GCE AS Examiners' Report

LAW

AS Level

Summer 2026

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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.eduas.co.uk/home/professi onal-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.***

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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

Component 1

Generally, well received and covered the full specification. Candidate performance was comparable to previous years, with stronger outcomes in AO1 knowledge and understanding and some good AO2 application skills. However, AO3 analysis and evaluation remained the weakest area, with many responses lacking depth, structure and legal substance. A significant number of candidates failed to follow the paper rubric, omitted questions, or provided illegible handwriting, negatively affecting marks. Across the paper, candidates often struggled with the compulsory questions, particularly when they had not revised the specific topic areas. Many responses lacked focus, with candidates writing everything they knew about a topic rather than addressing the question set. Weak case citation, poor question labelling and inappropriate abbreviations were also common concerns.

Section B was generally weaker than Section A, with many answers being too brief to access higher mark bands. Centres should continue to develop analytical and evaluative skills, encourage precise legal terminology, and ensure candidates support answers with relevant legal authority and examples.

Question-specific performance varied. Candidates often confused the focus of Questions 1 and 2, discussing delegated legislation and precedent generally rather than parliamentary controls and the Practice Statement 1966 respectively. Questions 3 and 4 showed stronger application skills, although some candidates misapplied legal principles such as Young v Bristol Aeroplane and confused reversing and overruling. Question 5 revealed common misconceptions about jury eligibility, while AO3 responses on youth sentencing lacked development. Question 6 demonstrated reasonable knowledge of legal aid, but evaluation of conditional fee arrangements was often generic and underdeveloped. Overall, greater focus on relevance, application and evaluation is needed.

Component 2

Very few candidates chose the Law of Contract option, and responses were generally weaker than in other areas, although some excellent scripts were seen. In Q1(a), most candidates understood mitigation of loss and its connection to damages, with stronger answers supported by cases such as *Pilkington v Wood*, *Payzu v Saunders* and *British Westinghouse*. Q1(b) was answered reasonably well, with most candidates explaining that a counteroffer destroys the original offer, often citing *Hyde v Wrench*. However, few distinguished counteroffers from requests for information as in *Stevenson v McLean*. Q1(c), on intention to create legal relations, proved challenging. Many candidates understood the distinction between domestic and commercial agreements, referring to *Balfour v Balfour* and *Merritt v Merritt*, but often confused the facts. Commercial presumptions and cases such as *Edwards v Skyways* were less well known. Stronger evaluation considered the benefits and drawbacks of rebuttable presumptions and the potential inconsistency illustrated by cases such as *Hardwick v Johnson* and *Ellis v Chief Adjudication Officer*. Q1(d) was generally stronger, with candidates effectively distinguishing offers from invitations to treat using *Partridge v Crittenden* and *Boots*. Many correctly identified the advertisement as a unilateral offer, drawing on *Carlill v Carbolic Smoke Ball Co*.

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Tort was the most popular private law option, though performance was mixed. Candidates generally understood factual causation but struggled with legal causation and often incorrectly used criminal cases. Breach of duty was stronger, with many effectively discussing reasonable person standards, special characteristics and risk factors. AO3 questions on damages highlighted confusion between special and general damages. Scenario-based questions were often well structured, but some candidates neglected breach or causation.

Criminal Law was the most popular public law option. Candidates generally demonstrated sound knowledge of strict liability, omissions and non-fatal offences, though evaluation and application remained weaker areas, particularly regarding oblique intent and recklessness. Across all topics, successful answers focused closely on the question, applied relevant legal authority effectively and demonstrated evaluation rather than description.

Any part of the specification can be examined and candidates should be prepared. Centres are reminded of the comprehensive range of resources available through the Secure Portal and the subject website, which are designed to support the delivery of both components.

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AS COMPONENT 1

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. 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.

Whist 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 have to 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 is 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….'*

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- 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. 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.
- Centres are reminded that any area of the specification may be assessed and candidates should be prepared accordingly.

