



GCE A LEVEL MARKING SCHEME

SUMMER 2019

**A LEVEL (NEW)
LAW - UNIT 4
THE PRACTICE OF SUBSTANTIVE LAW
1150U40-1**

INTRODUCTION

This marking scheme was used by WJEC for the 2019 examination. It was finalised after detailed discussion at examiners' conferences by all the examiners involved in the assessment. The conference was held shortly after the paper was taken so that reference could be made to the full range of candidates' responses, with photocopied scripts forming the basis of discussion. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners.

It is hoped that this information will be of assistance to centres but it is recognised at the same time that, without the benefit of participation in the examiners' conference, teachers may have different views on certain matters of detail or interpretation.

WJEC regrets that it cannot enter into any discussion or correspondence about this marking scheme.

WJEC GCE A LEVEL LAW

UNIT 4: THE PRACTICE OF SUBSTANTIVE LAW

SUMMER 2019 MARK SCHEME

Marking guidance for examiners

Summary of assessment objectives for Unit 3

The questions assess AO1 and AO3. The assessment objectives focus on the ability to demonstrate knowledge and understanding of legal rules and principles and the ability to analyse and evaluate legal rules, principles, concepts and issues.

The structure of the mark scheme

The mark scheme for each question has two parts:

- indicative content which can be used to assess the quality of the specific response. The content is not prescriptive and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.
- an assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1 and AO3.

Stage 1 - Deciding on the band

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

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

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

Stage 2 - Deciding on the mark

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

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

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

Section A

1. Analyse and evaluate whether the protection of human rights within the United Kingdom would be strengthened by the introduction of a Bill of Rights. [50]

Indicative content

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to the protection of human rights. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues surrounding the protection of human rights under the Human Rights Act 1998 and a potential Bill of Rights. Candidates are expected to consider and debate the full range of issues and limits of the Human Rights Act 1998, including an analysis and evaluation of the European Convention on Human Rights (ECHR), the impact of the Human Rights Act 1998 and the arguments surrounding the replacing of the Human Rights Act 1998 (HRA) with a Bill of Rights. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding whether the protection of human rights would be strengthened if the HRA were abolished and replaced with a Bill of Rights.

The response might consider issues such as:

- Lack of a written constitution setting out the rights of people in the UK.
- Almost all developed countries have a Bill of Rights.
- The Human Rights Act 1998 is a piece of ordinary legislation which could be repealed by any government.
- The HRA 1998 is based on the ECHR, which is 60 + years old and does not provide for social, economic or political rights – arguably out-of-date, and inadequate to reflect the needs of the UK.
- Many ECHR rights are qualified in ways that allow them to be effectively circumvented by the UK government.
- The HRA 1998 does not prevent the government from passing laws which are incompatible with Convention rights.
- The HRA 1998 depends upon the willingness of the judges to uphold human rights.
- A Bill of Rights could be tailored to the needs of the UK.
- A Bill of Rights would be entrenched.
- A Bill of Rights would place permanent limits upon the actions of the executive.
- A Bill of Rights would make the government more accountable for its actions

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to protection of human rights and a Bill of Rights.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to protection of human rights and a Bill of Rights.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to protection of human rights and a Bill of Rights.
1	1 - 5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to protection of human rights and a Bill of Rights.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to the protection of human rights and a Bill of Rights. Excellent evaluation of the debates surrounding the Human Rights Act 1998 and whether it should be abolished, including a valid and substantiated judgement. Excellent use of supporting case law and legal authorities. Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> Very good analysis of legal rules, principles, concepts and issues relevant to the protection of human rights and a Bill of Rights. Very good evaluation of the debates surrounding the Human Rights Act 1998 and whether it should be abolished, including a valid judgement. Very good use of supporting case law and legal authorities. Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> Good analysis of legal rules, principles, concepts and issues relevant to the protection of human rights and a Bill of Rights. Good evaluation of the debates surrounding the Human Rights Act 1998 and whether it should be abolished, including reference to a judgement. Good use of supporting case law and legal authorities. Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> Satisfactory analysis of legal rules, principles, concepts and issues relevant to the protection of human rights and a Bill of Rights. Satisfactory evaluation of the debates surrounding the Human Rights Act 1998 and whether it should be abolished, including reference to a judgement. Satisfactory use of supporting case law and legal authorities. Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> Basic analysis of legal rules, principles, concepts and issues relevant to the protection of human rights and a Bill of Rights. Basic evaluation of the debates surrounding the Human Rights Act 1998 and whether it should be abolished. Basic use of supporting case law and legal authorities. Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.

