



GCE A Level Examiners' Report

Law

A Level

Summer 2024

Introduction

Our Principal Examiners' report provides valuable feedback on the recent assessment series. It has been written by our Principal Examiners and Principal Moderators after the completion of marking and moderation, and details how candidates have performed in each component.

This report opens with a summary of candidates' performance, including the assessment objectives/skills/topics/themes being tested, and highlights the characteristics of successful performance and where performance could be improved. It then looks in detail at each unit, pinpointing aspects that proved challenging to some candidates and suggesting some reasons as to why that might be.¹

The information found in this report provides valuable insight for practitioners to support their teaching and learning activity. We would also encourage practitioners to share this document – in its entirety or in part – with their learners to help with exam preparation, to understand how to avoid pitfalls and to add to their revision toolbox.

Further support

Document	Description	Link
Professional Learning / CPD	Eduqas offers an extensive programme of online and face-to-face Professional Learning events. Access interactive feedback, review example candidate responses, gain practical ideas for the classroom and put questions to our dedicated team by registering for one of our events here.	https://www.eduqas.co.uk/home/professional-learning/
Past papers	Access the bank of past papers for this qualification, including the most recent assessments. Please note that we do not make past papers available on the public website until 12 months after the examination.	Portal by WJEC or on the Eduqas subject page
Grade boundary information	Grade boundaries are the minimum number of marks needed to achieve each grade. For linear specifications, a single grade is awarded for the subject, rather than for each component that contributes towards the overall grade. Grade boundaries are published on results day.	For unitised specifications click here: Results and Grade Boundaries and PRS (eduqas.co.uk)

¹ Please note that where overall performance on a question/question part was considered good, with no particular areas to highlight, these questions have not been included in the report.

Exam Results Analysis	Eduqas provides information to examination centres via the WJEC Portal. This is restricted to centre staff only. Access is granted to centre staff by the Examinations Officer at the centre.	Portal by WJEC
Classroom Resources	Access our extensive range of FREE classroom resources, including blended learning materials, exam walk-throughs and knowledge organisers to support teaching and learning.	https://resources.edugas.co.uk/
Bank of Professional Learning materials	Access our bank of Professional Learning materials from previous events from our secure website and additional pre-recorded materials available in the public domain.	Portal by WJEC or on the Eduqas subject page.
Become an examiner with WJEC.	We are always looking to recruit new examiners or moderators. These opportunities can provide you with valuable insight into the assessment process, enhance your skill set, increase your understanding of your subject and inform your teaching.	Become an Examiner Eduqas

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Executive Summary

This report aims to help centres identify areas for improvement in their candidates' performances. While it includes critical comments, these should not be seen as universally applicable or as detracting from the overall strong performance of many candidates.

One significant issue noted was the illegibility of many candidates' handwriting, which hindered examiners' ability to read their work. Centres should emphasise the importance of clear handwriting and consider allowing candidates with particularly poor handwriting to use laptops.

Component 1 was generally well-received and covered a range of the specification. However, candidates showed varying degrees of preparedness, often failing to adhere to the paper's rubric, leading to lower final marks. Some candidates wasted time by writing out the questions on their answer sheets. Centres need to focus on improving candidates' exam skills, particularly in addressing b) parts of questions, which were often brief and lacked legal authority.

The compulsory nature of Questions 1 and 2 posed problems for unprepared candidates, resulting in brief or unanswered responses. Candidates must focus narrowly on the specified area in these questions. Detailed facts of cases were not required, but an explanation of their relevance was desirable. Section B responses were generally weaker than those in Section A, likely due to the analytical nature of the questions or time management issues. Brief answers in this section made higher mark bands inaccessible. Weak case citation was common, with many candidates using vague references like "a case where..." or only half-citing cases. This needs improvement. Many candidates did not directly address the question, instead writing all they knew about a topic. Linking answers to the question, especially in evaluation questions, is crucial. General exam housekeeping issues, such as correct labelling of questions, were noted. Proper numbering is particularly important when answering non-chronologically. Unacceptable abbreviations were also prevalent. While abbreviations of statutes are acceptable after the first citation, general term abbreviations are not appropriate.

Component 2 had questions spanning various aspects of the specification, with candidates showing differing levels of preparedness. Notably, case law citation was weak, particularly in tort and criminal law questions, where relevant case explanations were expected but often not provided. Candidates must be mindful of the weighting of assessment objectives, with a strong emphasis on detailed law explanations and applications.

Component 3 also revealed that candidates were better prepared for some questions than others. Essay skills need refinement, with a focus on clear, structured responses that directly address the question. While AO1 knowledge was high, AO3 analysis and evaluation were weaker. Centres should encourage a more academic writing style in the third person and emphasise the importance of evaluation.

In summary, candidates need to improve legibility, adherence to exam rubrics, precise case law citation, and question focus, along with general exam housekeeping. Emphasis should be placed on both knowledge and analytical skills to achieve higher marks.

