

GCE AS Examiners' Report

Law

AS

Summer 2025

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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
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Executive Summary

This report identifies several key strengths and areas for improvement in candidates' performance across both Component 1 and Component 2 of the assessment.

While many candidates demonstrated strong understanding and overall performance was comparable to previous years, significant issues were highlighted, particularly concerning exam technique, question focus, and analytical skills.

In Component 1, candidates generally responded well to the breadth of the specification covered. The strongest performance was in AO1, where knowledge and understanding were clearly evident. There was also commendable progress in AO2 skills, particularly in applying legal knowledge to scenarios, which reflects effective preparation by centres. However, AO3 skills involving analysis and evaluation were consistently weak. Candidates' responses often lacked structure, depth, and legal insight, making it difficult for them to access higher-level marks.

Many students struggled with adhering to the paper's rubric, frequently omitting entire questions or sections, severely affecting their scores. Some wasted valuable time by copying out questions, and a noticeable number of scripts were marred by illegible handwriting, complicating the marking process. Examiners noted issues with compulsory Questions 1 and 2, where lack of specific revision led to brief or confused answers. Candidates are reminded that such questions focus narrowly and require equally focused responses. Despite not requiring full case details, examiners expect an explanation of a case's relevance, particularly in evaluative answers.

Section B responses were weaker than those in Section A, possibly due to poor time management or the more analytical nature of the questions. Responses were often too short and did not meet the essay-style expectations, making high mark bands inaccessible. Other recurring issues included vague or incorrect case citations and a tendency to write everything known about a topic rather than tailoring responses to the specific demands of the question. This was especially problematic in evaluation questions, where clear linkage to the question is crucial. Candidates often used improper abbreviations (e.g., "J" for juries) and mislabelled parts of their answers, making it difficult for examiners to follow the structure. Centres are urged to ensure candidates understand how to present their answers clearly and logically.

Component 2 followed a similar pattern. Although questions covered the full specification and candidates were evidently better prepared for some than others, failure to follow the rubric again led to omitted answers and lowered marks. AO1 responses showed solid knowledge and understanding, and in some areas, AO2 skills were well developed, particularly where centres had invested in structured application practice. However, as with Component 1, AO3 skills were significantly lacking. Candidates struggled with evaluation, especially in questions requiring critical analysis, such as Q1(c), Q2(c), and Q3(c). Understanding of command words and assessment objectives must be reinforced.

Accurate use of case law is vital for higher marks, but too many candidates simply added cases without contextual explanation. Confusion between civil and criminal law also led to the misapplication of case law.

Handwriting continued to pose a problem, with poor legibility affecting examiners' ability to assess work at times. Candidates are encouraged to use laptops where appropriate and must label questions clearly.

Overall, to improve performance, students must focus on legibility, rubric adherence, precise legal referencing, and developing analytical skills across all components.

LAW

GCE Advanced Subsidiary

Summer 2025

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.

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 seemed broadly comparable with previous years.

AO1 skills of knowledge and understanding were the strongest skill, and there was also some commendable AO2 skills of application, showing centres are investing time in getting candidates ready for the application style questions with appropriate scaffolding and practice. However, as a priority, centres need to focus on AO3 analysis and evaluation skills with candidates as answers to these questions were particularly weak and lacked structure, depth and legal substance.

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 as examiners must be able read their work. Other general observations across this paper included:

- 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. The Advance Information provided in this series should have guided candidates and the answers should have been a lot stronger.
- 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....*'
- 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, J for juries, PA for Parent Act – whilst abbreviations of statutes are acceptable once the Act has been cited in full in its first citation, abbreviations of general terms are not appropriate at this level.

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

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.

Comments on individual questions/sections

Question 1:

Facility factor: 44.5% Attempt rate: 95.3%.

Performance on this question was generally disappointing, and the attempt rate demonstrates that despite being a compulsory question, was not attempted by all candidates. Many responses were confused and lacked precision in their definitions. Many candidates equated persuasive precedent directly with obiter dicta, often without clearly explaining the relationship as being an example of persuasive precedent rather than a definition.

