



A-level LAW 7162/3B

Paper 3B Human Rights

Mark scheme

June 2025

Version: 1.0 Final



Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts. Alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

No student should be disadvantaged on the basis of their gender identity and/or how they refer to the gender identity of others in their exam responses.

A consistent use of 'they/them' as a singular and pronouns beyond 'she/her' or 'he/him' will be credited in exam responses in line with existing mark scheme criteria.

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Level of response marking instructions

Level of response mark schemes are broken down into levels, each of which has a descriptor. The descriptor for the level shows the average performance for the level. There are marks in each level.

Before you apply the mark scheme to a student's answer read through the answer and annotate it (as instructed) to show the qualities that are being looked for. You can then apply the mark scheme.

Step 1 Determine a level

Start at the lowest level of the mark scheme and use it as a ladder to see whether the answer meets the descriptor for that level. The descriptor for the level indicates the different qualities that might be seen in the student's answer for that level. If it meets the lowest level then go to the next one and decide if it meets this level, and so on, until you have a match between the level descriptor and the answer. With practice and familiarity you will find that for better answers you will be able to quickly skip through the lower levels of the mark scheme.

When assigning a level you should look at the overall quality of the answer and not look to pick holes in small and specific parts of the answer where the student has not performed quite as well as the rest. If the answer covers different aspects of different levels of the mark scheme you should use a best fit approach for defining the level and then use the variability of the response to help decide the mark within the level, ie if the response is predominantly level 3 with a small amount of level 4 material it would be placed in level 3 but be awarded a mark near the top of the level because of the level 4 content.

Step 2 Determine a mark

Once you have assigned a level you need to decide on the mark. The descriptors on how to allocate marks can help with this. The exemplar materials used during standardisation will help. There will be an answer in the standardising materials which will correspond with each level of the mark scheme. This answer will have been awarded a mark by the Lead Examiner. You can compare the student's answer with the example to determine if it is the same standard, better or worse than the example. You can then use this to allocate a mark for the answer based on the Lead Examiner's mark on the example.

You may well need to read back through the answer as you apply the mark scheme to clarify points and assure yourself that the level and the mark are appropriate.

Indicative content in the mark scheme is provided as a guide for examiners. It is not intended to be exhaustive and you must credit other valid points. Students do not have to cover all of the points mentioned in the Indicative content to reach the highest level of the mark scheme.

An answer which contains nothing of relevance to the question must be awarded no marks.

01	Select the false statement about various Articles of the European Convention on Human Rights.	[1 mark]
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Marks for this question: AO1 = 1

C The right to life under Article 2 also gives everyone a right to die.

02	Select the true statement concerning the law on Human Rights and the European Convention on Human Rights (ECHR).	[1 mark]
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Marks for this question: AO1 = 1

C Both individuals and States may bring actions in the European Court of Human Rights.

03	Select the statement which best describes how a by-law might be used.	[1 mark]
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Marks for this question: AO1 = 1

D To set out rules for a local area

04	Select the false statement about judges.	[1 mark]
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Marks for this question: AO1 = 1

C Judges' pay is determined by the government.

05	Select the true statement about aspects of civil or criminal law.	[1 mark]
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Marks for this question: AO1 = 1

C The burden of proof in a criminal trial is usually on the prosecution.

06	Explain how statutory instruments are made and give two examples of matters which might be dealt with using a statutory instrument.	[5 marks]
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Marks for this question: AO1 = 5

	Levels of response mark scheme 5 marks – AO1 only
Mark range	Description
4–5 Band 3	Knowledge is good and demonstrates a good understanding of the English legal system. Where appropriate a good example of a case to illustrate suggested reasons.
2–3 Band 2	Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system. Where appropriate a satisfactory example of a case to illustrate reasons.
1 Band 1	Knowledge is limited and demonstrates a limited understanding of the English legal system. Where appropriate a limited example of a case to illustrate reasons.
0	Nothing worthy of credit.

Indicative content

AO1

- Parliament can delegate its authority to other institutions to make laws on its behalf.
- Parliament delegates such authority by enacting an Act of Parliament (an enabling act or a parent act) setting out the powers to be delegated.
- In the case of a statutory instrument, the power is delegated to a particular minister (or perhaps government department). The power delegated will be to make regulations in respect of that particular minister's areas of responsibility in terms of adding detail to primary legislation, updating primary legislation or to manage emergencies.
- The statutory instrument may have to be laid before Parliament, and perhaps be subject to procedures such as negative or affirmative resolution before coming into force.
- Examples might include building regulations, the police Codes of Practice and regulations governing matters such as pesticides, car manufacture, drugs and chemicals.