Comments on individual questions/sections

Q.1

Performance on this question was mixed. Whilst many candidates demonstrated some awareness of delegated legislation in broad terms, there was considerable confusion surrounding the focus of parliamentary controls.
A significant proportion of responses concentrated on explaining the different types of delegated legislation rather than the methods Parliament uses to supervise and scrutinise delegated powers. Many candidates discussed statutory instruments in detail without linking them to parliamentary control mechanisms.
There was also notable confusion surrounding terminology. Candidates frequently referred to "positive procedure" rather than affirmative resolution procedure and some responses mixed parliamentary and judicial controls through discussion of ultra vires. In weaker responses there were references to constitutional concepts such as parliamentary sovereignty, separation of powers and rule of law which were not directly relevant.
Stronger responses clearly identified mechanisms such as affirmative resolution, negative resolution and scrutiny committees and explained how these operate to maintain parliamentary oversight.

Notes for Centres:
- Reinforce the distinction between delegated legislation itself and the controls.
- Encourage candidates to use precise legal terminology.
- Remind learners that low-tariff AO1 questions often have a narrow focus and broader discussion of the topic rarely gains additional credit, so is a waste of exam time.

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Q.2

This question proved challenging and was one of the weaker performed questions across the paper.

Many candidates demonstrated general knowledge of precedent but struggled to focus specifically on how the Practice Statement 1966 enables judicial law making. Several responses confused the Practice Statement with statutory interpretation or delegated legislation, suggesting that the Practice Statement identified Parliament's intentions on why they needed to create a law.

There was frequent discussion of ratio decidendi, obiter dicta, stare decisis and avoidance techniques such as distinguishing, overruling and reversing. Whilst these concepts relate to precedent more broadly, they did not address the focus of the question. Some candidates incorrectly imported the exceptions from Young v Bristol Aeroplane into their explanation of the Practice Statement. There was also some confusion with other constitutional concepts such as the separation of powers, which is not relevant to this question as the separation of powers relates to the legislative functions of the Supreme Court, not the judicial functions.

Stronger responses recognised that the Practice Statement allows the Supreme Court to depart from its own previous decisions where it appears right to do so and supported this with examples such as R v R and Pepper v Hart.

Notes for Centres:

- Ensure candidates understand the distinction between precedent generally and the specific function of the Practice Statement 1966.
- Encourage use of case law support to support answers
- Focus on precision and relevance when answering narrow AO1 questions.

Q.3

Part (a) was generally answered effectively. Most candidates demonstrated a sound understanding of the types of pressure groups, with examples and some narrative around the methods of influence.

Part (b) produced a broad range of responses. Stronger candidates identified multiple realistic methods available to Kayden and linked these directly to the scenario. The most successful responses considered pressure groups, parliamentary petitions, media campaigns and engagement with MPs or Private Members' Bills.

Current examples were used effectively in some scripts and added depth and authenticity to responses; such examples were the Marcus Rashford school meals campaign and Natasha's law. Candidates who considered not only methods available but also the likely success of those methods were better able to access higher AO2 marks.

Weaker responses tended to become conversational and lacked legal substance. Social media campaigning was frequently discussed in isolation without connecting to law reform processes. There was also some discussion of Royal Commissions, Law Commission and Public Inquiries, which although are creditable as valid law reform agencies, would not directly apply to Kayden and so candidates needed to be aware of this and apply accordingly.

There were also examples of responses that adopted an overly conversational style, which lacked application altogether and were based on common sense rather than any substantive knowledge of law reform.

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Notes for Centres:

- Encourage candidates to move beyond identifying a method and encourage them to explain why it may be effective or otherwise.
- Develop application by encouraging candidates to assess likelihood of success.
- Continue using contemporary examples to support understanding of law reform.

Q.4

Part (a) demonstrated a mixed understanding of judicial precedent where stronger candidates clearly explained the impact of Young v Bristol Aeroplane Co Ltd (1944) by identifying the three exceptions and their significance for certainty and flexibility within precedent.