Instead of focusing on the definition and examples of persuasive precedent, many candidates spent too long discussing binding precedent, ratio decidendi, stare decisis, or techniques of avoiding precedent. Case support was notably weak, with few referencing R v Howe or R v Gots or decisions from other jurisdictions. Some candidates misapplied Balfour v Balfour and Merritt v Merritt as examples of persuasive precedent, when they relate to distinguishing. Many candidates gave a general discussion of precedent and court hierarchy, rather than answering the precise question set.

Notes for Centres

- Candidates should be reminded that persuasive precedent is a type of precedent that includes obiter dicta, lower court decisions, dissenting judgments, Privy Council rulings, and decisions from other jurisdictions.
- Reinforce that persuasive precedent is not the same as obiter dicta – it includes it, but the definition must come first and that where the question asks for examples, the full range of marks will not be available without reference to examples.

- Discourage discussion of general precedent theory (for example, binding precedent, stare decisis) unless clearly relevant. The compulsory questions will often have a narrow focus, and it is important that candidates stay focused for the low tariff questions.

Question 2:

Facility factor: 40.8% Attempt rate: 93.6%.

This question was generally better answered, with many candidates demonstrating a sound understanding of Dicey's principles. Stronger responses clearly articulated the three principles of Parliamentary Sovereignty, supported by contemporary examples such as the Rwanda Act and Brexit legislation. There was also some thoughtful discussion on the unwritten nature of the UK constitution and the potential erosion of Parliamentary Sovereignty.

However, weaker answers often confused Parliamentary Sovereignty with separation of powers, the rule of law, or judicial law-making. Some candidates discussed Montesquieu or the Law Commission inappropriately, while others mistakenly focused on precedent or delegated legislation. A number of candidates attempted this question last, suggesting uncertainty or lack of confidence in the topic, and was omitted altogether by over 5% of candidates.

Notes for Centres

- Ensure learners can clearly articulate Dicey's three principles of Parliamentary Sovereignty and remain focused on the sometimes-narrow aspect of these questions.
- Reinforce distinctions between Parliamentary Sovereignty, separation of powers, and the rule of law.
- Use current examples (e.g. Brexit, Rwanda Act) to contextualise the continuing relevance and potential limitations of Parliamentary Sovereignty.
- Support learners to develop tighter definitions and avoid conflating terms.

Question 3:

a) Facility factor: 46.6% Attempt rate: 15.5%.

b) Facility factor: 70.0% Attempt rate: 16.5%.

This was the least popular of the optional questions in Section A, answered by only just over 15% of candidates.

In part (a), many candidates gave a reasonable account of judicial controls, although some strayed into parliamentary controls, which were not relevant. There was some awareness of ultra vires and judicial review, but discussion of the King's Bench Division and supporting case law was limited. Weaker candidates wrote about types of delegated legislation instead of the controls.

In part (b), stronger candidates correctly identified the issues with the statutory instrument, such as the lack of consultation and inappropriate fine, which were clear to deduce from the scenario, applying both parliamentary and judicial controls, which was the ideal structure. However, many omitted parliamentary controls altogether, limiting their ability to access Band 4. There was widespread confusion about which controls applied and when, and little reference to other parliamentary controls aside from the affirmative resolution procedure.

Notes for Centres

- Encourage structured responses that separately consider parliamentary and judicial controls, maybe through a methodical IDA approach: Identify each control, Describing it and then Applying it to the facts.
- Reiterate the need to read the extracts carefully, for example, in this scenario it was made obvious that consultation was required.

Question 4:

a) Facility factor: 66.1% Attempt rate: 82.3%.

b) Facility factor: 64.2% Attempt rate: 83.0%.

Unsurprisingly, this was the most popular question on the paper and was generally well received by candidates.

Part (a) was generally well understood, particularly the literal rule. Candidates frequently cited this rule with appropriate case law. However, the mischief and purposive rules were often confused or treated as interchangeable. The mischief rule was not always supported by appropriate case law, such as Heydon's case, and the purposive rule often lacked a clear definition.