Credit any other relevant point(s).

Note: Max 3 marks if no example is given. Max 4 marks if one example is given.

07 Suggest why it is likely that such a stop and search would have been unlawful under the Police and Criminal Evidence Act 1984 s1.

[5 marks]

Marks for this question: AO1 = 2 and AO2 = 3

	Levels of response mark scheme 5 marks – AO1 (2) and AO2 (3)
Mark range	Description
4–5 Band 3	Good outline explanation of relevant legal rules and principles and good application to the scenario in order to present a legal argument using appropriate terminology. Good explanation of a relevant case to support the application.
2–3 Band 2	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory application of legal rules and principles to the scenario. Satisfactory explanation of a relevant case to support the application.
1 Band 1	Knowledge is limited and demonstrates a limited understanding of legal rules and principles.
0	Nothing worthy of credit.

Indicative content

AO1

- Basic statement of the Police and Criminal Evidence (PACE) Act 1984 s1(1): a police constable may stop and search any person in a public place or any other place to which people have ready access at the time, apart from a dwelling.
- Basic statement of PACE Act 1984 s1(2)–(3): the constable may only do so if searching for stolen or prohibited articles which the constable has reasonable grounds to suspect will be found (note that ‘prohibited’ articles include offensive weapons and articles intended for use in committing offences such as criminal damage).

AO2

- Application to argue that, being in the street, Amanda was in a public place, fulfilling the requirements of PACE Act 1984 s1(1).
- Application to argue that the decision by Brooke to carry out a stop and search appeared to be based solely on annoyance with Amanda’s minor disparaging behaviour in the context of Brooke’s knowledge of Amanda’s anti-property background rather than on any received ‘intelligence’, and neither Amanda nor the group was known in any way to be connected with stolen or prohibited articles.
- Application, consequently, to suggest that it is (highly) likely that the requirements of PACE Act 1984 s1(2)–(3) for a lawful stop and search would not be satisfied, since there would be no reasonable grounds to suspect that stolen or prohibited articles would be found.

Credit any other relevant point(s), including use of a relevant case to assist explanation/application for example: **Howarth v Commissioner of Police of the Metropolis**.

08 Referring to the Police and Criminal Evidence Act 1984 and to the European Convention on Human Rights Article 5, advise Emery whether the police acted lawfully in arresting and detaining him.

[10 marks]

Marks for this question: AO1 = 3, AO2 = 4 and AO3 = 3

	Levels of response mark scheme 10 marks – AO1 (3), AO2 (4) and AO3 (3)
Mark range	Description
7–10 Band 3	Knowledge is good and demonstrates a good understanding of relevant legal rules and principles. Good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario. Good explanation of relevant legal authority to support the application. A good legal argument is presented using appropriate terminology to support advice.
3–6 Band 2	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario. Satisfactory explanation of relevant legal authority to support the application. A satisfactory legal argument is presented using some appropriate terminology to support advice.
1–2 Band 1	A limited demonstration of knowledge. Limited analysis of legal rules and principles in relation to the scenario but rules and principles are not applied correctly to the scenario. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Indicative content

AO1

- Explanation of the powers of arrest available to a police constable under the Police and Criminal Evidence Act (PACE) 1984 s24(1)(c) and s24(5).
- Explanation of the European Convention on Human Rights (ECHR) Art 5.1, the right to liberty and security of person, intended to guarantee freedom from arbitrary arrest and detention.
- Explanation of the Art 5.1(c) permissible restrictions on the right, read together with Art 5.3, where arrest or detention is reasonably considered necessary to prevent the commission of an offence.
- Reference to and use of relevant cases as authority/illustration: for example, **Lawless v Ireland**, **Austin v UK**.

AO2

- Application to argue that the police officers had sufficient grounds under the PACE Act 1984 to arrest Emery on reasonable suspicion that he was about to commit an offence and had reasonable grounds to believe the arrest was necessary to prevent Emery causing injury to others.