However, weaker responses often became descriptive accounts of types of precedent generally and included discussion of ratio decidendi, obiter dicta and court hierarchy without sufficient focus on Young itself.

Part (b) proved more demanding. Many candidates incorrectly attempted to apply Young despite the previous decision originating from the Supreme Court rather than the Court of Appeal. There was also persistent confusion between the inherent definitions of overruling and reversing. This caused a holistically inaccurate application because there was no reference to the scenario case being an appeal case and so reversing would not ordinarily apply.

Stronger candidates recognised the significance of court hierarchy and explored possible outcomes through distinguishing, following precedent, overruling or reversing.

A small number of responses unexpectedly attempted to apply the substantive criminal law of assault and battery rather than precedent.

Notes for Centres:

- Reinforce the differences between reversing and overruling.
- Encourage candidates to identify court hierarchy before applying precedent rules and be clear where the current and precedent courts sit.

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Q.5

Part (a) was unexpectedly weaker than anticipated, as jury questions are usually well received. Although many candidates identified the age requirement correctly, there remains ongoing confusion around eligibility criteria. Common misconceptions included believing legal professionals cannot serve and that any criminal record automatically disqualifies a juror. There was also confusion between juries and magistrates. Very few candidates supported the eligibility criteria with any legal authority, including the Juries Act 1974 and even fewer candidates could cite the Criminal Justice and Courts Act 2015 which is the most recent statutory authority for jury eligibility.

Part (b) generated some thoughtful discussion and candidates engaged well with the concept of rehabilitation. Stronger responses linked rehabilitation directly to youth sentencing principles and considered mechanisms such as Youth Rehabilitation Orders and how these promote behavioural change and reduce reoffending.

Weaker responses became descriptive and relied heavily on common-sense observations rather than legal authority. Whilst points regarding addressing root causes and reducing repeat offending were creditworthy, many lacked legal development. Responses were often brief for an AO3 question and therefore lacked sufficient depth to access higher bands.

Notes for Centres:

- Reinforce current jury eligibility requirements and common misconceptions.
- Encourage candidates to support evaluation with legal authority and examples.
- AO3 responses should include balanced discussion and developed conclusions.

Q.6

Part (a) was generally accessible, and candidates demonstrated reasonable knowledge of legal aid available at police stations, though there was some confusion with civil legal aid and lots of irrelevant content around police powers more broadly.
Stronger responses distinguished between legal advice and representation schemes and demonstrated awareness of duty solicitors and public defenders.

Part (b) produced mixed responses. Candidates generally understood the purpose of conditional fee arrangements, but while relevant points were identified, evaluation was often not explored in sufficient detail, resulting in responses that were occasionally generic and overly reliant on listing points rather than providing sustained analysis.
For example, suggesting that conditional fee arrangements are quicker, faster and cheaper.
More successful responses considered access to justice from multiple perspectives, balancing affordability and risk reduction for claimants against concerns regarding case selection and unequal access.

Weaker responses became descriptive and discussed legal aid more broadly rather than focusing specifically on conditional fee arrangements.

Notes for Centres:

- Continue developing evaluative writing structures for AO3 responses.
- Encourage candidates to support evaluation with examples and legal authority.
- Maintain focus on the wording of evaluative questions – using the wording from the question can help focus candidates to answer the specific question posed.

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A/S COMPONENT 2

Overview of the Component

The questions covered the range of the specification as well as the three Assessment Objectives, AO1 (Qs (a) and (b)), AO3 (Q(c) and AO2 (Q(d)). The compulsory nature of the paper proved challenging for some candidates, and it was evident that they were more prepared for some questions than others. 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. Centres are reminded that any area of the specification may be assessed and candidates should be prepared accordingly.

Although many students struggled with the narrow focus of the questions, there were some good answers to AO1 questions, demonstrating sound knowledge and understanding of the topics (for example, in Q3b). Candidates should be reminded that the AO1 questions are often narrowly focused and require precise examination technique. The highest marks were awarded to those who addressed exactly what was asked rather than providing a broader discussion of the law. Given that any aspect of the specification may be assessed, centres are encouraged to ensure that candidates are prepared to answer focused questions on specific elements and to practise selecting only the material that is directly relevant to the issue raised.