In part (b), the application was a little weaker than in the previous series. Some candidates failed to apply the rules to each defendant clearly, or did not structure their answer around the rules themselves. Application of the Golden Rule was particularly weak, with few identifying the absurdity that would justify its use. There was also confusion between rules of interpretation and aids to interpretation, and case support was frequently vague ('the case where...'). The AO2 skills are generally strong across the board and generally speaking, candidates progress through each rule with a definition with supporting cases and application to the scenario.

Notes for Centres

- Ensure clear definitions of each rule, especially the mischief and purposive rules.
- Remind candidates of the IDA structure to provide a structured and logical approach to answering the questions, using all rules of interpretation.
- Candidates should be encouraged to understand that the Golden Rule is to be used where the literal rule produces an absurdity and appropriate application would be to identify what this absurdity is and provide a sensible approach to avoiding that absurdity.

Question 5:

a) Facility factor: 63.9% Attempt rate: 62.8%.

b) Facility factor: 60.5% Attempt rate: 62.3%.

This was the most popular choice for candidates on Section B, but the facility factor shows that candidates struggled with part a) more than part b).

Part (a) was poorly answered or completely omitted. Many candidates confused appeals **from** the Crown Court with appeals to the Crown Court or incorrectly referenced the Magistrates' Court. There was widespread confusion with trial procedure, and only a few candidates correctly identified the appeal route via the Court of Appeal and the need for leave to appeal.

In this part, there was also some confusion with precedent with many candidates choosing to discuss the exceptions in Young.

In part (b), candidates generally engaged well with the topic but did not always respond to the question's focus on jury trials being outdated and in need of reform. Better responses discussed secrecy, jury equity, diversity and recent developments around eligibility criteria, such as the increased age. It was pleasing to see candidates making reference to the new offences in the Criminal Justice and Courts Act 2015 which were used to support the fact that the jury system was up to date and not in need of reform. Case support was sometimes strong (R v Twomey, R v Young), though many responses were generalised or overly focused on representativeness without deeper analysis. Whilst representativeness was a valid point, on its own it does not provide a holistically convincing answer that links to reasons why the jury is outdated.

Notes for Centres

- Candidates are reminded to use the wording from the question to support their essay writing and to provide balanced evaluation to access the full range of marks.
- Legal authority is crucial to access higher mark bands and an answer that provides no case support is unlikely to achieve more than half marks.
- In an answer such as this, it is useful to provide a conclusion which maybe considers alternatives to the jury.
- There are still common errors being made by candidates – for example, the belief that police officers and legal professionals are not permitted to sit on the jury and also the usual confusion with magistrates.

Question 6:

a) Facility factor: 33.7% Attempt rate: 32.5%.

b) Facility factor: 54.3% Attempt rate: 34.0%.

This was the least popular question on Section B and was attempted by just over 15% of candidates.

Part (a) on judicial appointments was reasonably well handled, with most candidates referencing the Judicial Appointments Commission and the Constitutional Reform Act 2005. In part (b), many responses lacked evaluation. Candidates often described the training of solicitors and barristers without analysing its impact on diversity. Some referenced the GDL and SQE positively as routes increasing accessibility, but there was little reference to financial or structural barriers. A few candidates mistook this as a question about fusion and went off-topic.

Notes for Centres

- Candidates are reminded that legal authority takes many forms and the use of statistics or research on diversity in the profession can support arguments.

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COMPONENT 2: UNDERSTANDING SUBSTANTIVE LAW

Overview of the Component The questions covered the range of the specification, and it was evident that candidates were more prepared for some questions than others. The compulsory nature of the paper proved challenging for some candidates. The result was that many did not adhere to the rubric of the paper, omitting whole or part questions and therefore depressing the overall mark.

There were some good answers to AO1 questions, demonstrating good knowledge and understanding of the topics.

There was some evidence of sound AO2 skills. It was obvious that some centres had commendably spent time working on enabling candidates to apply the law to the scenario in a structured manner (see Q2d). Conversely, lack of knowledge on which to base AO2 skills led to a weaker response in Q3(d).