- Application to argue that ECtHR interpretation of Article 5 emphasises that its purpose is to protect against arbitrary arrest or detention (which includes dishonesty in expressing purpose) but not to frustrate reasonable efforts of the State (for example, the police) to maintain public order and safety.
- Application to argue that the requirements of Art 5.1(c) and Art 5.3 can be satisfied within the framework of an intention by the police to detain Emery to prevent him from committing an offence, but with an aim to protect him until the danger to him has passed, provided that it is for an appropriate length of time and in an appropriate place, notwithstanding that Emery will not be brought before a court or some form of judicial authority.
- Application to conclude that the police officers acted lawfully, in terms both of PACE Act 1984 and ECHR Art 5. (Credit alternative conclusion, for example based upon the length of time that Emery was held and the probable distance between the cliff path and the nearest police station, making it unlikely that any other visitors would have travelled and be waiting for him).

AO3

- Analysis and evaluation of the minimum requirement to fulfil domestic law obligations (PACE Act 1984) to be able to satisfy ECHR Art 5.
- Analysis and evaluation of the interpretation of ECHR Art 5.1 and 3 in relation to issues of preventive detention and protection rather than to proceed with charge and prosecution.
- Use of relevant cases in support (including further analysis and evaluation of cases identified above, where relevant): for example, **Ostendorf v Germany**, **S v Denmark**, **R (Hicks) v Commissioner of Police of the Metropolis**, **Archer v Commissioner of Police of the Metropolis**.

Credit any other relevant point(s).

- 09** Examine the view that the law has an important role to play in balancing conflicting interests.
- Discuss the extent to which this role can be seen in rules on the protection of a person's reputation in the general context of the law on human rights.

[15 marks]**Marks for this question: AO1 = 5 and AO3 = 10**

	Levels of response mark scheme 15 marks – AO1 (5) and AO3 (10)
Mark range	Description
13–15 Band 5	Knowledge is excellent and demonstrates an excellent understanding of the Nature of Law and legal rules and principles. Excellent selection and use of relevant legal authority. Excellent analysis and evaluation of legal rules and principles; concepts and issues. Excellent drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.
10–12 Band 4	Knowledge is good and demonstrates a good understanding of the Nature of Law and legal rules and principles. Good selection and use of relevant legal authority. Good analysis and evaluation of legal rules and principles; concepts and issues. Good drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.
7–9 Band 3	Knowledge is satisfactory and demonstrates a satisfactory understanding of the Nature of Law and legal rules and principles. Satisfactory selection and use of relevant legal authority. Satisfactory analysis and evaluation of legal rules and principles; concepts and issues. Some drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. A chain of reasoning starts to develop which leads to a partially justified conclusion.
4–6 Band 2	Knowledge is limited and demonstrates a limited understanding of the Nature of Law and legal rules and principles. Limited selection and use of relevant legal authority. Limited analysis and evaluation of legal rules and principles; concepts and issues. Limited drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.

1–3 Band 1	Knowledge is minimal and demonstrates a minimal understanding of the Nature of Law and legal rules and principles. Minimal selection and use of relevant legal authority. Minimal analysis and evaluation of legal concepts and issues. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
5	10	15

Indicative content**AO1**

- Basic explanation of the concept of law as operating to balance conflicting interests.
- Simple illustration drawn from any area(s) of law.
- Identification of the interests involved in human rights – both private/individual and the State/society, perhaps with some reference to the significance of different kinds of groupings in society, majority or minority.
- Possible reference to the views of theorists, for example Jhering, Pound, Bentham.
- Identification of appropriate areas of the law on defamation and the ECHR Articles 8 and 10 and supporting legal authority to form the basis of an assessment of the extent to which the rules may play a role in balancing conflicting interests in the context of reputation.

AO3

- Analysis of the meaning and kinds of interests that may be in conflict (e.g. private v private, or private v public) in issues that arise in law, as identified above under AO1.
- Analysis of the mechanisms by which law may seek to balance interests, including substantive and procedural rules of law, and access to justice.
- Possible evaluation of the extent to which law may have succeeded in achieving an appropriate balance between interests in selected areas which may not be specific to human rights but will be relevant to the process of balancing conflicting interests as a whole.
- Analysis of the rules in the Defamation Act 2013 (requirement of serious harm, defences of truth, honest opinion, matters of public interest) and the tension between the right to a private life and the right to freedom of expression, to attempt to demonstrate how and where a balance may have been struck between different interests.
- Evaluation of the extent to which attempts to balance conflicting interests can be seen in interpretation and application of the rules on the protection of a person's reputation.
- Credible conclusions based upon the analysis and evaluation presented above.

Credit any other relevant point(s).