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 constantly reminded of the command words and specific demands of each of the three Assessment Objectives.
Case law is also important in all questions to attain the higher mark band. A common error is for candidates 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)). This confusion has also been evident as criminal law principles have been used to respond to civil law questions, notably in contract (Q1c) and tort questions (Q2(a) and Q2d).

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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 access laptops.

Also, it would be helpful if candidates could number their answers in line with the Question Paper. This is particularly important where questions are not answered chronologically.

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 supported by legal authority to achieve the higher marks.

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. There were a few excellent scripts, but the contract answers tended to be slightly weaker than the responses to other options on the paper.

Q.1 **(a)** Whilst appreciating that a claimant can only recover foreseeable losses *(Hadley v Baxendale (1854)*), most candidates were able to define mitigation, i.e. that claimants are required to take steps to minimise their loss as well as avoiding unreasonable steps that could increase that loss. Some, however, struggled to explain the relevance of mitigation to the quantum of damages, i.e. if reasonable steps were not taken, this could result in a lower level of damages. Legal authority such as *Pilkington v Wood (1953)* enabled them to attain the higher Band 3 marks. Commendably, some candidates also referred *to Payzu Ltd v Saunders (1919)* and *British Westinghouse Electric v Underground Electric Railways (1912).*

(b) Candidates had a general awareness of a counteroffer and were able to explain the concept. The majority explained that a counteroffer cancels out the original offer with the effect that no contract is formed at this stage, but it is now open to the original offeror to either accept or reject the counteroffer. Commendably, *Hyde v Wrench (1840)* was widely cited. A distinction could have been drawn between a counteroffer and a mere request for more information as in *Stevenson v McLean (1880)*; this was rarely seen. Some candidates offered very general responses about the contract principles of offer and acceptance (for which no credit could be given), rather than focusing on the specific remit of the question.

(c) Many students found this question challenging, in particular the evaluation aspect. Overall, the standard was disappointing, but most candidates did appreciate that an intention to be legally bound is one of the key aspects of a valid contract. A small minority erroneously considered the question to refer to intention in criminal law.

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Candidates were expected to show an understanding of how the courts achieve a compromise through the presumption that, in business and commercial contracts, there is an intention to be legally bound whilst, with domestic and social contracts, there is generally no such intention. *Balfour v Balfour (1919)* and *Merritt v Merrit (1970)* were frequently cited but many candidates were confused with the facts of the two cases and did not seem to understand that they are examples of how the courts deal with contracts relating to family disputes. Commercial and business contracts were either not addressed at all, or the knowledge was scanty and case law very much the exception rather than the norm. It was important to explain that, in business and commercial contracts, there is generally presumed to be an intention to create legal relations *(Edwards v Skyways Ltd 1969).* A few evaluation points that could have been mentioned include: The use of the presumption allows courts to shift out cases that are not appropriate for court action where there was no intention to be bound, as evidenced in *Balfour.* It also affords a degree of certainty in both social and commercial contracts The presumption can, however, be rebutted, allowing individual cases to be considered on their own facts and avoiding a too rigid approach. For example, a business agreement might include a clause which negates contractual intention as seen in *Jones v Vernon's Pools Ltd (1938). S*imilarly, the legal separation in *Merritt* meant that an agreement between husband and wife was evidence of the intention to be legally bound. However, there is not always a clear and obvious reason for rebuttals to take place. The difference between commercial and domestic contracts can be fine and can lead to inconsistency and confusion, as seen in *Hardwick v Johnson (1978)* and *Ellis v Chief Adjudication Officer (1998).* Here the social and domestic presumption was rebutted in the former case but not the latter, when the facts are very similar. This may suggest that clearer rules are required and that reform of the topic should be considered.