Areas for improvement	Classroom resources	Brief description of resource
Application Skills	C2 Criminal Law – suggested activities Resource (eduqas.co.uk)	Allows students to pin-point the key areas of non-fatal offences in a table format and offers a scenario-based question to allow application of key areas noted.
Evaluation Skills	Evaluate concept map Resource (eduqas.co.uk)	Help students to focus on evaluation of case law through a mapping process.
Understanding demands of questions	Past paper questions & Mark schemes AS and A Level Law Eduqas	Found on the Eduqas website, these can be invaluable in preparing students for the type of questions that maybe asked of them and how they should be answered.

LAW

GCE A level

Summer 2024

COMPONENT 1: THE NATURE OF LAW AND THE ENGLISH LEGAL SYSTEM

Overview of the Component

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

Whilst examiners fully appreciate the time issue in examinations there was a significant number of scripts where the handwriting was practically unintelligible; can centres please remind the students about the importance of legible handwriting and centres are also reminded to put procedures in place if this is of concern.

This report refers throughout to the **Facility Factor** of questions, to aid understanding it is defined as follows:

Facility factor: This is the mean mark as a percentage of the maximum mark and is a measure of the accessibility of the question. If the mean mark is close to the maximum mark the facility factor will be closer to 100% and the question would be considered very accessible. Conversely if the mean mark is low when compared to the maximum mark the facility factor will be small and the question considered less accessible.

Component 1 appears to have been generally well received. The questions covered the range of the specification. It was evident that candidates were more prepared for some questions than others. Many candidates did not adhere to the rubric of the paper, omitting whole and/or part questions, with the consequence of seriously depressing the final mark. Some candidates continue to write out the question on their answer paper which is of course a waste of valuable time. The standard was slightly better than in previous years, with most candidates attempting most questions to an appropriate standard. As a priority, centres need to focus on exam skills with candidates as answers for the b) parts, in particular were brief, and lacked legal authority.

As with previous years, the compulsory nature of Questions 1 and 2 caused some problems for candidates who hadn't revised, resulting in lots of brief, confused and in some cases, unanswered questions. Again, candidates need to be reminded that the nature of these questions are such that they will focus on a narrow area of the specification, and it is important that candidates focus on this area and this area only in their answer.

Whilst **detailed** facts of cases are not needed, an explanation of the relevance of the case is desirable, especially in the questions that require an analysis and evaluation.

Section B was generally weaker than Section A; this could be attributed to the analytical nature of the questions in section B, or candidates could be struggling with time management. Answers in this section were exceptionally brief and very few would be considered an 'essay' and their brevity meant that the upper mark bands were inaccessible to most candidates.

There was also evidence of weak case citation – for example, ‘*a case where....*’. There is also a trend for only citing half a case – for example, ‘*the Whiteley case...*’. This is acceptable on occasion, but it does seem to be becoming a trend.

Candidates need to be encouraged to read the question as there were a lot of answers that missed the focus of the question.

Some candidates seem to be intent on “writing all they know” about a topic rather than addressing the question itself. Linking answers to the question is especially important for the evaluation questions and there was a notable absence of attempts to focus on the question.

It may be the lack of exam practice, but candidates need to be reminded of general exam housekeeping, for example, labelling questions correctly. There were many examples where examiners had to guess where part a) ended and part b) started. Whilst candidates are encouraged to answer questions in the order in which they are comfortable, numbering is even more important when candidates choose to answer in a non-chronological way.

There was also evidence of lots of unacceptable abbreviations, for example, b/c for because, D for disadvantage. Whilst abbreviations of statutes are acceptable once the Act has been cited in full in its first citation, abbreviations of general terms are not appropriate at this level.

Handwriting this series seemed to be particularly poor and centres are reminded that they should assess this and where necessary apply for candidates to be able to use a laptop for their examinations as some handwriting really is illegible.

Summary of key points

- Centres and candidates should be prepared for questions on specific areas of topics in the 5-mark questions rather than perhaps more general questions.
- Candidates should be reminded of the need to include legal authority to support their arguments, whenever possible. This is most obviously in the form of case law and statute citation, but can also include reference to examples, statistics, research or academic opinion. This will elevate their answers into the higher mark bands.
- Candidates need to be encouraged to read and answer the question set – there were a lot of answers that missed the focus of the question. For the evaluation questions on Section B candidates should be assessing and evaluating throughout their answers and not just in the final paragraph.
- The inexperienced nature of these candidates means that centres now need to work on exam skills and technique as a priority and the quality of answers shown in this series has confirmed that candidates need as much scaffolding and training in developing extended answers as possible as answers for the high tariff questions were rarely longer than a page.
- Candidates are also reminded of other bad habits, which include but are not limited to:

- Not including the years on statutes. Whilst we do not expect candidates to remember the years of case law, it is expected that they cite the years of statutes.
- Cases are cited, thus: Pepper **v** Hart, not Pepper **and** Hart.
- In the Statutory Interpretation question, when citing from the fictitious statute, quote sections as **s1(3)**, not **section 2, line 3**.