ICG (1) Role of the law in balancing conflicting interests

ICG (2) The rules on the protection of a person's reputation in the context of balancing conflicting interests

10	Taking a human rights perspective, consider the application of English law and the European Convention on Human Rights to the incidents arising out of the events described.
	[30 marks]

Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10

	Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10)
Mark range	Description
25–30 Band 5	Knowledge is excellent and demonstrates an excellent understanding of relevant legal rules and principles. Excellent selection and use of appropriate legal authority. There is excellent analysis and evaluation of legal rules and principles leading to excellent application of the correct rules and principles to the scenario. An excellent legal argument is presented using appropriate terminology. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.
19–24 Band 4	Knowledge is good and demonstrates a good understanding of relevant legal rules and principles. Good selection and use of appropriate legal authority. There is good analysis and evaluation of legal rules and principles leading to good application of the correct rules and principles to the scenario. A good legal argument is presented using appropriate terminology. A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.
13–18 Band 3	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory selection and use of appropriate legal authority. There is satisfactory analysis and evaluation of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario. A satisfactory legal argument is presented using some appropriate terminology. A chain of reasoning starts to develop which leads to a partially justified conclusion.
7–12 Band 2	Knowledge is limited and demonstrates a limited understanding of relevant legal rules and principles. Limited selection and use of appropriate legal authority. There is limited analysis and evaluation of legal rules and principles which may lead to limited application of the correct rules and principles to the scenario. A limited legal argument is presented using little appropriate terminology. Some reasoning is attempted which leads to a limited conclusion.
1–6 Band 1	Knowledge is minimal and demonstrates minimal understanding of relevant legal rules and principles. Minimal selection and use of legal authority. There is minimal analysis and evaluation of legal rules and principles which may lead to minimal application of the correct rules and principles to the scenario. A fragmented legal argument is attempted. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
30	0	30

Indicative content**AO1**

- Outline explanation of the action for the tort of misuse of private information (as requiring a reasonable expectation of privacy and then a balancing of the Article 8 right to a private life and the Article 10 right to freedom of expression.)
- Brief explanation of the requirements of the Human Rights Act 1998 s12 in relation to the significance to be accorded to freedom of expression in any action which may restrict it.
- Outline explanation of ECHR Article 8, the right to respect for private life.
- Outline explanation of the permitted limitations on the right, including recognition and explanation of ECHR Article 10, right to freedom of expression, as a possible relevant limitation.
- Brief explanation of remedies for the tort of misuse of private information, as being damages and injunctions.
- Outline explanation of the negative and positive duties imposed on States by ECHR Article 2 in respect of not taking life and protecting life.
- Brief explanation of remedies arising out of the action against a public authority under the Human Rights Act 1998 ss6–8 for breach of ECHR.
- Reference to relevant supporting case interpretation: for example, **Von Hannover v Germany**, **Campbell v MGN**, **PJS v NGN Ltd**, **Osman v UK**, **McCann v UK**.

AO2

- Application to argue that Fynn had an expectation that the information about himself and Gina/Hector would remain private when he told Ivey about his past.
- Application to argue that Ivey's decision to reveal it to Hector amounted, prima facie, to the tort of misuse of private information, as would any attempt to sell a story to the national newspapers.
- Application to argue that, though taking non-consensual photographs may not be, in itself, a breach of the tort of misuse of private information, the use to which Ivey intended to put the photo of Fynn converted it into a breach.
- Application to argue that this would be subject to the balance between Articles 8 and 10 required to be struck by the ECHR. Possible recognition that, despite the reference in s12 of the Human Rights Act 1998 to the importance of freedom of expression, the Article 10 right does not automatically trump Article 8. Application to argue that factors such as Hector's violence, and Ivey's motivation would point in favour of Article 8 against Article 10.
- Application to argue that police may have failed in their positive duty to Fynn under Article 2 by not taking sufficiently seriously the information received about threats to his life from Hector, though this would depend on evidence of the seriousness and imminence of the alleged threats.
- Application to argue that, prima facie, the armed police were in breach of the negative duty not to take life under Article 2 when they shot and killed Kane, subject to the provisions of Article 2.2a–b, on force 'absolutely necessary' to protect from unlawful violence or effect a lawful arrest. Application to argue that even though Kane was not the person whom the police had set out to arrest, he was still in possession of a shotgun pointed at the police.
- Application to argue that, in any case, it appears that there were serious errors in the conduct of the operation to arrest Hector which, in themselves, might constitute a breach of Article 2.
- Application to argue that there would need to be an independent investigation into Kane's death.

