credit will be given for the use of relevant supporting case law and authority.

EITHER

Question 5

(a) Explain the factors which are taken into account by the police in the decision to grant or refuse bail after charge. [6]

(b) Analyse and evaluate the advantages and disadvantages of bail. [18]

OR

Question 6

(a) Explain how magistrates are appointed. [6]

(b) Analyse and evaluate the advantages and disadvantages of the selection processes for the judiciary. [18]

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COMPONENT 1: The Nature of Law and the English Legal System

Mark Scheme

Marking guidance for examiners

Summary of assessment objectives for Component 1

The questions in Section A and Section B assess all three assessment objectives - AO1, AO2 and AO3. The assessment objectives focus on the ability to demonstrate knowledge and understanding of legal rules and principles; the ability to apply legal rules and principles to given scenarios in order to present a legal argument using appropriate terminology, and the ability to analyse and evaluate legal rules, principles and concepts.

The structure of the mark scheme

The mark scheme for both Section A and Section B has two parts:

- indicative content which can be used to assess the quality of the specific response. The content is not prescriptive and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.

- an assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1, AO2 and AO3.

Stage 1 - Deciding on the band

Beginning at the lowest band, examiners should look at the learner's answer and check whether it matches the descriptor for that band. If the descriptor at the lowest band is satisfied, examiners should move up to the next band and repeat this process for each band until the descriptor matches the answer.

If an answer covers different aspects of different bands within the mark scheme, a 'best fit' approach should be adopted to decide on the band and then the learner's response should be used to decide on the mark within the band. For instance if a response is mainly in band 2 but with a limited amount of band 3 content, the answer would be placed in band 2, but the mark awarded would be close to the top of band 2 as a result of the band 3 content. Examiners should not seek to mark candidates down as a result of small omissions in minor areas of an answer.

- The first stage for an examiner is to use both the indicative content and the assessment grid to decide the overall band.
- The second stage is to decide how firmly the characteristics expected for that band are displayed.
- Thirdly, a mark for the question is awarded.

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Stage 2 - Deciding on the mark

During standardising (marking conference), detailed advice from the Principal Examiner on the qualities of each mark band will be given. Examiners will then receive examples of answers in each mark band that have been awarded a mark by the Principal Examiner. Examiners should mark the examples and compare their marks with those of the Principal Examiner.

When marking, examiners can use these examples to decide whether a learner's response is of a superior, inferior or comparable standard to the example. Examiners are reminded of the need to revisit the answer as they apply the mark scheme in order to confirm that the band and the mark allocated is appropriate to the response provided.

Indicative content is also provided for banded mark schemes. Indicative content is not exhaustive, and any other valid points must be credited. In order to reach the highest bands of the mark scheme a learner need not cover all of the points mentioned in the indicative content but must meet the requirements of the highest mark band. Where a response is not creditworthy, that is contains nothing of any significance to the mark scheme, or where no response has been provided, no marks should be awarded.

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Section A

1. Explain the controls on delegated legislation. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining what is meant by the controls on delegated legislation candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying delegated legislation. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question and not simply give a general answer on legislation.

The response might consider issues such as**:**

- parliamentary control including: scrutiny committee Enabling Act Negative resolution Affirmative resolution
- control by the courts including:
  judicial review; ultra vires – substantive (possibly supported by the Aylesbury Mushroom Case) and procedural (possibly supported by reference to Strickland)
- the nature of law; study of the different sources of law.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the controls on delegated legislation. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the controls on delegated legislation. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the controls on delegated legislation. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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2. Explain the techniques used by judges to avoid an awkward precedent. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining what is meant by the techniques used to avoid an awkward precedent candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying judicial precedent. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question and not simply give a general answer on precedent.

The response might consider issues such as**:**

- an explanation of overruling, reversing and distinguishing
- relationship of the court hierarchy in relation to precedent
- relevant case examples to illustrate the operation of *overruling, reversing and distinguishing*
- the nature of law; study of the different sources of law.

Band	**Marks**	**AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles**
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to techniques used by judges to avoid awkward precedents. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to techniques used by judges to avoid awkward precedents. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to techniques used by judges to avoid awkward precedents. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 3(a)

"We sit here to find out the intention of Parliament and carry it out, and we do this better by filling in the gaps and making sense of the enactment rather than by opening it up to destructive analysis."

Source: Lord Denning, Magor and St Mellons RDC v Newport Corporation (1950)

(a) Using the source above and your own knowledge, explain the purposive approach advocated by Lord Denning to the interpretation of statutes. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the purposive approach advocated by Lord Denning, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the purposive approach in relation to statutory interpretation. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question and not simply give a general answer on statutory interpretation. The response might consider issues such as:

- understanding of the purposive approach as looking to the 'spirit of the law'
- citation of relevant case law where the purposive approach has been used, for example, *Pepper v Hart, Jones v Tower Boot Co Ltd, R v Registrar General ex. p Smith*
- effect of EU membership and the purposive approach; whether interpretation of EU laws needs a more flexible approach
- specific reference to Lord Denning's comments on the purposive approach in *Magor and St Mellons v Newport Corporation*
- the use of intrinsic and extrinsic aids to support the purposive approach, for example, the long title, Hansard, Human Rights Act 1998, Law Commission reports
- the nature of law: different sources of law; the distinction between enforceable legal rules and principles.

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Assessment grid for Question 3(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent use of the source and detailed knowledge and understanding of the English legal system and legal rules and principles relating to the purposive approach. Response is clear, detailed and fully developed.
2	**3-4**	• Good use of the source and knowledge and understanding of the English legal system and legal rules and principles relating to the purposive approach. Response is generally clear, detailed and developed.
1	**1-2**	• Basic use of the source and basic knowledge and understanding of the English legal system and legal rules and principles relating to the purposive approach. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 3(b)

Reduction of Student Noise (Local Authority) Fictitious Act 2016

Section 1: It shall be an offence to organise a party at a student residence after 11.30 p.m. on a weekday night."

Steve, a student, had completed his first year examinations and during the holidays he organised a discussion group with his friends. A number of friends came round where there was a passionate discussion on political matters and opinions. After the discussion had finished Steve prepared coffee and biscuits. At 11.30 p.m. the meeting came to an end when Jeremy, who was helping with the washing up, dropped a tray of cups which smashed. The noise woke up Sarah who lived next door. She complained to the police who investigated the matter and subsequently charged Steve under Section 1 of the Act.