Comments on individual questions/sections

Comments on individual questions/sections

SECTION A

Q1

This question was attempted by 96.5% of candidates and had a facility factor of 48.8 with a mean of 2.4.

This question required candidates to explain the use of Hansard in statutory interpretation. For the full range of marks, it was expected that candidates identify Hansard as an extrinsic aid, define what Hansard is, show knowledge of some supporting case law and some discussion on when it might be used.

Only the stronger candidates could make the point about when Hansard may be used, that is, where there is ambiguity and then they should rely only on the ministerial statements.

The case of **Wilson v Secretary of State for Trade and Industry (2003)** made the point that the rules in *Pepper v Hart* were still sound, that is, that ministerial statements made in Parliament can be used to ascertain the mischief or intention of Parliament, but that sometimes it was not necessary to question what has been said in Parliament and that Hansard is not always indicative of the intention of Parliament and can just in fact be used to look for the meaning of words as they were said in Parliament. This seems to suggest that Hansard can be used for any rules, but for cases concerning Human Rights compatibility, Hansard is more likely to be useful for the Literal Rule.

In future series, it would be refreshing to see candidates making reference to this case, as well as the traditional **Davis v Johnson** and **Pepper v Hart**.

Weaker candidates chose to talk about the rules of interpretation instead or chose not to focus on the narrow aspect of the question and instead provided a detailed explanation of all intrinsic and extrinsic aids. Once again, candidates are reminded that these questions are going to be a narrow focus and they should be prepared to keep their answers focused on what the question is asking.

Q2

This question was attempted by 94.7% of candidates with a facility factor of 50.1 and a mean of 2.5.

This question required candidates to explain the UK constitution. For the full range of marks, it was expected that candidates consider briefly the rule of law, the separation of powers and the concept of Parliamentary Sovereignty with some narrative around the principles and in the stronger cases, some examples.

Marks were lost where candidates did not consider all three aspects or did not make reference to the fact that the UK constitution is unwritten, but generally this was a well-received answer with many candidates obtaining full marks.

Weaker candidates chose to discuss just one aspect, usually the separation of powers, and although this was done well in many cases, it did not provide enough range for full marks.

There was some occasional confusion with legislative process and there was also some detailed discussion of the European Convention on Human Rights and Human Rights Act 1998.

Some good recent examples were offered by candidates, including the Downing Street parties during lockdown and other threats to the rule of law, such as devolution and membership of the EU.

Q3

This question was attempted by 28.9% of candidates with a facility factor of 68.9 and a mean of 10.3.

The assessment objective being examined in this question was A02 (for 15 marks) which requires candidates to **apply** the law.

Traditionally, the precedent application questions are not very popular with candidates, but it was pleasing this series to see more candidates attempting this, with some great success. There was evidence of candidates using the IDA (Introduction, Describe, Apply) structure to great effect in applying the concepts of Follow, Overrule, Reverse and Distinguish to the scenario in the question.

Where candidates did this well, they took each principle in turn, described its effect, cited supporting case law and then applied it to the situation. Candidates are reminded that the recommended approach to this is to take each one in turn in a logical way, in this case, overruling did not apply because the precedent was set in a higher court, but this was credited as being application. Likewise, the current case is not an appeal case, so reversing is not an option, but candidates were credited if they made the point that the case could be appealed to the Court of Appeal, during which a reversal would be a valid option for the judge.

Distinguishing is where we would expect to see the most application with candidates correctly identifying that the current situation was very different to the precedent set in as much as the child in the current case also did not want the operation to go ahead.

Overall, it was really pleasing to see candidates using the IDA structure for this precedent question with some great results as historically, this has been the weaker option.

Q4

This question was attempted by 71.5% of candidates with a facility factor of 71.1 and a mean of 10.7.

Traditionally, this question has been very popular with candidates but this session it seemed to be a little less popular. It is expected that candidates take a formulaic approach to this question, using IDA or similar structure and for each Rule of statutory interpretation, providing a definition of each rule, an illustrative case, and some application to the scenario. Unfortunately, some candidates did not allude to the rules of interpretation at all and consequently could not get out of the lower bands.

Stronger answers used the facts well and considered the application of each section in detail, using the IDA structure. Though not required to access the top band, there was some reference to intrinsic and extrinsic aids which, in some cases, compensated for a lack of detail elsewhere. Candidates are reminded that these can also be applied to the scenario, for example, they can take the long title of the Act and use that to apply. Also, in this scenario there was also some preamble that could have been used.

Weaker candidates did not support all their rules with cases. It was refreshing to see candidates identifying the absurdity produced by the Literal Rule and using the Golden Rule to avoid this absurdity, for example that it was absurd Gina be prosecuted because her work was receiving positive feedback and was not 'graffiti' in the literal sense. As always, weaker candidates skipped over the Golden with no regard for the narrow and broad approach and some went on to say that the Golden Rule did not even apply.