(d) Overall, there was a positive response to this question, with some sound AO2 skills evident.

Stronger candidates appreciated the importance of the fundamental distinction between an offer and an invitation to treat by identifying that an invitation to treat is a preliminary step inviting negotiations, while an offer signifies an intention to be legally bound upon acceptance. Key cases, such as *Partridge v Crittenden* (*1968)* and *Pharmaceutical Society of GB v Boots Cash Chemists Ltd (1953)* were commendably frequently mentioned. Stronger candidates then demonstrated that, as the contract was one with the world at large, it was in fact a unilateral offer as Jack had indicated a course of action in return for which he made a promise to provide consideration. It was therefore an offer capable of being accepted by Tessa who had used the medication correctly but still did not have the weight loss promised. Most candidates made the connection with *Carlill v Carbolic Smoke Ball Co (1893*) which was widely cited and led most to the conclusion that Jack had breached the contract. In addition, the wording of the advertisement clearly showed an intention to be legally bound to anyone accepting it, but this was missed by many candidates.

Most candidates recognised the link with *Carlill* but some lacked sufficient understanding of the case to apply it to the facts.

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Question 2 - Law of Tort

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

Q.2 **(a)** This was a straightforward question which was quite well received. Candidates were generally able to identify factual and legal causation. The majority understood the "but for" test in factual causation, with stronger candidates using *Barnett v Chelsea and Kensington Hospital (1969)* in support.

Legal causation was more problematic and many lacked real knowledge of the concept. Novus actus interveniens was frequently mentioned while remoteness seemed to be out of the reach of many, with *Wagon Mound (No 1) (1961)* appearing only in the stronger scripts. This is an area that would benefit from being revisited. The thin skull rule *(Smith v Leach Brain 1962)* was commonly identified, with the majority appearing to understand how it works.

One of the main issues in this question was that candidates used criminal cases in a civil context and therefore lost out on marks available for correct citation. For example, *White* was incorrectly referenced for factual causation in civil law, *Robert, Smith, Cheshire and Jordan* for novus actus interveniens and *Blaue* for the thin skull rule. This is an issue that really needs addressing as it disables students from gaining marks.

Few candidates had no idea about causation and simply wrote about the duty of care. This is again a matter of not focusing on the demands of the question.

(b) Some candidates wasted valuable time explaining about the duty of care before commencing their discussion of breach. This is unnecessary and not creditworthy as it is not the focus of the question.Most candidates were able to explain breach and the objective "reasonable man" test in *Barnett* was widely cited.

As the question has a wide remit, it was anticipated that both special characteristics and risk factors would be addressed. This was, however, not always realised. Candidates who covered only either special characteristics or risk factors could not attain full marks, reinforcing the need to read the question carefully in order to pinpoint its remit.

As regards special characteristics, there were, however, some excellent responses, ably supported by relevant citation. For example: professionals- *Bolam v Friern Barnett Hospital Management Committee 1957*; learners - *Nettleship v Weston 1971*; children - *Mullins v Richards 1998*.

Many addressed risk factors at the same high standard, again using legal authority in support. For example: the magnitude of the risk – *Paris v Stepney B.C 1951;* probability – *Bolton v Stone 1951*, *Haley v LEB 1965*; precautions – *Latimer v AEC Ltd 1953*; prior knowledge – *Roe v Minister of Health 1954*; public benefit of taking the risk – *Watt v Hertfordshire C.C. 1954*.

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(c) This is an AO3 question which candidates generally find challenging. This was no exception but there were, however, several excellent answers with some sophisticated evaluation. It must be stressed that students will be unable to attain the higher marks of Band 4 without some evaluation.

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. A minority of candidates, however, misunderstood the word "damages" and took it to mean damage, i.e. injury which then led them to discuss duty of care etc which was irrelevant to the question.

The majority focused on special and general damages although occasionally exemplary, aggravated and nominal damages were mentioned; all were duly credited. Stronger candidates differentiated clearly between special and general damages, but many were confused between the two types, missing out on marks. This is an area of the specification that requires clarification.