- Application to argue that civil actions in tort could be brought by Fynn, particularly to preserve his anonymity in relation to the proposed newspaper story.
- Application to argue that actions could be brought by Fynn and the representatives of Kane against the police for breach of their duties under the Human Rights Act 1998 s6 in respect of Article 2. Possible reference to civil law actions in the tort of negligence against the police.

AO3

- Analysis and evaluation of the tort of misuse of private information, including the notion of an expectation that information is private and of the issue of the non-consensual taking and use of photographs.
- Analysis and evaluation of the balance to be struck between privacy and freedom of expression as required by ECHR Articles 8 and 10.
- Analysis and evaluation of the negative duty not to take life under ECHR Article 2, including the scope of the reasons which permit the taking of life where the use of force is ‘absolutely necessary’.
- Analysis and evaluation of the positive duty to protect life under ECHR Article 2, including the circumstances in which police may be obliged to act by threats posing an imminent risk to life.
- Analysis and evaluation of the provisions of the Human Rights Act 1998 ss6–8 in respect of actions for breach by the State (a public authority) of ECHR.
- Further use of case authority, including cases referred to above, and, for example:
Murray v Big Pictures (UK) Ltd, MPC v DSD and another, Matzarakis v Greece, Armani Da Silva v UK.

Credit any other relevant point(s).

ICG (1) The tort of misuse of private information and Articles 8 and 10

ICG (2) Article 2 and ss6-8 of the Human Rights Act 1998

11	Referring to both English law and to the law of the European Convention on Human Rights, consider the rights, duties, liability and remedies arising from the incidents involving Lina and the animal rights group. Assess the contribution of different sources of law to the rules you have explained and applied. [30 marks]
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Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10

	Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10)
Mark range	Description
25–30 Band 5	Knowledge is excellent and demonstrates an excellent understanding of the English legal system and legal rules and principles. Excellent selection and use of relevant legal authority. There is excellent analysis of legal rules and principles leading to excellent application of the correct rules and principles to the scenario. An excellent legal argument is presented using appropriate terminology. There is excellent analysis and evaluation of legal concepts and issues. Excellent drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.
19–24 Band 4	Knowledge is good and demonstrates a good understanding of the English legal system and legal rules and principles. Good selection and use of relevant legal authority. There is good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario. A good legal argument is presented using appropriate terminology. There is good analysis and evaluation of legal concepts and issues. Good drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.
13–18 Band 3	Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system and legal rules and principles. Satisfactory selection and use of relevant legal authority. There is satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario. A satisfactory legal argument is presented using some appropriate terminology. There is satisfactory analysis and evaluation of legal concepts and issues. Some drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. A chain of reasoning starts to develop which leads to a partially justified conclusion.

7–12 Band 2	Knowledge is limited and demonstrates a limited understanding of the English legal system and legal rules and principles. Limited selection and use of relevant legal authority. There is limited analysis of legal rules and principles leading to limited application of the correct rules and principles to the scenario. A limited legal argument is presented using little appropriate terminology. There is limited analysis and evaluation of legal concepts and issues. Limited drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.
1–6 Band 1	Knowledge is minimal and demonstrates a minimal understanding of the English legal system and legal rules and principles. Minimal selection and use of relevant legal authority. There is minimal analysis of legal rules and principles leading to minimal application of the correct rules and principles to the scenario. A fragmented legal argument is attempted. There is minimal analysis and evaluation of legal concepts and issues. Minimal drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Distribution of marks for substantive and non-substantive law:

Substantive	Non-substantive	Total marks
23	7	30

Indicative content

AO1

- Identification and outline explanation of police powers under s14 Public Order Act 1986 to impose conditions on public assemblies.
- Identification and outline explanation of the offence of aggravated trespass under the Criminal Justice and Public Order Act 1994 s68.
- Identification and outline explanation of the common law powers of the police in connection with actual and anticipated breaches of the peace.
- Identification and outline explanation of the provisions of Article 10 and 11 of the ECHR (right to freedom of expression; right to freedom of assembly and association) and the limitations thereon.
- Identification and outline explanation of the provisions of the Human Rights Act 1998 ss6–7 for challenging acts of public authorities which are incompatible with the ECHR (possible reference also to judicial review).
- Reference to relevant supporting case interpretation, eg **Cisse v France**, **R v Howell**, **Plattform ‘Artze fur das Leben’ v Austria**.
- Identification and outline explanation of the relevant sources of law as being common law, statute and the ECHR as an international treaty.