(b) Using the scenario above and applying the rules of statutory interpretation, advise Steve as to whether an offence has been committed in this situation. [18]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question. In order to achieve the highest marks a response must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured.

In advising Steve, candidates are expected to apply the full range of legal rules and principles that affect the application of the rules of statutory interpretation to this situation. In this case candidates may apply the literal, golden, mischief and purposive rules, plus other methods of interpretation, including both intrinsic and extrinsic aids, to the given scenario in order to present a legal argument using legal terminology. The response might consider issues such as:

- applying the four rules of statutory interpretation to Steve's situation:
  - the literal rule; giving words the natural and grammatical meaning, even if the result is absurd; support can be gained from cases such as *Whitely v Chappel*, *Lees v Secretary of State, Fisher v Bell, London LNER v Berriman*
  - the golden rule; allowing words in a statute to be modified in order to avoid an absurdity or repugnant result; support can be gained from cases such as *Sweet v Parsley, Adler v George, Re Sigsworth, R v Allen*
  - the mischief rule; looking at the gap in the law Parliament intended to fill; this was established in *Heydon's Case*; support can be gained from cases such as *Smith v Hughes, Royal College of Nursing v DHSS, Pepper v Hart*
  - the purposive rule; looking at the 'spirit of the law' and what Parliament intended; support can be gained from cases such as *Quinataville, Jones v Tower Boot Company*
- applying other appropriate cases to Steve's situation
- applying other methods of interpretation to Steve's situation:
  - use of intrinsic aids in the advice including short title, long title, preamble, interpretation sections, margin notes or rules of language
  - use of extrinsic aids in the advice including Hansard, textbooks, Human Rights Act 1998
- the nature of law: the distinction between enforceable legal rules and principles in relation to the rules of statutory interpretation.

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Assessment Grid for Question 3(b)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**15-18**	• Excellent application of legal rules and principles to Steve's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation. The legal argument is detailed, fully developed and persuasive.
3	**10-14**	• Good application of legal rules and principles to Steve's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation. The legal argument is generally detailed, developed and persuasive.
2	**5-9**	• Adequate application of legal rules and principles to Steve's situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation. The legal argument includes some detail which is developed in places.
1	**1-4**	• Basic application of legal rules and principles to Steve's situation. • Basic presentation of a legal argument using minimal legal terminology relating to the rules of statutory interpretation. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 4(a)

'The making and passing of legislation is central to the law reform enterprise. Only the state can make legislation and the making of it is critical to the framework of any legal system. While not every activity of a Law Commission requires legislation, the achievement of its fundamental purpose does. Who makes legislation, how they make it and where a Law Commission fits into the legislative system becomes a critical issue in charting the future.'

Sir Geoffrey Palmer, Scarman Lecture, 24 March 2015

(a) Using the source above and your own knowledge, explain the purpose of the Law Commission in promoting law reform. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the purpose of the Law Commission in promoting law reform, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the establishment and purpose of the Law Commission. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question and not simply give a general answer on law reform. The response might consider issues such as:

- the establishment of the Law Commission under the Law Commission Act 1965, which created the Law Commission as an independent body with the purpose to revise and codify the law but the prime purpose is law reform
- specific reference to the purpose of the Law Commission with regard to law reform including to codify the law into statutory form, to remove anomalies in the law, to repeal obsolete laws, to consolidate the law so that it can be found in one place, to simplify and modernise the law. An example of recent work which shows its purpose is the Criminal Justice and Courts Act 2015
- the Law Commission Act 2009 which compels the government to give reasons why it has not implemented any proposal of the Law Commission and to produce a report for Parliament every year
- the nature of law; the reform of criminal and civil law.

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Assessment Grid for Question 4(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent use of the source and detailed knowledge and understanding of the English legal system and legal rules and principles relating to the purpose of the Law Commission. Response is clear, detailed and fully developed.
2	**3-4**	• Good use of the source and knowledge and understanding of the English legal system and legal rules and principles relating to the purpose of the Law Commission. Response is generally clear, detailed and developed.
1	**1-2**	• Basic use of the source and basic knowledge and understanding of the English legal system and legal rules and principles relating to the purpose of the Law Commission. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 4(b)

Tom, a young man, was being taken to hospital for minor injuries he sustained whilst playing rugby. On the way, the ambulance doors flew open, and he fell out. He suffered major head injuries, and went into a deep coma. At the hospital, he underwent two life-saving operations to relieve the pressure on his brain, but the operations left him with severe irreversible brain damage. His mother, Nicola is convinced that Tom will never recover and that the only way to end his suffering would be to end his life. Nicola is aware that euthanasia is against the law but wishes to campaign for reform to the law.

(b) Using the scenario above and applying your understanding of law reform, advise Nicola as to the other ways, apart from the Law Commission, in which she could try to promote reform of the law on euthanasia in England and Wales. [18]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question. In order to achieve the highest marks a response must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured.

In advising Nicola, candidates are expected to apply the full range of legal rules and principles that affect the reform of the law. In this case, candidates may apply legal rules and principles in relation to pressure groups, the media, judges and Royal Commissions to the given scenario in order to present a legal argument using legal terminology. The response may consider issues such as:

- advising Nicola that she could set up a pressure group to bring about reform of the law; there may be reference to the success of other groups that have specific interests or causes, such as the Law Society, Greenpeace, Fathers 4 Justice, Amnesty International
- advising Nicola of the role that Parliament and her MP can play in reforming the law of euthanasia: the majority of law reform is carried out by Parliament through repealing, creating, consolidating and codifying. This may be in pursuit of party political agendas or may be the outcome of a Private Member's Bill on euthanasia
- advising Nicola that, with regard to judicial change, judges can reform the law on euthanasia through the creation of original precedent and Nicola may wish to begin a legal action. This is not common as judges need to be mindful of their constitutional position. Notable examples include the cases of Diane Pretty, Debbie Purdy and Daniel James
- members of the public such as Nicola can sometimes bring about law reform by using the media as a vehicle. Notable examples include the Dangerous Dogs Act 1991
- if a newspaper gets behind Nicola's campaign of law reform, this can be very successful to gain Parliament's attention; for example, the passing of 'Sarah's Law' which came about as a result of a campaign by the News of the World calling for the public to have access to the sex offender's register
- a successful campaign by Nicola may help to establish the setting up of a Royal Commission on euthanasia
- the nature of law: the reform of criminal and civil law.