There was, however, a notable weakness across the board on the evaluation questions, with little by way of AO3 skills evident. This is an area that needs to be worked on so that students can attain the higher-level marks of Band 4 AO3 (see comments on Q1(c), Q2(c) and Q3(c) respectively). Generally, it would be helpful for students to be reminded of the command words and specific demands of each of the three Assessment Objectives.

Case law is also important in all questions in order to attain the higher mark band. A common error is for students to simply “name drop” a case without explaining its relevance to the context. Also, yet again this year, there have again been many instances where candidates have got confused between civil and criminal law and used case law in the wrong context (see Q2(d)).

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. Also, it would be helpful if candidates could number their answers in line with the Question Paper.

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 knowledge, application and analytical skills to achieve higher marks.

Facility factor:

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.

Comments on individual questions/sections

SECTION A

Question 1 - Law of Contract

Very few responses were seen for the Law of Contract, with only a small minority of centres selecting this option. The contract answers tended to be weaker than the responses to other options on the paper.

Q1(a):

Facility factor: 65.4% Attempt rate: 10.1%.

Overall, candidates demonstrated an understanding of contract law principles. Many were able to recall the key case of *Central London Property Trust Ltd v High Trees House Ltd* (1947), indicating a good grasp of the doctrine's origin. However, in relation to Question 1(a), a more in-depth and precise explanation of the doctrine of promissory estoppel was required.

Specifically, reference could have been made to: its equitable nature and its function as a departure from the strict rules of consideration; the essential conditions for its application, e.g. the pre-existing contractual relationship, clear and unambiguous promise, reliance by the promisee (though not necessarily to their detriment, as detriment is not always a strict requirement, but rather a change in position); the inequity of the promisor going back on their word; the critical limitation that it can only be used as a "shield and not a sword," as clearly established in *Combe v Combe* and consideration of whether the promise is time-limited or suspensory.

There appeared to be some confusion amongst a number of candidates, leading them to provide very general answers concerning the foundations of contract formation, particularly offer and acceptance. While these are crucial aspects of contract law, they were not directly relevant to the specific focus of this question, which exclusively sought an explanation of promissory estoppel. This highlights a need for candidates to refine their ability to pinpoint the precise legal concept being examined and tailor their responses accordingly.

Q1(b):

Facility factor: 51.7% Attempt rate: 9.6%.

Candidates had a general awareness of the ways a contract can be brought to an end. The concept of "discharge" itself was often understood, and some candidates were able to correctly identify and explain discharge by performance and by breach, citing relevant cases such as *Cutter v Powell* and *White & Carter Ltd v McGregor*.

Consideration should have been given to the various methods of discharge: by performance - *Cutter v Powell*; by agreement, distinguishing between bilateral and unilateral discharge; by breach, explaining both actual and anticipatory breach.

As in Q1(a), some candidates offered very general responses about contract principles rather than focusing on the specific remit of the question.

Q1(c):

Facility factor: 37.8% Attempt rate: 9.8%

Many students found this question challenging, in particular the evaluation aspect.

Stronger candidates understood the fundamental distinction between an offer and an invitation to treat, correctly identifying that an invitation to treat is a preliminary step inviting negotiations, while an offer signifies an intention to be legally bound upon acceptance. Candidates frequently cited key cases such as *Partridge v Crittenden* and *Pharmaceutical Society of Great Britain v Boots Cash Chemists Ltd (1953)*, demonstrating a good grasp of the relevant authorities.

In evaluating the differences between an offer and an invitation to treat, candidates could have considered: providing examples of situations typically classified as invitations to treat, such as advertisements for bilateral contracts (e.g., *Partridge v Crittenden*), goods on display in shops (e.g., *Fisher v Bell (1961)*, *Pharmaceutical Society of Great Britain v Boots Cash Chemists Ltd*).

These could have been contrasted with situations that constitute true offers such as advertisements for unilateral contracts (e.g., *Carlill v Carbolic Smoke Ball Co (1893)*), explaining the rationale behind this distinction (i.e., no need for further negotiation in unilateral offers).