AO2

- Application of the rules under s14 of the Public Order Act 1986 to argue that since the protestors along the roadside number more than two, and are gathering in a public place (on the highway) in the open air, they constitute a public assembly. But in order for the police power to impose condition(s) on the assembly to be triggered, a senior police officer must reasonably believe the condition(s) to be necessary to prevent either serious public disorder, or serious damage to property, or serious disruption to the life of the community, or the purpose of the organiser to be the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do. It may be questioned whether the police were justified in imposing a condition restricting numbers since there appears to be no evidence of serious disruption, though an argument could be made that the protestors purpose was to intimidate those going to the zoo.
- Application of the rules on aggravated trespass to argue that the protesters who climbed over the zoo fence were trespassers, and since their behaviour of shouting at members of the public to go home appears to have been carried out with intent to intimidate or disrupt the public from the lawful activity of viewing the animals, they had committed the offence under s68(1)(a)–(c) Criminal Justice and Public Order Act 1994. Possible further application to argue that this entitled the police to order the protestors to disperse and gave them a power of arrest under s69 if protestors did not comply.
- Application of the rules on breach of the peace to argue that the behaviour of these protestors and of some of the members of the public (throwing stones) created either an actual or imminent breach of the peace, entitling the police to take action to keep the peace, including instruction to disperse and arrest for obstruction; possible application to consider if the members of the public throwing stones should have been instructed to disperse also.
- Application to argue that Lina, and the other protestors, have rights under Article 10 and Article 11 so that under s6 Human Rights Act 1998 the police, as a public authority/agents of the State, must not exercise any of their powers in a way which is not justified by being in pursuit of a legitimate aim, and must also be proportionate.
- Application to suggest that the condition, restricting numbers imposed on the roadside assembly would be 'prescribed by law' under s14 of the Public Order Act 1986, but to question whether it would be a proportionate response to a legitimate aim under Articles 10 and 11. If considered disproportionate, then ss6–8 of The Human Rights Act 1998 would entitle Lina or any protestor charged with an offence for non-compliance with the condition, to resist the criminal charge and/or bring an action for damages against the police.
- Application to suggest that the police direction to the protestors who were trespassing inside the zoo to disperse was justifiable as a proportionate response to a legitimate aim, as was the arrest of Lina when she refused to leave.

AO3

- Analysis and evaluation of the powers of the police to control static assemblies under s14 of the Public Order Act 1986.
- Analysis and evaluation of the rules in the Criminal Justice and Public Order Act 1994 s68 on aggravated trespass.
- Analysis and evaluation of the common law rules on breach of the peace.
- Analysis and evaluation of Article 10 and 11 rights, as interpreted by the European Court of Human Rights, including the recognition that both rights are qualified, and including exposition of the legitimate aims which may be pursued by restrictions – in particular the prevention of disorder and crime, and the protection of the rights and freedoms of others.
- Possible reference to further case authority, eg **R (Laporte) v Chief Constable of Gloucestershire Constabulary**, **City of London Corporation v Samede**, **DPP v Chivers**, **Edward Bauer v DPP**.
- Analysis of the scope of relevant common law and statutory rules and of the ECHR in relation to the application of law to the incidents (recognising statute as the source of law for the power to control static assemblies and for the offence of aggravated trespass, common law as the source of law relating to breach of the peace, and the ECHR as requiring any interferences with art 10 and 11 rights to be proportionate to a legitimate aim).

- Evaluation of the respective contributions of the sources, perhaps reaching the conclusion that there is an intricate balance between all three sources.

Credit any other relevant point(s).

ICG (1) Domestic law regulating protest (Public Order Act 1986, Criminal Justice and Public Order Act 1994, breach of the peace)

ICG (2) Articles 10 and 11 (also creditworthy, but not required: law on arrest from PACE and Article 5)

ICG (3) Sources of law

Assessment Objectives Grid

	AO1	AO2	AO3	Total
1	1			1
2	1			1
3	1			1
4	1			1
5	1			1
6	5			5
7	2	3		5
8	3	4	3	10
9	5		10	15
10	10	10	10	30
11	10	10	10	30
Paper Total	40	27	33	100

Distribution of marks for substantive and non-substantive law

Question	Substantive	Non-substantive	Total Marks
1	1		1
2	1		1
3		1	1
4		1	1
5		1	1
6		5	5
7	5		5
8	10		10
9	5	10	15
10	30		30
11	23	7	30
Total	75	25	100
Total %	75	25	100