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Assessment Grid for Question 4(b)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**15-18**	• Excellent application of legal rules and principles to Nicola's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the agencies of law reform. The legal argument is detailed, fully developed and persuasive.
3	**10-14**	• Good application of legal rules and principles to Nicola's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the agencies of law reform. The legal argument is generally detailed, developed and persuasive.
2	**5-9**	• Adequate application of legal rules and principles to Nicola's situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to the agencies of law reform. The legal argument includes some detail which is developed in places.
1	**1-4**	• Basic application of legal rules and principles to Nicola's situation. • Basic presentation of a legal argument using minimal legal terminology relating to the agencies of law reform. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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Section B

Question 5(a)

Explain the factors taken into account by the police in the decision to grant or refuse bail after charge.

[6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the factors taken into account by the police in the decision to grant or refuse bail, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the granting of bail. In demonstrating this knowledge and understanding candidates are required to give an answer which is focused on police bail and not court bail. The factors that the police must take into account when deciding a grant of bail are found in the Police and Criminal Evidence Act 1984. The response might consider issues such as:

- bail after charge – the factors taken into account when deciding whether to grant or refuse bail are found in s38 Police and Criminal Evidence Act 1984; the custody officer should grant bail unless certain factors suggest that bail should not be granted; these factors include that the name and address of the suspect is not known or is believed to be false or that the suspect may interfere with witnesses if released on bail
- according to the Criminal Justice and Public Order Act 1994, when considering bail the police must take into account factors that may mean that the suspect could be a risk if released without conditions. This Act allows for conditional bail to be granted with conditions such as surrendering passport or reporting at regular intervals to the police station
- under s115 Coroners and Justice Act 2009, a further factor is that bail cannot be granted by the police in murder cases - it can only be granted by a Crown Court judge
- the nature of law: the operation of criminal law in relation to bail.

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Assessment Grid for Question 5(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the law governing the decision to grant police bail after charge. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the law governing the decision to grant police bail after charge. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the law governing the decision to grant police bail after charge. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

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Question 5(b)

Analyse and evaluate the advantages and disadvantages of bail. [18]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question where candidates are expected to draw together different areas of knowledge, skills and/or understanding from across the relevant specification content. In order to achieve the highest marks candidates must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured; they must also demonstrate their ability to draw together details from areas including bail, the criminal process and the English legal system. For example, a response may include reference to the role of bail within the criminal justice system, and the need to balance the right to liberty of the suspect with the obligation of the criminal justice system to protect the public.

Candidates will offer an analysis and evaluation of the legal rules, principles and concepts in order to evaluate the advantages and disadvantages of bail. In order to analyse and evaluate these aspects, candidates may understand that bail allows defendants considerable advantages in relation to their personal lives but also that the majority of criminal offences are committed by defendants on bail or that granting bail allows defendants the opportunity to abscond and interfere with witnesses. In order to fully analyse and evaluate the issue, the response might consider aspects such as:

- analysis and evaluation of several advantages of bail e.g.
  - Bail enables the suspect to carry on with family life / work
  - Bail reduces stress on prison population
  - Bail enables the suspect to prepare for his / her case
  - The creation of bail hostels has allowed people a safe house, whilst still maintaining freedom
- the Home Office suggests that up to 20% of those in our prisons are awaiting trial and may go on to be found innocent or given non-custodial sentences so bail is appropriate in many situations
- analysis and evaluation of several disadvantages of bail e.g.
  - There is a risk to the public
  - There is a risk of reoffending: cases involving Gary Newlove and Gary Weddell
  - There is a risk of interference with witnesses
  - Bail bandits - those who commit further offences whilst on bail
  - There are startling statistics on the number of offences committed by people who are on bail; it is thought a third of burglaries are committed by people who are on bail for another offence
- Home Office statistics state that 12% of bailed offenders fail to appear at their trial; so there is a risk of them absconding or not surrendering to bail; consequently bail is not appropriate in many cases
- the nature of law: the difficulty of the criminal law in balancing the right to liberty v obligation of courts to protect the public.

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Assessment Grid for Question 5(b)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**15-18**	• Excellent analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of bail. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the advantages and disadvantages of bail, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**10-14**	• Good analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of bail. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the advantages and disadvantages of bail, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**5-9**	• Adequate analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of bail. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the advantages and disadvantages of bail, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-4**	• Basic analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of bail. Analysis includes minimal detail. • Basic evaluation of the advantages and disadvantages of bail. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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Question 6(a)

Explain how magistrates are appointed. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining how magistrates are appointed, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the selection and appointment of magistrates, including the role played by the Local Advisory Committees in this process. In demonstrating this knowledge and understanding, candidates are required to be aware of the procedure for appointing magistrates. The response might consider issues such as:

- as part of the appointment process, potential magistrates go through a selection process; this involves an interview by a local advisory committee
- in determining appointment the committee will consider the key (personal) qualities laid down by the Lord Chancellor
- to be appointed as a magistrate, applicants must meet certain qualifications including age, living / working within area (no longer a requirement to live within a 15 mile radius of the Bench on which they will serve)
- appointment is also based on several other factors including balance and requirements of bench, recommendation to Minister of Justice by Local Advisory Committee, background checks, formal appointment by Lord Chancellor
- the nature of law: criminal and civil law in relation to the appointment of magistrates.

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Assessment Grid for Question 6(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to how magistrates are appointed. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to how magistrates are appointed. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to how magistrates are appointed. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 6(b)

Analyse and evaluate the advantages and disadvantages of the selection processes for the judiciary. [18]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question where candidates are expected to draw together different areas of knowledge, skills and/or understanding from across the relevant specification content. In order to achieve the highest marks candidates must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured; they must also demonstrate their ability to draw together details from areas including judiciary, legal personnel and the English legal system. For example, a response may include reference to the procedure for appointing judges, the constitutional position of the judiciary, and an evaluation of reforms to improve the selection process.