While many candidates could identify examples, some struggled to move beyond a descriptive account to provide a true evaluation. There was some tendency to list cases without fully explaining *how* they illustrate the distinction or the underlying policy reasons for the classifications.

Q1(d):

Facility factor: 44.4% Attempt rate: 9.8%.

Candidates generally understood the basic principles of contract law, but the main issue in their responses to this scenario question was a lack of focused application of consideration. Many candidates provided general points about contract formation without specifically addressing the issues of consideration relevant to the scenario. There was a tendency to deliver broad contractual concepts rather than focussing on the core problem of whether fresh consideration was provided for the additional payment.

In advising John, candidates could have considered:

Clearly identifying the central issue as one of consideration, specifically concerning an existing contractual duty and the enforceability of a promise to pay more for its performance.

Defining consideration accurately, explaining its nature as a bargain and the need for each party to provide something of value (benefit/detriment).

Applying the rule regarding existing contractual duties, citing *Stilk v Myrick (1809)*, and explaining how this case suggests John would not have to pay the extra £850 because the company was only performing its pre-existing duty.

Discussing the exception introduced by *Williams v Roffey Bros & Nicholls (Contractors) Ltd (1990)*. This was a crucial point for the scenario. Candidates should have applied the practical benefit test, analysing whether John received a practical benefit (e.g., avoiding delay, finding another contractor, potential liquidated damages for late completion of the wedding preparation) from his promise to pay the extra £850, thereby making his promise enforceable.

Considering the limitations and criticisms of *Williams v Roffey*, particularly as seen in *Re Selectmove Ltd (1995)*, which limited its application to promises to pay more for an existing duty, but not promises to accept less (part payment of a debt). Candidates should have

discussed how *Re Selectmove* might cast doubt on the enforceability of the additional £850 if the practical benefit rule is strictly interpreted.

The challenge for candidates was to move beyond a general discussion of contract points and apply the *specific* rules and exceptions of consideration directly to the facts of the scenario, weighing the arguments for and against enforceability of the £850 payment.

For many candidates the insufficient discussion and application of *Williams v Roffey* and its implications was a notable area for improvement.

Question 2 - Law of Tort

This was the most popular option by far for private law, but the responses were mixed.

Q2(a):

59.9% of students attempted this question and it had a facility factor of 88.9%.

This was a straightforward question which was quite well received. Most candidates were able to cite *Blyth v Birmingham Waterworks (1865)* and correctly reference the three recognised variations of the reasonable person (professionals, children and learner drivers). This was often done well with case citation for each variation, allowing candidates to gain full marks.

Some candidates, however, wasted valuable time explaining about the risk factors which was not relevant to the question and therefore not creditable. Indeed, in some answers, there was no mention of the reasonable person test at all, despite the fact that it was the focus of the question.

Q2(b):

Facility factor: 59.9% Attempted by 89.2%.

There were some very good responses to this question. Most candidates were able to explain that damages are a financial remedy which aim to put the injured party back in the same position they would have been in if the tort had not occurred. Stronger candidates differentiated clearly between special and general damages, but many were confused between the two types, missing out on marks.

Clear explanations were frequently given, detailing that special damages comprise quantifiable financial losses incurred up to the date of trial; examples provided included loss of earnings up to trial, medical expenses and expenses to cover special facilities.

General damages were similarly detailed with candidates appreciating that the term covers losses that look to the future, are therefore not easily quantifiable and are assessed by the judge at trial. Stronger answers went further. They explained that general damages are divided into pecuniary losses such as future loss of earnings which are calculated by the court using the multiplicand and the multiplier, along with non-pecuniary damages to cover pain, suffering, and loss of amenity. Clear, detailed explanation of these two categories alone allowed candidates to reach the top band, particularly where supported by relevant citation, e.g. *West v Shepherd (1963)* in relation to loss of amenity.

A few candidates extended their discussion beyond special and general damages, to demonstrate sound knowledge of nominal, contemptuous, aggravated and exemplary damages and were commensurately credited.

Some candidates also gave a detailed discussion of the various forms of injunctions available. Unfortunately, the question referred specifically to “damages” and therefore the information was irrelevant.