As always, there is still evidence of some confusion between the Mischief Rule and the purposive approach with some candidates believing them to be one and the same and therefore grouping their application for these rules together. Weaker candidates seemed to be confused that the 'intent' in relation to the mischief is in relation to the intent of the defendant and not the intent of Parliament.

SECTION B

Q5a

This question was attempted by 66.1% of candidates with a facility factor of 57.9 and a mean of 5.8.

This question required candidates to explain the aims of sentencing for adult offenders. It should be noted going forward that the aims of sentencing are now contained in **s57 Sentencing Act 2020**. Candidates were not penalised in this session for continued reference to the Criminal Justice Act 2003.

Many candidates did not include any legal authority at all and were therefore unlikely to reach the highest marks. Confusion in this part centred around the types of sentences, which were not relevant to this answer, unless there was a link to the aim of sentence. The recommended approach to this answer would be to introduce the aims of sentencing with some legal authority and then discuss each aim in turn with a definition and maybe some examples of the types of sentences that could achieve this aim.

b

This question was attempted by 65.0% of candidates with a facility factor of 52.8 and a mean of 7.9.

This question required a discussion of the effectiveness of youth sentencing. Many candidates saw this part of the question an extension of part a) and proceeded to talk about how the aims of sentencing relate to young people.

Evaluation in this section was generally very informal with very little reference to appropriate legal terminology, such as the correct names of sentences: Youth Rehabilitation Order, Detention and Training Order, Referral Orders etc. Instead, candidates were referring to youth hostels, correction centres and youth centres, this gives a holistically unconvincing impression and as such candidates did not access the higher bands.

Stronger candidates could explain the types of sentences, with legal authority and provide some evaluation of them. There was some refreshing evidence of statistics being used in terms of the reoffending rates of different types of sentences and how this makes the sentence (in)effective. There were also some contemporary examples used, such as the London Riots and also some good discussion of youth courts and the Thompson & Venables case which prompted the introduction of youth courts. Again, this was evaluated with balance and consideration.

Weaker candidates omitted part b) altogether and there was some confusion with bail, CPS and lengthy discussions about mitigating and aggravating factors, which was not relevant to this question.

Q6a

This question was attempted by 32.9% of candidates with a facility factor of 43.0 and a mean of 4.3.

This question involved a discussion of the appointment of Senior Judges. A large proportion of candidates explained the appointment of judges in general, without focusing on the specific nature of the question set. There was limited citation of legal authority though stronger candidates referred to the JAC and the Constitutional Reform Act 2005. Very few were able to accurately explain the appointment of senior judges. Candidates are reminded to address the question posed.

b This question was attempted by 33.3% of candidates with a facility factor of 48.7 and a mean of 7.3.

Answers to this question requiring an evaluation of the independence of the judiciary were mixed. A fair proportion of candidates were able to evaluate a range of ways in which the judiciary are independent. Most supported with reference to legal authority, such as the CRA 2005, the Pinochet case, etc. There was some reference to theory, such as Griffiths and the rule of law but this reserved for the strongest candidates. Candidates need to also work on their essay structure as this was lacking in many cases. It is good practice to include a clear introduction unpacking the question, a paragraphed and focused main body and a conclusion that draws together preceding arguments. Some answers were just descriptive and lacked evaluation and focus, thereby limiting access to the top mark band.

LAW

GCE A level

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COMPONENT 2: SUBSTANTIVE LAW IN PRACTICE

Overview of the Component

This report aims to assist centres in identifying areas for improvement, which includes critical comments. It's important to note that these critiques are not meant to be universally applicable to all centres, nor do they undermine the overall strong performance of many candidates.

A Level Law Component 2 comprises Section A, Section B, Section C, and Section D. Candidates respond to three questions across these sections.

This report refers throughout to the **Facility Factor** of questions, to aid understanding it is defined as follows:

Facility factor: This is the mean mark as a percentage of the maximum mark and is a measure of the accessibility of the question. If the mean mark is close to the maximum mark the facility factor will be closer to 100% and the question would be considered very accessible. Conversely if the mean mark is low when compared to the maximum mark the facility factor will be small and the question considered less accessible.

Overall, Component 2 was positively received, with its questions spanning various aspects of the specification. Candidates demonstrated varying levels of preparedness across different questions, as reflected in the quality of their responses and the selection of questions.