Candidates will offer an analysis and evaluation of the legal rules, principles and concepts in order to evaluate the advantages and disadvantages of the selection processes for the judiciary. In order to analyse and evaluate these aspects, candidates may understand that the appointment procedure under the Judicial Appointments Commission allows judges to be appointed in a fair and impartial way but also that judges to the Supreme Court are not appointed by the Judicial Appointments Commission and therefore there still remains the potential for unfairness in the system. In order to fully analyse and evaluate the issue, the response might consider issues such as:

- analysis and evaluation of the advantages of the selection process for the judiciary:
  - The *Constitutional Reform Act 2005* created the Judicial Appointments Commission as an independent body; the main advantages is that this replaced the old appointments system; secret soundings – the system where judges were appointed because of who they knew and not on merit
  - The procedure for appointing judges is now more open and transparent
  - Judges are now independent of the legislative and executive – Dicey - doctrine of the separation of powers
  - A further advantage of the selection process is linked with separation of powers – executive, legislative, judiciary
- analysis and evaluation of disadvantages of the selection process for the judiciary:
  - The procedure for appointing judges is a different procedure for Supreme Court
  - There are problems with trying to remove judges from office
  - Role of the Lord Chancellor in the old selection process
  - Whether judges are truly independent and free from political influences; relevant case citation can be used to support such as Pinochet
- evaluation of possible reforms to improve the selection process
- the nature of law: criminal and civil law in relation to the selection processes for the judiciary.

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Assessment Grid for Question 6(b)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**15-18**	• Excellent analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of the selection processes for the judiciary. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the advantages and disadvantages of the selection processes for the judiciary, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**10-14**	• Good analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of the selection processes for the judiciary. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the advantages and disadvantages of the selection processes for the judiciary, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**5-9**	• Adequate analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of the selection processes for the judiciary. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the advantages and disadvantages of the selection processes for the judiciary, including a valid judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-4**	• Basic analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of the selection processes for the judiciary. Analysis includes minimal detail. • Basic evaluation of the advantages and disadvantages of the selection processes for the judiciary. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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AS LAW

COMPONENT 2

Understanding Substantive Law

SAMPLE ASSESSMENT MATERIALS

1 hour 30 minutes

ADDITIONAL MATERIALS

In addition to this examination paper, you will need a 12 page answer book.

INSTRUCTIONS TO CANDIDATES

Answer **two** questions in total: one question from Section A (private law) and one question from Section B (public law).

INFORMATION FOR CANDIDATES

The number of marks is given in brackets at the end of each question or part-question.

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Section A: Private Law

*Answer **either** question 1 **or** question 2.*

These questions require you to:

- *demonstrate knowledge and understanding of the English legal system and legal rules and principles*
- *apply legal rules and principles to a scenario in order to present a legal argument using appropriate legal terminology*
- *analyse and evaluate legal rules, principles and concepts.*

Credit will be given for the use of relevant supporting case law and authority.

EITHER

Question 1: Law of Contract

(a) Explain how an invitation to treat differs from an offer. [6]

(b) Explain the requirements for valid acceptance. [6]

(c) Assess the extent to which the performance of an existing duty can constitute adequate consideration. [9]

Read the scenario below and answer part (d).

Harold is an inventor. He has designed and produced a range of different inventions which he tries to sell in his shop. He has recently made a machine called the 'Cold-Buster' that he claims will stop anyone who is using it from catching a cold. He places the machine in his shop window with a price tag of £20 and a sign which states that he will give £1000 to anyone who buys the machine and catches a cold while using it. Sally passes the shop one day and sees the machine and sign. She goes into the shop and decides to buy the machine because she sometimes gets very wet when walking her dog in the rain. Three days after beginning to use the machine, Sally catches a heavy cold after getting very wet in the park while looking for her dog who had run away. Sally contacts Harold and tries to claim the £1000. Harold refuses. Sally is very upset both over Harold's refusal to pay her the money.

(d) Advise Sally as to whether she is entitled to claim the £1000 from Harold. [9]

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OR

Question 2: Law of Tort

(a) Explain the 'neighbour principle' established by Lord Atkin in *Donoghue v Stevenson*. [6]

(b) Explain how the neighbour principle was redefined in *Caparo v Dickman*. [6]

(c) Assess the extent to which the law recognises negligently inflicted psychiatric injuries. [9]

Read the scenario below and answer part (d).

Freddie has just bought his first car. One day he decides to take it for a drive in the countryside to see how fast it will go. He turns the radio up loud and takes the car to 60 miles an hour while driving along the narrow country roads. He remembers he needs to text his mother to tell her he will not be coming home for tea that day. He manages to text his mother by holding his mobile telephone in his left hand while using his right to steer the car. As he turns the corner of the road he sees Harold coming towards him in a van. Unknown to both drivers there is some oil on the road which makes the road surface very slippery. Freddie drops his mobile telephone and breaks hard but the car hits the oil and skids into Harold's van severely denting the fronts of both vehicles. Harold suffers serious head injuries.

(d) Advise Freddie as to whether he is likely to be held liable for Harold's injuries. [9]

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Section B: Public Law

These questions require you to:

- *demonstrate knowledge and understanding of the English legal system and legal rules and principles*
- *apply legal rules and principles to a scenario in order to present a legal argument using appropriate legal terminology*
- *analyse and evaluate legal rules, principles and concepts.*

Credit will be given for the use of relevant supporting case law and authority.

EITHER

Question 3: Criminal Law

(a) Explain the *actus reus* and *mens rea* of s.20 Offences Against the Person Act 1861. [6]

(b) Explain the *actus reus* and *mens rea* of s.47 Offences Against the Person Act 1861. [6]

(c) Assess whether the law in relation to non-fatal offences should be codified. [9]

Read the scenario below and part (d).

Mari's husband Oliver came home late from work one afternoon and started slapping her because the dinner was burnt. After suffering several hard blows, Mari punched Oliver in the face. The ring she was wearing caused a deep gash over Oliver's eye, and his yells of pain prompted their neighbours to call the police. Oliver was taken by ambulance to hospital, where he underwent an operation to save his sight. Mari was arrested and taken to the police station.

(d) Advise Mari as to whether she would be likely to be found guilty of s.20 on these facts. [9]

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OR

Question 4: Human Rights Law

(a) Explain the powers of the police under the common law to arrest for breach of the peace. [6]

(b) Explain the provisions and restrictions under Article 8 of the European Convention on Human Rights. [6]

(c) Assess whether the law provides adequate protection to a detainee in police custody. [9]

Read the scenario below and answer part (d).

Some of the congregation from St Augustine's church dressed up in fancy dress costumes and walked around the city centre, collecting money for Children in Need. The vicar of St Augustine's, Sammy, wore her clerical collar together with a mini-skirt and fishnet tights, and carried a placard that read: "Kiss a vicar for 50p". Sammy was spotted by PC Malcolm who felt that Sammy's conduct was likely to be highly offensive to some members of the public. PC Malcolm warned Sammy that he would arrest her for breach of the peace if she did not put down the placard and remove her clerical collar. Sammy protested that it was only a bit of fun in a good cause, whereupon PC Malcolm arrested her and took her to the police station.