2. Analyse and evaluate whether the tort of breach of confidence provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens. [50]

Indicative content

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to the tort of breach of confidence. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues surrounding the tort of breach of confidence. Candidates are expected to consider and debate the full range of issues and limits of the tort of breach of confidence in providing an adequate solution to claims of right to privacy. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding whether the tort of breach of confidence does offer a solution to people who have faced media intrusion.

The response might consider issues such as:

- No specific right to privacy in UK law: *Kaye v Robertson*.
- ECHR Art. 8 – right to private and family life.
- Elements of breach of confidence
- *Coco v Clarke*
 - analysis and evaluation of breach of confidence which has been developed by the courts so as to provide some protection for privacy; expansion of breach of confidence, for example, Lord Woolf in *A v B and C*; Lord Goff in *A-G v Guardian Newspapers (No.2)*
 - analysis and evaluation of the case of *Venables v News Group Newspaper*
 - further examples of cases which illustrate the balance between the freedom of expression of the media and the individual's right to privacy e.g. *Prince Albert v Strange*;
 - *Argyll v Argyll*; *Stephens v Avery*; *Douglas v Hello!*
- *Campbell v MGN* – Art 8 & Art 10 ECHR
- *Venables and Thompson*
 - Remedies: injunction.
 - Development of “super injunctions” – cases such as *Ryan Giggs*. Analysis and evaluation of the recent use of “super injunctions” to protect the identity of the claimant.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> • Excellent, detailed knowledge and understanding of legal rules and principles relating to breach of confidence.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to breach of confidence.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to breach of confidence
1	1 - 5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to breach of confidence.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> • Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to the tort of breach of confidence • Excellent evaluation of the debates surrounding the tort of breach of confidence and whether it provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens, including a valid and substantiated judgement. • Excellent use of supporting case law and legal authorities. • Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> • Very good analysis of legal rules, principles, concepts and issues relevant to the tort of breach of confidence. • Very good evaluation of the debates surrounding the tort of breach of confidence and whether it provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens, including a valid judgement. • Very good use of supporting case law and legal authorities. • Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> • Good analysis of legal rules, principles, concepts and issues relevant to the tort of breach of confidence. • Good evaluation of the debates surrounding the tort of breach of confidence and whether it provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens, including reference to a judgement. • Good use of supporting case law and legal authorities. • Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> • Satisfactory analysis of legal rules, principles, concepts and issues relevant to the tort of breach of confidence. • Satisfactory evaluation of the debates surrounding the tort of breach of confidence and whether it provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens, including reference to a judgement. • Satisfactory use of supporting case law and legal authorities. • Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> • Basic analysis of legal rules, principles, concepts and issues relevant to the tort of breach of confidence. • Basic evaluation of the debates surrounding the tort of breach of confidence and whether it provides an adequate solution to the problem of media intrusion in the lives of ordinary citizens. • Basic use of supporting case law and legal authorities. • Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.

Section B

3. Analyse and evaluate the importance of the doctrine of privity of contract. [50]

Indicative content

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to privity of contract. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect the doctrine of the privity of contract, including analysis and evaluation of relevant supporting case law. Candidates are expected to consider and debate the full range of issues and limits of privity of contract. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding the extent of the importance of the doctrine of the privity of contract

The response might consider issues such as:

- the meaning of privity of contract: a contract does not confer rights or impose obligations arising under it on any person except the parties to the contract
- the Common Law exceptions such as under the Road Traffic Act, restrictive covenants and trusts
- relevant cases including *Dunlop v Selfridge*, *Dunlop v Lambert* and *Tulk v Moxhay*.
- an analysis of the basic rule: this can be supported by *Dunlop v Selfridge* especially that contract does not automatically confer rights or obligations on third parties.
- evaluation of the impact of the Rule especially that it unfairly prevents third parties identified as gaining rights under a contract from enforcing those rights
- evaluation of the Common Law exceptions. These may include:
 - Road Traffic Act 1988: motorists are obliged to take out third party liability insurance
 - Trusts: a trust beneficiary can sue the trustee if the trustee is not following the contract
 - Restrictive Covenants: no matter who buys the property, the buyer has to abide by the restrictions on the property; support can be provided by cases such as *Tulk v Moxhay*
 - The *Dunlop v Lambert* case involving goods lost at sea
 - Cases known as 'holiday cases' – the loss of enjoyment by a family, where the holiday did not meet the specification meant that the holiday company was liable and the family could sue; support can be provided by cases such as *Jackson v Horizon Holidays*
- the importance of the large numbers of exceptions which seemed to indicate that there were problems with the doctrine and so there was a need for reform which came from the 1999 Act
- statutory Exceptions including the Contract (Rights of Third Parties) Act 1999; Lord Denning's decision in *Beswick v Beswick* has been given effect in this statute that a party intending to benefit from a contract can enforce it in specified circumstances
- relevant citation which helps evaluate the importance of the doctrine of the privity of contract.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to privity of contract.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to privity of contract.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to privity of contract.
1	1 - 5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to privity of contract.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to privity of contract Excellent evaluation of the principles regarding privity of contract, including a valid and substantiated judgement. Excellent use of supporting case law and legal authorities. Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> Very good analysis of legal rules, principles, concepts and issues relevant to privity of contract. Very good evaluation of the principles regarding privity of contract, including a valid judgement. Very good use of supporting case law and legal authorities. Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> Good analysis of legal rules, principles, concepts and issues relevant to privity of contract. Good evaluation of the principles regarding privity of contract, including reference to a judgement. Good use of supporting case law and legal authorities. Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> Satisfactory analysis of legal rules, principles, concepts and issues relevant to privity of contract. Satisfactory evaluation of the principles regarding privity of contract, including reference to a judgement. Satisfactory use of supporting case law and legal authorities. Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> Basic analysis of legal rules, principles, concepts and issues relevant to privity of contract. Basic evaluation of the principles regarding privity of contract Basic use of supporting case law and legal authorities. Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.

4. Analyse and evaluate how well the law on economic duress protects a party from unfair pressure from another party. [50]

Indicative content

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to economic duress. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect how well the law on economic duress protects a party from unfair pressure from another party, including analysis and evaluation of relevant supporting case law. Candidates are expected to consider and debate the full range of issues and limits of economic duress. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding how well the law on economic duress protects a party from unfair pressure from another party.

The response might include issues such as:

- Explain the consequences of economic duress on a contract, that it becomes voidable
 - Explain that in order to claim economic duress there must be an unlawful threat, that this can be to breach of a contract, or to commit a tort, however ordinary commercial pressure will not amount to an unlawful threat or to duress, *CTN Cash and Carry v Gallagher*, *William v Roffey*
 - Explain that the threat must have impaired the consent of the other side and left the other party with no realistic alternative, *Pao On v Lau Yiu Long*
 - Explain that the party seeking to claim duress must have protested at the time and must not hesitate in taking legal action to avoid the contract *Pao On*,
- Candidates can answer this question by discussing different areas of the law on economic duress:
 - The nature of the threat:
 - Discuss the kinds of threat that can amount to duress and whether the doctrine should be extended to include lawful but unfair threats.
 - The effect of the threat:
 - Discuss the requirement that a party complains immediately or risks being barred by 'lapse of time', that the unfair pressure may preclude taking immediate action for fear of further threats to breach the contract or actual non-performance.
- Discuss the effects of broadening the doctrine:
 - Discuss whether a general requirement to act fairly would be too vague in English law.
 - Discuss whether the law at present aimed too much slanted towards protecting smaller parties at the expense of larger companies.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> • Excellent, detailed knowledge and understanding of legal rules and principles relating to economic duress.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to economic duress.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to economic duress.
1	1 - 5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to economic duress.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> • Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to economic duress • Excellent evaluation of the extent to which the law on economic duress protects a party from unfair pressure from another party, including a valid and substantiated judgement. • Excellent use of supporting case law and legal authorities. • Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> • Very good analysis of legal rules, principles, concepts and issues relevant to economic duress. • Very good evaluation of the extent to which the law on economic duress protects a party from unfair pressure from another party, including a valid judgement. • Very good use of supporting case law and legal authorities. • Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> • Good analysis of legal rules, principles, concepts and issues relevant to economic duress. • Good evaluation of the extent to which the law on economic duress protects a party from unfair pressure from another party, including reference to a judgement. • Good use of supporting case law and legal authorities. • Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> • Satisfactory analysis of legal rules, principles, concepts and issues relevant to economic duress. • Satisfactory evaluation of the extent to which the law on economic duress protects a party from unfair pressure from another party, including reference to a judgement. • Satisfactory use of supporting case law and legal authorities. • Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> • Basic analysis of legal rules, principles, concepts and issues relevant to economic duress. • Basic evaluation of the extent to which the law on economic duress protects a party from unfair pressure from another party Basic use of supporting case law and legal authorities. • Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.