Summary of Key Points:

- There was a notable deficiency in case law citation overall, particularly evident in the tort and criminal law questions, where numerous cases could have bolstered the quality of answers significantly. While detailed case facts were not required, explanations of their relevance were expected. Weak case citation was also observed, with instances such as referring to 'a case where...' without providing specific details. This hampered the overall depth and credibility of responses.
- Candidates should be mindful of the weighting of Assessment Objectives for this paper. AO1, which focuses on Knowledge and Understanding, carries 10 marks. To attain the full range of marks, candidates must provide an excellent explanation of the law, followed by a detailed application to achieve the full range of 15 marks for A02.
- Candidates should be reminded to carefully read the question, as many responses, particularly to questions 1 and 3, did not address its focus.
- Candidates often dedicate considerable time to crafting introductions and conclusions that essentially reiterate points made in the main body. This practice is not advisable, as time would be better utilised for more in-depth application or demonstrating a deeper understanding of the law.
- Some candidates appear focused on "writing all they know" about a topic rather than addressing the question directly. It is crucial to link answers to the question, especially in application questions, yet there was a noticeable lack of attempts to do so. This issue was particularly evident in Q1 and 3.
- Candidates need reminders about general exam protocols, such as correctly labelling questions. While they are encouraged to answer questions in the order they prefer, proper numbering becomes especially important when answering non-chronologically

Comments on individual questions/sections

Section A

Q1 Express terms

This was the least popular question of the two contract questions with 10% (88 candidates) attempting this question. Candidates on the whole seemed to find this question less accessible with a facility factor of 36.2% (the lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa

This question also had the lowest mean mark across the paper, with a mean of 9 marks (average mark for the question).

Many candidates did not demonstrate a solid understanding of contract law principles, particularly concerning express terms and their implications. Strong answers effectively applied legal rules such as the requirement for terms to be expressly stated in the contract and the impact of prior negotiations and communications. Some candidates supported their arguments with relevant case law, which enhanced the depth and credibility of their analysis. Well-structured answers with clear explanations of legal concepts and their application were evident in several responses.

Some answers included irrelevant discussions about unrelated contract law topics such as offer and acceptance, which did not contribute to addressing the specific issue of express terms in this scenario.

Many candidates missed the opportunity to strengthen their arguments with case law examples specific to the issue of express terms in contracts, e.g. *Thake v Maurice*; *Couchman v Hill*; *Wood v Capita*; *Merthyr (South Wales) Ltd v Merthyr Tydfil BC*

Weaker responses lacked depth in analysing the specific provisions of the contract and how they applied to Mo's situation. There was a tendency to provide superficial analysis without delving into the implications or exceptions. A few candidates overlooked important details in the scenario, such as Mo's initial understanding with Alec regarding sourcing fruit from other farms. This oversight affected the completeness of their advice.

Candidates should focus on directly addressing the question set, applying relevant legal principles to the specific facts provided in the scenario. It is essential to provide a balanced analysis, considering both sides of the argument where applicable, and supporting assertions with clear references to legal rules and, where appropriate, case law. Avoiding irrelevant discussions and ensuring a thorough analysis of the scenario will lead to more comprehensive and higher-scoring answers.

Q2 Misrepresentation

This was the most popular question of the two contract questions with 38.6% (340 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 52.6% (though this was still the 2nd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the 2nd lowest mean mark across the paper, with a mean of 13.1 marks (average mark for the question).

Regarding AO1 content, most candidates demonstrated awareness of the three types of misrepresentation and articulated their differences clearly. Strong responses effectively discussed the impact of specialist knowledge and the significance of terms, supported by relevant case law. Excellent answers also referenced the reversal of the burden of proof under the Misrepresentation Act.

Some candidates displayed a good understanding of the advantages of claiming under the Misrepresentation Act compared to *Hedley Byrne v Heller*, with adequate knowledge of the *Hedley Byrne* criteria.

Many candidates correctly identified Hanif's fraudulent misrepresentation in making his statement and substantiated this with factual justifications. Many responses included largely irrelevant AO1 content about offer and acceptance, which was credited to some extent. However, future responses should focus strictly on relevant content. Less effective answers merely described the three types of misrepresentation without citing any authority.

Weaker responses incorrectly asserted that Hanif's statement was innocent, which contradicts the facts presented.

Section B

Q3 Occupiers Liability

This was the least popular question of the two tort questions with 30.2% (266 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 56.3% (this was the 4th highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the 4th highest mean mark across the paper, with a mean of 14.1 marks (average mark for the question).

This question was straightforward, yet some candidates misunderstood it as solely a negligence scenario, missing opportunities for credit. There was also confusion regarding the scope of the Occupiers' Liability Act 1957 and 1984, leading to errors in AO1.

Encouragingly, many responses mentioned the visitor categories from *Wheat v Lacon*. However, several "narrative" responses lacked sufficient case law, especially concerning *Sanam*.

Good answers discussed and applied the rules on checking the work of independent contractors, with cases such as *Hazeldine*.

Additionally, few candidates noted that *Sanam* became a trespasser upon entering the garden after 5pm.

Conversely, many discussed warning signs and reasonable precautions taken, demonstrating good application to the scenario.