(d) Advise Sammy as to whether she has committed a public order offence. [9]

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COMPONENT 2: Understanding Substantive Law

Mark Scheme

Marking guidance for examiners

Summary of assessment objectives for Component 2

All the questions in this component assess assessment objectives AO1, AO2 and AO3. AO1 focuses on the ability to demonstrate knowledge and understanding of legal rules and principles. AO2 focuses on the ability to apply legal rules and principles to given scenarios, in order to present a legal argument using appropriate terminology, and AO3 focuses on the ability to analyse and evaluate legal rules, principles and concepts.

The structure of the mark scheme

The mark scheme for Section A and Section B has two parts:

- indicative content which can be used to assess the quality of the specific response. The content is not prescriptive and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.

- an assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1, AO2 and AO3.

Stage 1 - Deciding on the band

Beginning at the lowest band, examiners should look at the learner's answer and check whether it matches the descriptor for that band. If the descriptor at the lowest band is satisfied, examiners should move up to the next band and repeat this process for each band until the descriptor matches the answer.

If an answer covers different aspects of different bands within the mark scheme, a 'best fit' approach should be adopted to decide on the band and then the learner's response should be used to decide on the mark within the band. For instance if a response is mainly in band 2 but with a limited amount of band 3 content, the answer would be placed in band 2, but the mark awarded would be close to the top of band 2 as a result of the band 3 content. Examiners should not seek to mark candidates down as a result of small omissions in minor areas of an answer.

- The first stage for an examiner is to use both the indicative content and the assessment grid to decide the overall band.
- The second stage is to decide how firmly the characteristics expected for that band are displayed.
- Thirdly, a mark for the question is awarded.

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Stage 2 – Deciding on the mark

During standardising (marking conference), detailed advice from the Principal Examiner on the qualities of each mark band will be given. Examiners will then receive examples of answers in each mark band that have been awarded a mark by the Principal Examiner. Examiners should mark the examples and compare their marks with those of the Principal Examiner.

When marking, examiners can use these examples to decide whether a learner's response is of a superior, inferior or comparable standard to the example. Examiners are reminded of the need to revisit the answer as they apply the mark scheme in order to confirm that the band and the mark allocated is appropriate to the response provided.

Indicative content is also provided for banded mark schemes. Indicative content is not exhaustive, and any other valid points must be credited. In order to reach the highest bands of the mark scheme a learner need not cover all of the points mentioned in the indicative content but must meet the requirements of the highest mark band. Where a response is not creditworthy, that is contains nothing of any significance to the mark scheme, or where no response has been provided, no marks should be awarded.

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COMPONENT 2 – Substantive Law in Practice

Section A

Question 1: Law of Contract

1. (a) Explain how an invitation to treat differs from an offer. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining how an invitation to treat differs from an offer, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the essential elements of a contract. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on the essential elements of a contract. The response might consider issues such as:

- the meaning of an invitation to treat: a step in the negotiation process but not made with an intention to be bound
- examples of invitations to treat: goods displayed on shelves: *Pharmaceutical Society of GB v Boots the Chemist*; goods on display in a shop window: *Fisher v Bell*; goods or services advertised in a newspaper/magazine: *Partridge v Crittenden*
- the meaning of an offer: a proposal made with the intention of being bound by its terms
- situations which may look like invitations to treat but are offers: advertisements involving a unilateral offer: *Carlill v Carbolic Smoke Ball*; statement of price where an offer is intended: *Bigg v Boyd Gibbons.*

Assessment grid for Q1 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the differences between an offer and an invitation to treat. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the differences between an offer and an invitation to treat. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the differences between an offer and an invitation to treat. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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1. (b) Explain the requirements for valid acceptance. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the requirements for valid acceptance, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the essential elements of a contract. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on the essential elements of a contract. The response might consider issues such as:

- valid acceptance can usually take different forms such as oral acceptance or in writing
- silence is not normally valid acceptance as shown in *Felthouse v Bindley*
- acceptance must be communicated from the offeree to the offeror to make it valid
- acceptance must meet the terms of the offer or it might be regarded as a counter-offer and not valid acceptance
- the contract is only established and valid when the acceptance is received by the offeror
- the rule regarding validity is different for acceptance if posted as in *Household Fire Insurance Co v Grant.*

Assessment grid for Q1 (b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to valid acceptance. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to valid acceptance. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to valid acceptance. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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1. (c) Assess the extent to which the performance of an existing duty can constitute adequate consideration. [9]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.
In order to achieve the highest marks, candidates must demonstrate their ability to draw together details from areas including consideration, the essential requirements of contract and the law of contract. For example, a response may include reference to the rules of contract law and an analysis of consideration, including a discussion of offer, acceptance and intention.

Candidates will offer an assessment of the legal rules, principles and concepts in order to assess the extent to the performance of an existing duty can constitute adequate consideration. The response might consider issues such as:

- analysis of the meaning of consideration: an exchange of value
- understanding that consideration must be sufficient but need not be adequate
- evaluation of the traditional view that the performance of an existing duty owed by law does not constitute consideration
- possible reference to cases such as *Collins v Godefroy* and *Ward v Byham*
- evaluation of the traditional view that the performance of a contractual duty owed to the promisor does not constitute consideration
- possible reference to cases such as *Stilk v Myrick* and *Hanson v Royden*
- awareness that the situation is no longer so clear since *Williams v Roffey Bros & Nicholls (Contractors) Ltd* which suggest that the performance of an existing contractual duty can constitute consideration where it results in a 'poractical benefit' to the promisor.

Assessment grid for Q1 (c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**8-9**	• Excellent analysis of legal rules, principles and concepts relevant to consideration. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of consideration, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**6-7**	• Good analysis of legal rules, principles and concepts relevant to consideration. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of consideration, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**3-5**	• Adequate analysis of legal rules, principles and concepts relevant to consideration. Analysis includes some detail with some supporting evidence. • Adequate evaluation of consideration, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-2**	• Basic analysis of legal rules, principles and concepts relevant to consideration. Analysis includes minimal detail. • Basic evaluation of consideration. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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The scenario below should be used when assessing part (d).