A few candidates also got very confused and discussed primary and secondary victims, having erroneously taken the word “damages” to mean injuries.

Q2(c):

Facility factor: 48.3% Attempt rate: 84.2%.

This AO3 question was challenging for most candidates. There were, however, some good answers which included all the necessary conditions a trespasser must meet to bring a claim, supported with relevant case law, such as *Tomlinson (2003)*. There was frequent reference to the use of warning signs to discharge the duty of care and an understanding by some candidates that a successful claim is limited to damages for personal injury and death only. Many responses, however, offered only a general commentary on occupiers’ liability without legal citation, which limited the marks available. There was also some confusion about the occupier’s liability to child trespassers under the Act.

Some responses offered commendable evaluation (AO3) and discussed whether the law is too harsh on trespassers or appropriately protective of occupiers. However, these answers were the exception rather than the norm. Where there was no evaluation, answers could not get into Band 4.

A few candidates unfortunately frequently referred to the 1957 Act as much as they did to the OLA 1984. Again, it is a matter of reading the question carefully before putting pen to paper. If, however, they had used that knowledge to demonstrate the difference in levels of protection offered by the two Acts, that would have provided the basis of effective evaluation (AO3).

Q2(d):

Facility factor: 50.2% Attempt rate: 86.5%.

Candidates tend to find AO2 skills more accessible than AO3 and many responses attained Band 3 comfortably.

Generally, responses were well structured; the majority of candidates knew that they needed to progress through duty, breach and causation and damage. It was obvious in many instances that centres had taught their students to adopt this structure; such good practice reaped rewards and is to be commended.

Stronger candidates made a valid attempt to apply the law throughout, with supporting case law for all three elements. Unfortunately, several candidates, possibly through lack of time, only applied duty of care and therefore could not progress into the higher mark bands. Weaker students simply “told the story”, with their answers having hardly any legal content.

With regard to duty of care, *Donoghue* and *Caparo* were obviously referenced. It was, however, good to see that most candidates referred to *Robinson (2018)*, applying it to the question to a greater or lesser degree. A small number of candidates, however, merely cited the case without demonstrating any real understanding of its relevance.

There were some superb responses on the issue of breach, with candidates providing detailed information on the factors taken into account by the court at this juncture. Frequent reference was made to the fact that it is an objective test, with *Blyth (1865)* being widely cited. Many considered: whether Tom’s conduct fell below that of a reasonable pick-up truck

driver (*Nettleship v Weston* 1971); the probability of harm (*Bolton v Stone* 1951); the magnitude of likely harm (*Paris v Stepney BC* 1951); the cost and practicality of preventing the risk (*Latimer v AEC Ltd* 1953), as well as any potential benefit to society (*Daborn v Bath Tramways* (1946)). Weaker candidates simply repeated the reasonable person test but did not engage with the risk factors which were often omitted.

Causation was generally more challenging for most although stronger responses included a correct account of both factual and legal causation. There was, however, frequently confusion between factual and legal causation. Several candidates thought the “thin skull rule” test was something separate or additional to legal causation rather than being part of it. In addition, candidates erroneously used criminal case law to demonstrate causation in this question for which they could not be credited.

As for remoteness of damage, there was very little discussion of this issue, possibly because candidates were running short of time by this stage. There was, however, some reference made to *Wagon Mound*.

Question 3 – Criminal Law

Q3(a):

Facility factor: 32.3%. Attempt rate: 95.1%.

A common issue was candidates producing overly broad responses on general causation, often spending too long on this and leaving insufficient time for the actual focus of the question: intervening acts.

Stronger responses correctly identified that certain acts can break the chain of causation, absolving the original defendant of liability at that point. They then explored the key categories of acts by medical professionals (*Smith* (1959)), by the victim (*Roberts* (1991)), by a third party, and acts of God. While we do not expect deep legal nuance at this level, it is worth noting that different legal standards apply (e.g., medical intervention must be ‘palpably wrong’ (*Jordan* (1956))) versus the proportionality or reasonableness test for third parties.