Q4 Negligence

This was the most popular question of the two tort questions with 64% (564 candidates) attempting this question. Candidates seemed to find this question accessible with a facility factor of 60.8% (this was the highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the highest mean mark across the paper, with a mean of 15.2 marks (average mark for the question).

Candidates generally provided detailed responses to this question, with the strongest answers logically establishing duty, breach of duty, and causation. However, many responses focused excessively on *Donoghue v Stevenson* for establishing duty of care, often adding an explanation of *Caparo* afterward.

In discussing duty of care, candidates inconsistently applied or explained the updated principle in *Robinson v Chief Constable of West Yorkshire Police* (2018) (SC). It's crucial to remind candidates to discuss *Robinson*, emphasising that duty of care decisions should primarily rely on precedent or analogies, resorting to *Caparo* tests only if no such precedents exist. This nuanced approach, using *Robinson* to argue for or against the application of *Caparo*, allows candidates to achieve top marks.

Most responses effectively addressed breach of duty, although some candidates diverged into lengthy discussions on different standards of care without focusing on the scenario's specifics. Legal causation and remoteness were frequently misunderstood or overlooked.

Candidates often explored damages extensively, sometimes at the expense of other scenario aspects. Overall, candidates performed better on this tort law question compared to question 3

Section C

Question 5 Robbery and Burglary

This was the least popular question of the two criminal law questions with 26.4% (233 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 59.18% (this was the 2nd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the 3rd highest mean mark across the paper, with a mean of 14.8 marks (average mark for the question).

In questions heavily reliant on statutes for application, the absence of section numbers in responses would have limited the AO1 mark to adequate at best, thereby restricting the depth of legal application to no more than 'good'. Candidates should be guided to explore all potential aspects comprehensively to achieve higher marks. For instance, addressing the elements of theft—including actus reus and mens rea—as well as robbery and burglary was expected in this answer.

Many candidates omitted discussion on theft elements entirely, resulting in lower band scores.

Question 6 Homicide

This was the most popular question of the two criminal law questions with 74% (652 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 55.1% (however this was the 3rd lowest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the 4th lowest mean mark across the paper, with a mean of 13.8 marks (average mark for the question).

Most candidates successfully defined murder, yet many delved into discussing its elements, such as 'Human Being,' rather than focusing on the question's emphasis on causation. Both factual and legal causation were generally addressed adequately, with appropriate use of legal authority to support explanations and provide sufficient depth in application.

The emphasis on the actus reus of murder overshadowed consideration of mens rea, with frequent inaccuracies or omissions regarding direct or oblique intent.

Few candidates correctly identified unlawful act manslaughter, as a possible offence for Ozzy.

Voluntary manslaughter was inconsistently covered. Candidates often detailed diminished responsibility and loss of control extensively but failed to integrate these partial defences effectively into a comprehensive application of the law. This limited their ability to provide a thorough analysis.

There was an array of defences mentioned. Intoxication was perhaps the defence which candidates seemed to have grasped the most. Voluntary and involuntary intoxication were referred to, along with Majewski. Commendably, some candidates properly identified murder as a specific intent offence and explained that the defence of voluntary intoxication could lead to a manslaughter conviction as in Lipman, thereby avoiding a mandatory life sentence. Others seemed to be totally unaware of the specific / basic intent rule and failed to see the potential relevance of the defence.

A minority of candidates mistakenly referred to non-fatal offences, illustrating a misunderstanding of the question's focus.

Common errors included mislabelling unlawful act manslaughter as a defence and confusing voluntary and involuntary manslaughter.

Section D

Question 7 Defamation

This was the least popular question of the two human rights questions with 15.9% (140 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 60% (however this was the 2nd highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question also had the 2nd highest mean mark across the paper, with a mean of 15 marks (average mark for the question).

The human rights option focusing on defamation was less popular than the police powers question, which garnered more responses. Responses observed were generally well structured. Many exemplary answers effectively applied defamation law, citing the Defamation Act 2013 and pertinent cases such as *Munroe v Hopkins* and *Collins* to bolster arguments on the serious harm test and available defences like sections 2, 3, and 4.

However, weaker responses predominantly centred on discussing Article 8 and 10 of the ECHR without substantial reference to defamation law. These responses constituted a minority among those reviewed.

Question 8 Police Powers

This was the most popular question of the two human rights questions with 43.6% (384 candidates) attempting this question. Candidates on the whole seemed to find this question accessible with a facility factor of 56.2% (this was the 4th highest across the paper). The closer the facility factor is to 100% the more accessible the question is and vice versa.

This question had the 4th highest mean mark across the paper, with a mean of 14 marks (average mark for the question).

There was a notable disparity in candidates' knowledge and application of stop and search powers. Some demonstrated excellent understanding, supported by thorough citation and effective application. Most candidates discussed stop and search, referencing sections 1, 2, and 3, and Code A, albeit sometimes confusing them. However, detailed information was generally lacking, with sparse mention of relevant case law beyond occasional references to Bristol.