Harold is an inventor. He has designed and produced a range of different inventions which he tries to sell in his shop. He has recently made a machine called the 'Cold-Buster' that he claims will stop anyone who is using it from catching a cold. He places the machine in his shop window with a price tag of £20 and a sign which states that he will give £1000 to anyone who buys the machine and catches a cold while using it. Sally passes the shop one day and sees the machine and sign. She goes into the shop and decides to buy the machine because she sometimes gets very wet when walking her dog in the rain. Three days after beginning to use the machine, Sally catches a heavy cold after getting very wet in the park while looking for her dog who had run away. Sally contacts Harold and tries to claim the £1000. Harold refuses. Sally is very upset both over Harold's refusal to pay her the money.

1. (d) Advise Sally as to whether she is entitled to claim the £1000 from Harold. [9]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Sally candidates are expected to apply the full range of legal rules and principles relating to Sally's claim against Harold. In this case candidates will need to apply contract law and use relevant case law in relation to the given scenario in order to present a legal argument. The response might consider issues such as:

- advising Sally of the elements of a contract (e.g. offer, acceptance and consideration)
- advising Sally that goods on display in a shop window are generally an invitation to treat and not an offer for sale: support can come from cases such as *Fisher v Bell*
- advising Sally that an offer to the whole world can be a unilateral offer because Harold has indicated a course of action in return for which he makes a promise to provide consideration
- advising Sally that Harold might be bound by his promise: support can come from cases such as *Carlill v Carbolic Smoke Ball*
- advising Sally of the remedies she could seek in order to claim the reward e.g. specific performance.

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Assessment grid for Q1 (d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**8-9**	• Excellent application of legal rules and principles to Sally's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to offers to the whole world. The legal argument is detailed, fully developed and persuasive.
3	**6-7**	• Good application of legal rules and principles to Sally's situation. • Good presentation of a legal argument using appropriate use of legal terminology, case law and other legal authorities relating to offers to the whole world. The legal argument is generally detailed, developed and persuasive.
2	**3-5**	• Adequate application of legal rules and principles to Sally's situation. • Adequate presentation of a legal argument using some appropriate use of legal terminology, case law and other legal authorities relating to offers to the whole world. The legal argument includes some detail which is developed in places.
1	**1-2**	• Basic application of legal rules and principles to Sally's situation. • Basic presentation of a legal argument using minimal legal terminology relating to offers to the whole world. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 2: Law of tort

2. (a) Explain the neighbour principle established by Lord Atkin in *Donoghue v Stevenson*. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the neighbour principle, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying a duty of care. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on the essential elements of negligence. In order to explain the principle, responses might consider issues such as:

- *Donoghue* principles such as a person must take reasonable care.
- avoid acts or omissions
- test of reasonable foreseeability
- possible application of principle to facts of *Donoghue*
- possible illustrative examples such as the duty of care owed by drivers to pedestrians and other road users

Assessment grid for Q2 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the neighbour principle. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the neighbour principle. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the neighbour principle. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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2. (b) Explain how the neighbour principle was redefined in *Caparo v Dickman*. [6]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the redefinition of the neighbour principle in *Caparo*, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the specified case. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on negligence. The response might consider issues such as:

- 'reasonable foresight of harm' was referred to in *Caparo*
- *Caparo* added the requirement of a relationship of proximity
- *Caparo* added the requirement that the imposition of a duty of care must be fair, just and reasonable
- appropriate case law can be used in the explanation such as in *Sutradhar v Natural Environment Research Council.*

Assessment grid for Q2 (b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to Caparo. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to Caparo. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to Caparo. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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2. (c) Assess the extent to which the law recognises negligently inflicted psychiatric injuries. [9]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.
In order to achieve the highest marks, candidates must demonstrate their ability to draw together details from areas including primary and secondary victims, liability in negligence and the law of tort. For example, a response may include reference to analysis of causation, an evaluation of primary and secondary victims and damages available.

Candidates will offer an assessment of the legal rules, principles and concepts in order to evaluate the extent liability to which the law will award damages for psychiatric injuries. In order to assess this issue, candidates will use need to distinguish between primary and secondary victims and use appropriate case law. In assessing this situation, the response might consider issues such as:

- analysis of the meaning of psychiatric injury: injury to the mind and not body and must be harm over and above normal grief and distress
- no damages payable for grief, sorrow or distress suffered as a result of a traumatic event
- evaluation of the difference between primary and secondary victims
- primary victims: those who were involved, immediately in time, as a participant,
- secondary victims: those who were in proximity in terms of relationship and witnessed with own unaided senses
- rescuers: generally primary victims
- reference is made to cases such as *McCLoughlin v O'Brien and Alcock*.

Assessment grid for Q2 (c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**8-9**	• Excellent analysis of legal rules, principles and concepts relevant to primary and secondary victims. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of primary and secondary victims, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**6-7**	• Good analysis of legal rules, principles and concepts relevant to primary and secondary victims. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of primary and secondary victims, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**3-5**	• Adequate analysis of legal rules, principles and concepts relevant to primary and secondary victims. Analysis includes some detail with some supporting evidence. • Adequate evaluation of primary and secondary victims, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-2**	• Basic analysis of legal rules, principles and concepts relevant to primary and secondary victims. Analysis includes minimal detail. • Basic evaluation of primary and secondary victims. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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The scenario below should be used when assessing part (d):

Freddie has just bought his first car. One day he decides to take it for a drive in the countryside to see how fast it will go. He turns the radio up loud and takes the car to 60 miles an hour while driving along the narrow country roads. He remembers he needs to text his mother to tell her he will not be coming home for tea that day. He manages to text his mother by holding his mobile telephone in his left hand while using his right to steer the car. As he turns the corner of the road he sees Harold coming towards him in a van. Unknown to both drivers there is some oil on the road which makes the road surface very slippery. Freddie drops his mobile telephone and breaks hard but the car hits the oil and skids into Harold's van severely denting the fronts of both vehicles. Harold suffers serious head injuries.

2. (d) Advise Freddie as to whether he is likely to be held liable for Harold's injuries. [9]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Freddie, candidates will offer an assessment of the legal rules and principles relating to his situation. In this case, candidates will need to consider the requirements of liability in negligence and then apply these to the accident. The response might consider issues such as:

- application of *sine qua non* (the 'but for' test) to the accident
- application of the principle of duty of care to Freddie's driving
- application of 'foreseeability' to the accident
- the effect of an intervening act (the 'oil' on the road')
- the application of remoteness of damage
- the use of relevant case law such *Bonnington Castings v Wardlaw* and *Smith V Leech Brain & Co*.