Special damages were frequently well covered, detailing that they comprise 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. Commendably some students used case law to identify evaluation points. For example, *Povey v Rydal School (1970)* was evaluated to demonstrate the practical benefit to the claimant of having a lift installed. *Cunningham v Harrison (1973)* was used to demonstrate flexibility in the court system, allowing damages to be extended to include compensation for the gratuitous care of family members, rather than the claimant alone.

General damages were similarly detailed, with stronger 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. Many candidates highlighted that, in some instances, the degree of injury might never be capable of being fully compensated, frequently citing *West v Shepherd (1963)* in relation to loss of amenity. 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.

(d) Candidates tend to find AO2 skills more accessible than AO3 and many responses attained the higher band comfortably.

Generally, responses were well structured; most 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 of the elements. Unfortunately, several candidates, possibly through lack of time, only considered 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. A minority of students lost their way and treated the question as a criminal scenario by examining non-fatal offences.

Regarding 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. Here, students were fully credited for this part of the question by simply using *Robinson* to confirm that, as there was already a precedent in respect of road users, there was no need to use *Caparo* which is now predominantly reserved for novel situations.

There were some superb responses on the issue of breach, with candidates providing detailed information on the factors considered 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 Jo's conduct fell below that of the reasonable 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.

Causation was generally more challenging for most although there were some good responses as well. Many candidates did not have a grasp of legal causation and although there was some mention of *Wagon Mound (1961),* in several instances the test was simply omitted, losing them marks. The thin skull test was frequently referred to but had no relevance to the scenario. In addition, candidates erroneously used criminal case law to demonstrate causation in this question for which they could not be credited.

Question 3 – Criminal Law

Most centres chose Criminal Law as the Public Law option.

Q.3 **(a)** This question was generally well received, with most candidates able to explain the concept of strict liability. Although some did not understand these offences, it was pleasing to see that most students pinpointed the focus of the question, linking it to the *Gammon* principles.

Most candidates appreciated that the starting point for judges dealing with this issue is the general presumption that mens rea is required - *Sweet v Parsley (1970), A-G for Hong Kong v Gammon (1985).* They then set out the main factors in Gammon, considering whether the offence is regulatory in nature or a true crime; whether it relates to an issue of social concern; the intention of Parliament, as sometimes clarified by mens rea words in the statute and the gravity of the punishment. A good selection of case law was seen in the stronger scripts, e.g. *Harrow London BC v Shah (1999), Alphacell v Woodward (1972), Callow v Tillstone (1900).* Many were confused about *Sweet,* incorrectly labelling it as a strict liability offence whereas it was in fact a true crime, rather than a regulatory one, due to the seriousness and moral connotations of the charge.

Some candidates also discussed absolute liability offences but the majority had no real understanding of their nature.

(b) This question was most probably one of the most popular on the paper and there were many excellent responses.

The majority of candidates appreciated that normally an omission to act does not attract criminal liability. Some compared the UK position with that of France where the Good Samaritan law applies. The majority highlighted that omitting to act only satisfies the act reus where there is a duty to act. Stronger candidates used relevant case law to explain these situations: statute; contract *(R v Pittwood (1902);* misfeasance in public office *(R v Dytham (1979);* a special relationship *R v Gibbins & Proctor (1918);* voluntary assumption of responsibility *Stone & Dobinson (1977*) and creating a dangerous situation *R v Miller (1983), R v Evans (2009).*

Weaker candidates were able to identify some of the situations that attracted liability but without legal authority in support.

(c) This was an AO3 question and it was the evaluation that candidates were missing. AO3 skills were very limited across most responses but even a limited degree of evaluation was credited.

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.

Oblique intent, however, was more problematic. They were required to explain that the defendant might not intend to kill but if he/she realises that it is virtually certain that death or serious bodily harm will happen because of his/her actions, intention will be satisfied. Stronger candidates referred to *R v Nedrick (1986), R v Woollin (1998) and R v Matthews & Alleyne (2003)* in this regard.