Regarding arrest, a few candidates provided detailed insights into S24 and S28, along with related case law, but this was exceptional rather than the norm. Arrest-related responses typically lagged, often conflated with stop and search or omitted entirely, indicating a widespread misunderstanding of the distinction between these powers.

Some scripts excelled in discussing detention issues, citing relevant section numbers and addressing the roles of custody officers, detention periods, and procedures like S56, S58, and fingerprinting under S61. Even weaker responses identified police omissions in detention, though lacking specific section numbers or citations.

Surprisingly, some candidates were unaware of the date of PACE enactment, reflecting poorly in their answers. Many merely reiterated the scenario without legal grounding, focusing vaguely on stop and search, briefly mentioning arrest, and discussing detention.

Unfortunately, many scripts lacked support from section numbers, which limited their marks in higher bands. Candidates should remember to substantiate their points with legal authority, primarily section numbers and Codes of Practice, and relevant case law where applicable.

Centres should ensure that questions within the human rights section include references to relevant human rights contexts, such as Article 5 (right to liberty) for police powers and Articles 8 & 10 (right to privacy and freedom of expression) for defamation, to enhance responses comprehensively.

LAW

GCE A level

Summer 2024

COMPONENT 3: PERSPECTIVES OF SUBSTANTIVE LAW

Overview of the Component

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

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

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

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

As a general rule across all sections and questions, whilst AO1 knowledge and understanding was often of a high standard, the analysis and evaluation for AO3 was much weaker in comparison. Centres are reminded that evaluation is worth 15 of the 25 marks. Centres should encourage candidates to write in a more academic style using the third person when proposing ideas, rather than in the first person.

Summary of key points:

- It is acknowledged that candidates struggle with the higher order skill of evaluation. However, centres should try to develop candidates' ability to address the AO3 content. This is important as it carries 15 of the 25 marks available.
- Handwriting should be as clear and legible as possible, and all parts of questions should be clearly and accurately numbered. Centres should identify candidates who would benefit from alternative access arrangements.
- Candidates should be encouraged to write in an academic style, producing responses in the third, not first person with a suitable introduction, paragraphed main body and conclusion.
- Candidates need to be encouraged to read and answer the question set – there were a lot of answers that missed the focus of the question (particularly the question on breach). For the evaluation questions, candidates should be assessing and evaluating throughout

their answers and not just in the final paragraph. Responses can agree or disagree but need to provide clear and detailed information in support.

- Candidates need to be reminded of the importance of supporting their points with relevant legal authority. This could be case law, statute law or other supporting authorities, depending on the nature of the question. It is also important to be up to date with the recent changes in the law (case law and statute).
- Cases – whilst copious facts are not required, candidates need to do more than merely ‘case drop’. Cases should be explained in relation to the point of law that they established.

Comments on individual questions/sections

Section A Law of Contract

Q.11 Essential requirements of intention, consideration and privity of contract

This question had an attempt rate of 31.8% and a facility factor of 50.9. This question was quite specific, and candidates needed to drill down into the three areas highlighted by the question with an evaluative focus on the fairness and consistency of these elements. Stronger candidates dealt with each element in turn, explaining and then evaluating each from the perspective of fairness and consistency. However, some candidates still wanted this to be a question on the elements of offer and acceptance to the detriment of the focus of the question.

There was generally good citation of case law, particularly on consideration. Answers tended to be weaker on privity of contract out of the three elements required. As is often the case with Component 3, explanation of the law was stronger than the specific evaluation required for the question posed. Candidates needed to consider the law in light of whether it demonstrates fairness and consistency. What hindered some candidates was the lack of focus on the specific nature of the question and a lack of evaluation.

Q.12 Implied terms under the Consumer Rights Act 2015

This question had a lower attempt rate at 16.7% and a lower facility factor at 41.4 meaning that it was less accessible to candidates. This question on implied terms under the Consumer Rights Act 2015 was not as popular as the previous contract question. Responses varied from either very short with little relevant material to strong, clear and detailed answers.

Stronger responses focused on setting the answer in context with a definition of a consumer and a trader followed by a definition of an implied term. They then progressed to discuss the CRA 2015 but only the strongest candidates were able to accurately refer to specific sections of the CRA relevant to implied terms. This was expected for a higher band response.

Weaker answers were very general and there was much more limited reference to the CRA and very little case law.

As with other questions on the paper, the focus must be on the specific question posed. Only the strongest candidates addressed the issue of whether the CRA has substantially improved the legal position for consumers, and this was needed in order to achieve the A03 marks.