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Assessment grid for Q2 (d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**8-9**	• Excellent application of legal rules and principles to Freddie's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding the extent of Freddie's liability for Harold's injuries. The legal argument is detailed, fully developed and persuasive.
3	**6-7**	• Good application of the legal rules and principles to Freddie's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding the extent of Freddie's liability for Harold's injuries. The legal argument is generally detailed, developed and persuasive.
2	**3-5**	• Adequate application of the legal rules and principles to Freddie's situation. • Adequate presentation of a legal argument using some appropriate use of legal terminology, case law and other legal authorities regarding the extent of Freddie's liability for Harold's injuries. The legal argument includes some detail which is developed in places.
1	**1-2**	• Basic application of the legal rules and principles to Freddie's situation. • Basic presentation of a legal argument using minimal legal terminology regarding the extent of Freddie's liability for Harold's injuries. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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Section B: Public Law

Question 3: Criminal Law

3. (a) Explain the *actus reus* and *mens rea* of s.20 Offences Against the Person Act 1861. [6]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the *actus reus* and *mens rea* of s.20 of the Offences Against the Person Act 1861 candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying this section of the Act. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on the Act. The response might consider issues such as:

- according to Section 20, *actus reus* is unlawful wounding or unlawful infliction of grievous bodily harm
- the meaning of grievous bodily harm - serious harm: Case of Smith. A wound must break the inner and outer skin: *C v Eisenhower*
- according to Section 20, *mens rea* – intention or recklessness – D must foresee a degree of harm, but not necessarily the degree of harm which occurred: see the following cases to show how s.20 works in practice - Mowatt, Savage and Parmenter

Assessment grid for Q3(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles in relation to s.20 Offences Against the Person Act 1861. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles in relation to s.20 Offences Against the Person Act 1861. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles in relation to s.20 Offences Against the Person Act 1861. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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3. (b) Explain the *actus reus* and *mens rea* of s.47 Offences Against the Person Act 1861. [6]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the *actus reus* and *mens rea* of s.47 of the Offences Against the Person Act 1861 candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying this section of the Act. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question set and not simply give a general answer on the Act. The response might consider issues such as:

- according to Section 47, *actus reus* is an assault which causes actual bodily harm
- *actus reus* is any injury calculated to interfere with the health or comfort of the victim (the case of Miller)
- under the Crown Prosecution Services Charging Standards s.47 includes temporary loss of consciousness, minor cuts and grazes and scalds, broken bone without complications According to Section 47 *mens rea* is intention to commit assault/battery or recklessness; foresight of the degree of harm is not necessary: See the cases of to illustrate s.47 - Roberts; Savage, Parmenter.

Assessment grid for Q3(b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles in relation to s.47 Offences Against the Person Act 1861. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles in relation to s.47 Offences Against the Person Act 1861. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles in relation to s.47 Offences Against the Person Act 1861. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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(c) Assess whether the law in relation to non-fatal offences should be codified. [9]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.
In order to achieve the highest marks, candidates must demonstrate their ability to draw together details from areas including non-fatal offences, the rules of criminal law and criminal law. For example, a response may include reference to whether codification of the Offences Against the Person Act 1861 is appropriate, with the Act being a criminal statute, and the importance of clear and accessible law.

Candidates will offer an assessment of the legal rules, principles and concepts in order to evaluate the law relating to codification of non-fatal offences. In order to assess this issue, candidates may consider proposals to codify the criminal law proposed by the Law Commission and may further their assessment by arguing that the criminal law should not be codified. The response might consider issues such as:

- analysis of proposals by the Law Commission for the codification of the Offences Against the Person Act 1861
- evaluation of the advantages and disadvantages of codifying the law in relation to non-fatal offences e.g. codification of the non-fatal offences could enable the law to become more clear and accessible. However, codification will take time and new legislation can create uncertainty until the courts have provided sufficient case law
- relevant examples of where codification has happened. The majority of codification happens in the civil law and as the Offences Against the Person Act 1861 is a criminal statute would codification be beneficial here?

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Assessment Grid for Q3(c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**8-9**	• Excellent analysis of legal rules, principles and concepts relevant to the codification of non-fatal offences. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the codification of non-fatal offences, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**6-7**	• Good analysis of legal rules, principles and concepts relevant to the codification of non-fatal offences. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the codification of non-fatal offences, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**3-5**	• Adequate analysis of legal rules, principles and concepts relevant to the codification of non-fatal offences. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the codification of non-fatal offences, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-2**	• Basic analysis of legal rules, principles and concepts relevant to the codification of non-fatal offences. Analysis includes minimal detail. • Basic evaluation of the codification of non-fatal offences. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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The scenario below should be used when assessing part (d).

> Mari's husband Oliver came home late from work one afternoon and started slapping her because the dinner was burnt. After suffering several hard blows, Mari punched Oliver in the face. The ring she was wearing caused a deep gash over Oliver's eye, and his yells of pain prompted their neighbours to call the police. Oliver was taken by ambulance to hospital, where he underwent an operation to save his sight. Mari was arrested and taken to the police station.

3. (d) Advise Mari as to whether she would be likely to be found guilty of s.20 Offences Against the Person Act 1861 on these facts. [9]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Mari candidates are expected to apply the full range of legal rules and principles relating to s.20 to Mari's situation. In this case candidates may apply the definition of the *actus reus* and *mens rea* found in s.20 and apply relevant case law to the given scenario in order to present a legal argument. The response might consider issues such as:

- whether *actus reus* is unlawful wounding or infliction of grievous bodily harm
- in Mari's case there appears to be a wound; the definition of a 'wound' as there is a 'deep gash'; C v Eisenhower can be used as support here
- whether *mens rea* is appropriate – the intention of subjective recklessness to inflict grievous bodily harm
- whether, in this case, Mari intended to inflict 'some harm'; does it matter that the level of harm actually inflicted was not foreseen? The case of Mowatt can be used here for support.