Weaker responses failed to explain anything beyond the basics of causation and at times there was confusion between the facts and outcomes in the medical profession case law.

Q3(b):

Facility factor: 43% Attempt rate: 92.1%.

This topic revealed considerable confusion, with some candidates incorrectly conflating recklessness or negligence with forms of intent.

Many candidates correctly highlighted intent as the highest kind of mens rea, equating it with offences such as murder and S18 OAPA 1861. Most identified that there are two kinds of intent: direct and indirect intent. Direct intent was generally well understood but indirect/oblique was more problematic. Better responses for oblique intent made frequent reference to Woollin and Nedrick in relation to the virtual certainty test but frequently without being able to accurately explain its significance. There was the occasional reference to Hancock and Shankland and, more rarely, but encouragingly, Matthews and Alleyne. Weaker candidates appeared not to have any knowledge of the “virtual certainty” test at all and their responses were limited to weak explanations of direct intent.

Q3(c):

Facility factor: 39.1% Attempt rate: 86.2%

Most candidates correctly identified the two offences under Sections 47 and 20 OAPA 1861 respectively.

This was an AO3 question, and it was the evaluation in particular that candidates were missing. AO3 skills were therefore very limited across most responses but candidates could still gain credit by accurately outlining the differences between the offences.

Another major weakness was the lack of legal citation; in focusing on distinguishing the two offences, many failed to include relevant case law which would have allowed comparison of the actus reus elements, levels of harm and mens rea distinctions. They could have used *Miller (1954)* to demonstrate that ABH can be described as “any hurt or injury calculated to interfere with the health and comfort” of the victim and can be as basic as the cutting of hair as in *Smith (1991)* while GBH involves either a wound (*Eisenhower (1984)*) or really serious harm (*Smith (1961)*). Similarly, the point could have been made that the mens rea of ABH is merely that of assault or battery and that foresight of harm is not necessary (*Savage (1992)*) while GBH requires there to have been intention or recklessness as to causing some harm (*Mowatt (1967)*). Reference could then have been made to the fact that, despite these differences in the level of harm, both offences carry the same maximum sentence which is a key point of critique.

Q3(d)

Facility factor: 45.8% Attempt rate: 94.6%.

A few candidates very mistakenly considered S20 and S18 as potential offences, but the majority correctly identified that the focus was on assault and battery.

Stronger answers followed a clear structure: outlining the actus reus, applying it, and then moving on to address the mens rea in the same manner. At times, however, candidates omitted the mens rea requirement entirely, deflating their mark. There was good citation generally on both the actus reus and mens rea of both offences, with frequent reference being made to *Ireland (1997)*, *Logdon (1976)*, *Thomas (1985)* and *Haystead (2000)* along with *Cunningham (1957)* and *Venna (1976)*.

The application of mens rea did, however, cause problems for some candidates, particularly in explaining recklessness. Misconceptions included statements such as, “they didn’t intend to scare anyone, so they can’t be prosecuted,” which reflects a misunderstanding of the concept of recklessness in the context of these offences.

Another common issue was the inclusion of additional offences such as ABH; this was unnecessary and often cost candidates’ valuable time. Some substituted ABH for battery entirely, although the facts of the scenario (a small bruise) did not support the more serious offence.

Question 4 – Human Rights

Due to the very low number of candidates attempting this question, it is not possible to provide any meaningful commentary on this question.

Summary of key points:

- Candidates should be mindful of the weighting of Assessment Objectives for this paper. AO1 questions, focusing on Knowledge and Understanding, carry 6 marks. AO2 questions, focusing on the Application of legal principles, carry 9 marks. AO3 questions, focusing on the Analysis and Evaluation of legal principles, carry 9 marks.

- Candidates should be reminded to carefully read the question to ensure that they fully understand its focus. They need to avoid writing all they know about a topic rather than addressing the question itself. This is particularly important in application questions (AO2).
- Candidates often dedicate considerable time to writing introductions and conclusions that essentially reiterate points made in the main body. This does not make best use of their limited time.
- 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 not answering them chronologically.

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