There were some notable scripts where candidates delineated past cases such as *Moloney (1985)* and *Hancock & Shankland (1986)* to illustrate the convoluted trajectory that led to Nedrick and Woolin. Many noted that the virtual certainty test is far clearer for jurors and the courts and that the law continues to be refined by, for example, replacing “infer” in Nedrick with “find” in Woollin to make the test more understandable for the ordinary person. A few appreciated that, as intention has evolved through judicial decisions, different judges have come to different opinions leading to significant confusion at times. Commendably some noted that this is an area of criminal law that is ripe for reform. Although Woollin was noted in some scripts, 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.

(d) It is good to see that candidates no longer trawl through all the non-fatal offences in response to this question. However, in this instance many failed to identify that there were two victims – Amy and Lucy. They therefore only addressed the Mo’s liability in respect of one victim (Lucy), depressing their marks.

It was anticipated that candidates would consider assault in respect of Amy and either ABH (S47 OAPA) or GBH (S20 OAPA) in respect of Lucy. Credit was also given to students who considered a charge of battery in respect of Lucy. As regards Lucy, some students simply considered only one of the above offences and were fully credited provided there was a detailed application of the law. Some considered and correctly dismissed S18 for lack of mens rea.

Some candidates continue to struggle to explain the actus reus of some of these offences. Candidates frequently get confused between the actus reus of assault and ABH, the latter offence being frequently misunderstood. The S47 offence is assault or battery occasioning actual bodily harm. It is important for them to understand that there needs to be an unbroken chain between the defendant's act (assault or battery) and the harm caused. *R v Roberts (1971)* provides a good illustration of how the case works.

Similarly, with GBH, some seem to find it difficult to differentiate between a wound and GBH.

The application of mens rea also caused problems for some candidates, particularly in explaining recklessness. There was frequently a misunderstanding of the concept of recklessness in the context of these offences in some of the weaker responses – e.g. on ABH. It is therefore an area that would benefit from revisiting.

Some responses were very well structured, with the actus reus and mens rea of each relevant offence addressed in turn. They then proceeded to support their arguments with legal authority on both the actus reus and mens rea of the offences, with frequent reference being made to: *Ireland (1997), Logdon (1976), Constanza (1997)* – assault*; Thomas (1985)* and *Haystead (2000)* along with *Cunningham (1957)* – battery; *Venna (1976), Miller (1954), Smith (2006) – ABH; Eisenhower (1984),Smith (1961), Saunders – S20.*

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Question 4 – Human Rights

It was not possible to provide a valid commentary from so few responses.

Summary of key points:

- Candidates should be mindful of the weighting of Assessment Objectives for this paper. AO1 questions focus on Knowledge and Understanding, carry 6 marks. AO2 questions focus on the Application of legal principles, carry 9 marks. AO3 questions focus on the Analysis and Evaluation of legal principles, and carry 9 marks.
- Knowledge questions benefit from clear definitions and the use of legal authority to demonstrate understanding of key concepts. Application questions require clear and methodical use of legal principles and citation in the context of the scenario. Evaluation questions require analysis and judgement supported by legal authority rather than description alone.
- Candidates need to be reminded that including relevant legal authority in an answer will enhance their mark and help them to identify evaluation points. Also, rather than simply "name dropping" the case or providing detail on the facts, it is far more important to explain its relevance to the question. See for example the comment on the relevance of Robinson in Q2(d).
- 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, in the short form questions (Qa & Qb) which have a narrow focus. Also, in the scenario question (Qd), it is far more important to concentrate on the specific issue highlighted in the text rather than including information which is irrelevant to it. See, for example, comment in relation to the "thin skull" test in Q2(d).
- 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. Also, for example in tort, some candidates felt the need to discuss duty of care prior to addressing the focus of the question – breach. See comments on Q2(b).
- 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.

- Centres should identify candidates whose handwriting is likely to be particularly challenging for examiners and arrange appropriate access arrangements.

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