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Assessment Grid for Q3 (d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**8-9**	• Excellent application of legal rules and principles to Mari's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to s.20 Offences Against the Person Act 1861. The legal argument is detailed, fully developed and persuasive.
3	**6-7**	• Good application of legal rules and principles to Mari's situation. • Good presentation of a legal argument using appropriate use of legal terminology, case law and other legal authorities relating to s.20 Offences Against the Person Act 1861. The legal argument is generally detailed, developed and persuasive.
2	**3-5**	• Adequate application of legal rules and principles to Mari's situation • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to s.20 Offences Against the Person Act 1861. The legal argument includes some detail which is developed in places.
1	**1-2**	• Basic application of legal rules and principles to Mari's situation. • Basic presentation of a legal argument using minimal legal terminology relating to s.20 Offences Against the Person Act 1861. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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Question 4: Human Rights Law

4. (a) Explain the powers of the police under the common law to arrest for breach of the peace. [6]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the powers of the police to arrest for breach of the peace candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the common law. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question set and not simply give a general answer relating to the powers of the police under the common law to arrest. The response might consider issues such as:

- the powers of the police in relation to this issue can be shown in the case of R v Howell; there should be reference to the meaning of "imminent" using the cases of *Moss v McLachlan and Foy* to illustrate the wide definition of imminent
- *Bibby v Chief Constable of Exeter* laid down the exceptional circumstances when the police could arrest for an anticipated breach of the peace
- the Court in the case of Redmond-Bate set out conditions regarding the powers of the police with regard to breach of the peace
- the cases of *Steel v UK* , and *Austin Laporte* illustrate the wide powers of the police to arrest for breach of peace.

Assessment grid for Part 4 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the power of the police to arrest for breach of the peace. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the power of the police to arrest for breach of the peace. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the power of the police to arrest for breach of the peace. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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4. (b) Explain the provisions and restrictions under Article 8 of the European Convention on Human Rights. [6]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the provisions and restrictions, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying Article 8. In demonstrating this knowledge and understanding, candidates are required to focus on the specific details of Article 8, and not simply give a general answer on human rights. The response might consider issues such as:

- explanation of the key provisions of Article 8: 'Everyone has the right to respect for his private and family life, his home and his correspondence'
- consideration of what is meant by 'respect', 'private life' and family life'
- explanation of the meaning of a qualified human right and the qualifications contained in Article 8
- illustration of explanation by reference to supporting cases such as *Spencer v United Kingdom* and *Von Hannover v Germany*.

Assessment grid for Q4 (b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	**5-6**	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the provisions and restrictions under Article 8 of the European Convention on Human Rights. Response is clear, detailed and fully developed.
2	**3-4**	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the provisions and restrictions under Article 8 of the European Convention on Human Rights. Response is generally clear, detailed and developed.
1	**1-2**	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the provisions and restrictions under Article 8 of the European Convention on Human Rights. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

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4. (c) Assess whether the law provides adequate protection to a detainee in police custody. [9]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.
In order to achieve the highest marks, candidates must demonstrate their ability to draw together details from areas including police powers, restrictions on human rights and human rights law. For example, a response may include reference to an analysis of the rights of a suspect in police custody, the safeguards given to a suspect, and whether these can be taken away from a suspect under the Police and Criminal Evidence Act 1984 and the rights under the Human Rights Act 1998.

Candidates will offer an analysis and evaluation of the legal rules, principles and concepts in order to assess the rights of a detainee in police custody. In order to assess this, candidates may consider the rights provided under the Police and Criminal Evidence Act 1984, the Codes of Practice and Guidance Notes. The response might consider issues such as:

- analysis of a person's rights under Police and Criminal Evidence Act 1984 and Code C: a detained person must be brought before a custody officer as soon as practicable (Code C.2)
- evaluation of the right to have someone informed (s.56) and the right to legal advice (s.58) e.g. these rights impose restrictions on the police but can be delayed
- evaluation of conditions of treatment e.g. rights such as the provision of meals; however, this depends upon custody officers fulfilling their role
- evaluation of the time limits on detention e.g. the law requires regular reviews of detention, however, the detainee can be detained for up to 96 hours.

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Assessment Grid for Q4 (c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	**8-9**	• Excellent analysis of legal rules, principles and concepts relevant to the rights provided to a detainee in police custody. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the rights provided to a detainee in police custody, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	**6-7**	• Good analysis of legal rules, principles and concepts relevant to the rights provided to a detainee in police custody. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the rights provided to a detainee in police custody, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	**3-5**	• Adequate analysis of legal rules, principles and concepts relevant to the rights provided to a detainee in police custody. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the rights provided to a detainee in police custody, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	**1-2**	• Basic analysis of legal rules, principles and concepts relevant to the rights provided to a detainee in police custody. Analysis includes minimal detail. • Basic evaluation of the rights provided to a detainee in police custody. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

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The scenario below should be used when assessing part (d):

> Some of the congregation from St Augustine's church dressed up in fancy dress costumes and walked around the city centre, collecting money for Children in Need. The vicar of St Augustine's, Sammy, wore her clerical collar together with a mini-skirt and fishnet tights, and carried a placard that read: "Kiss a vicar for 50p". Sammy was spotted by PC Malcolm who felt that Sammy's conduct was likely to be highly offensive to some members of the public. PC Malcolm warned Sammy that he would arrest her for breach of the peace if she did not put down the placard and remove her clerical collar. Sammy protested that it was only a bit of fun in a good cause, whereupon PC Malcolm arrested her and took her to the police station.

4. (d) Advise Sammy as to whether she has committed a public order offence. [9]

Indicative Content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Sammy candidates are expected to apply the full range of legal rules and principles that affect public order offences.
In this case candidates may apply the relevant sections of the Public Order Act 1986 to determine whether Sammy has committed an offence. The response might consider issues such as:

- advising Sammy whether she has committed the offence of causing harassment, alarm or distress under s.5 of the Public Order Act 1986
- consideration of the display of an offensive placard; a police officer may claim to have been harassed or distressed for the purpose of the section: possible reference to *DPP v Orum*
- the case of Clarke is useful in assessing the situation: displaying pictures of aborted foetuses
- advising Sammy whether 'kiss a vicar' is capable of causing harassment or distress in this context
- advising Sammy whether s.4A had more potential than s.5 in her case.

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Assessment Grid for Q4(d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	**8-9**	• Excellent application of legal rules and principles to Sammy's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to public order offences. The legal argument is detailed, fully developed and persuasive.
3	**6-7**	• Good application of legal rules and principles to Sammy's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to public order offences. The legal argument is generally detailed, developed and persuasive.
2	**3-5**	• Adequate application of legal rules and principles to Sammy's situation. • Adequate presentation of a legal argument using some appropriate use of legal terminology, case law and other legal authorities relating to public order offences. The legal argument includes some detail which is developed in places.
1	**1-2**	• Basic application of legal rules and principles to Sammy's situation. • Basic presentation of a legal argument using minimal legal terminology relating to public order offences. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

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