Section B Law of Tort

Q.13 Breach of duty of care

There were some well answered, detailed responses which showed knowledge and understanding of the law on breach of duty of care as an element of the tort of negligence. Such answers scored well on AO1 but due to a lack of evaluation, marks for AO3 were lower with most points being generic without any evidence to support them. Strong responses set answers in context with the standard of care and how this can be adjusted to take account of professionals, children and learner drivers. They then progressed to consider the risk factors and there was some good citation of case law. Candidates seemed to struggle with evaluation on this question and needed to more than just describe the law on breach of duty of care. However, with a facility factor of 35.1 and an attempt rate of 66.7 this was one of the least accessible questions on the paper. It can be concluded that candidates struggled to focus on the specific nature of the question set.

Weaker candidates (and there were a higher proportion of these for this question) focused too heavily on the other elements of negligence – duty and causation to the detriment of the focus of the question. Overall, with weaker responses, there was a lack of case law with some answers containing no cases at all.

Q.14 Rylands v Fletcher and no-fault tort

Generally, this tort question was stronger than the previous question on breach with a facility factor of 53.8. but a lower attempt rate of 27. Stronger answers were well structured with explanation of the Rylands v Fletcher tort and the 4 elements. There was decent citation of case law from a good proportion of scripts in the higher mark bands. These also tended to consider the development of the law.

Weaker scripts were largely descriptive and tended to lack a range of case law, with many instances of no citation whatsoever.

As was the case with other questions, candidates need to include more evaluation and focus on the question, which in this instance was whether it is strict liability tort and the implications of this.

Section C Criminal Law
Q.15 non-fatal offences

This question had a facility factor of 54.7 and a high attempt rate of 73.6. This was one of the strongest responses on the paper and most candidates who attempted this question accurately moved through the 5 main non-fatal offences against the person with generally good citation of statute and case law. A large proportion of candidates accurately described the key differences between the non-fatal offences. Weaker scripts lacked citation and occasionally confused assault/battery and ABH/GBH.

The focus on whether the current law is a 'confusing mix' was less strong and, to achieve highly, some level of comparison between the offences was needed to successfully evaluate whether they are a confusing mix and why. Some reference to potential reforms was ideally needed to draw together the conclusion but this was absent from a large proportion of scripts.

Section C Criminal Law
Q.16 Bail

Answers to this question were varied though it had a facility factor of 46.1 and a response rate of 26.2. Stronger responses elicited some impressive, evaluative answers on the balancing of conflicting issues in relation to bail. These candidates discussed both police and court bail and then made a clear connection to the question and the balancing of rights between the liberty of the suspect and the safety of society. It was good to see reference to the reforms under the Police, Crime, Sentencing and Courts Act 2022 but these instances were comparatively rare.

Many candidates provided a bail 'timeline' to reflect how the law has had to change in response to circumstances and evaluating the impact of the provisions. Cases such as Vass and Weddell were noted by most candidates. Commendably Art 5 and Art 6 rights were mentioned by many candidates. Some weaker candidates, however, made no reference even to neither PACE 1984 nor the Bail Act 1976 (and certainly no recent reforms) but simply provided general comments, although they showed some understanding of the conditions which can be imposed on bail. Weaker answers, and there were quite a number of these, merely

provided a common-sense answer on bail without reference to any legal authority. Citation of the statutory provisions and relevant case law was essential to scoring high marks in this question, particularly the evaluation surrounding the 2022 Act. It was surprising to note how many weak answers there were to such a popular and relatively straightforward question.

Section D Human rights law
Q.17 Defamation

This question had a facility factor of 48 and a response rate of 32.3.

Defamation has traditionally been asked as a Component 2 'application' question, but it could quite as possibly feature on Component 3, as it has this year. This was a popular choice, and answers were generally strong, particularly for AO1. Most candidates were able to explain the law of defamation and cited a good range of law. Candidates has perhaps prepared for defamation as an application question and therefore, AO1 was much stronger than AO3 and this was reflected in the marks.

In a minority of scripts, there were some good attempts to draw the discussion back to the question posed and the central issue of the balancing of rights, and there were some excellent examples of sophisticated arguments made. Reference had to be made to the relevant qualified articles of the ECHR to frame the evaluation. There were some sophisticated discussions of the nature of these qualified rights and the balancing act that takes place.

Section D Human rights law
Q.18 Public order

This question had a facility factor of 50.4 and a response rate of 24.7.

Public order has traditionally been asked as a Component 2 'application' question, but it could quite as possibly feature on Component 3, as it has this year. It was a popular choice and majority of candidates seemed well prepared for this question having perhaps just revised it for Component 2. Most were able to explain a wide range of power and offences in relation to public order. There was consequently good citation of legal authority though a surprisingly small number of candidates seemed au fait with the reforms under the Police, Crime, Sentencing and Courts Act 2022. A01 was generally stronger than A03 (perhaps as they had already revised the topic for Component 2).

In a minority of scripts, there were some good attempts to draw the discussion back to the question posed and the central issue of the balancing of rights, and there were some excellent examples of sophisticated arguments made. Reference had to be made to the relevant articles of the ECHR to frame the evaluation. There were some sophisticated discussions of the nature of these qualified rights and the balancing act that takes place.

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