Section C

5. Analyse and evaluate the extent to which loss of control can provide a defence to a charge of murder. [50]

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to the defence of loss of control. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect the extent to which loss of control can provide a defence to a charge of murder, including analysis and evaluation of relevant supporting case law. Candidates are expected to consider and debate the full range of issues and limits of the defence of loss of control. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding the extent to which loss of control can provide a defence to a charge of murder.

The response might include issues such as:

- Coroners and Justice Act 2009
- Section 54: Requirements of the defence of loss of control: D's acts must have resulted from D's loss of self-control; the loss of self-control must have had a qualifying trigger; a person of D's age and sex with a normal degree of tolerance and self-restraint, and in the circumstances of D, might have reacted in a same or similar way.
 - The loss of control does not have to be sudden – takes account of the “slow burn” effect.
 - The defence is not available if D acted “in a considered desire for revenge”.
 - The circumstances of D includes all of D's circumstances except for those whose only relevance is that they have a bearing on D's general capacity for tolerance or self-restraint – would exclude, e.g., mental conditions which affect D's capacity for self-control – these would normally give rise to the defence of diminished responsibility – restores the distinction which was blurred in Martin and reaffirmed in Holley.
 - The need for a qualifying trigger, set out in s.55 – D's loss of self-control must be attributable to: D's fear of serious violence from V towards D or another person; or to a thing or things done or said (or both) which constituted circumstances of an extremely grave character and caused D to have a justifiable sense of being seriously wronged; or a combination of both.
 - Fear of serious violence is disregarded to the extent that it was caused by something done or said which D incited for the purpose of having an excuse to use violence on V.
 - Sexual infidelity on its own is not to be regarded as a qualifying trigger.
 - The rule that the judge must leave the defence of provocation to the jury if there is any evidence has been tightened – under s.54, there must be sufficient evidence in the opinion of the trial judge on which a properly directed jury could reasonably conclude that the defence might apply.
 - If sufficient evidence is adduced, the jury must assume that the defence is satisfied unless the prosecution proves beyond all reasonable doubt that it is not.
- Relevant case law

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to the defence of loss of control.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to the defence of loss of control
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to the defence of loss of control.
1	1 - 5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to the defence of loss of control.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to the defence of loss of control Excellent evaluation of the extent to which loss of control can provide a defence to a charge of murder, including a valid and substantiated judgement. Excellent use of supporting case law and legal authorities. Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> Very good analysis of legal rules, principles, concepts and issues relevant to the defence of loss of control Very good evaluation of the extent to which loss of control can provide a defence to a charge of murder, including a valid judgement. Very good use of supporting case law and legal authorities. Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> Good analysis of legal rules, principles, concepts and issues relevant to the defence of loss of control Good evaluation of the extent to which loss of control can provide a defence to a charge of murder, including reference to a judgement. Good use of supporting case law and legal authorities. Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> Satisfactory analysis of legal rules, principles, concepts and issues relevant to the defence of loss of control Satisfactory evaluation of the extent to which loss of control can provide a defence to a charge of murder, including reference to a judgement. Satisfactory use of supporting case law and legal authorities. Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> Basic analysis of legal rules, principles, concepts and issues relevant to the defence of loss of control Basic evaluation of the extent to which loss of control can provide a defence to a charge of murder. Basic use of supporting case law and legal authorities. Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.

6. Analyse and evaluate the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders. [50]

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

Candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles relevant to the law on bail. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders.

Candidates are expected to consider and debate the full range of issues and limits of the law on bail. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders.

The response might include issues such as:

- Bail Act 1976, s.4 – presumption of entitlement to bail.
- Police and Criminal Evidence Act 1984, s.38 – power of custody officer to grant bail from the police station following charge. Time limits on police bail – Courts and Police Act 2017
- Circumstances in which bail need not be granted: Bail Act 1976 Schedule 1 (e.g., defendant is likely to fail to surrender, commit further offences or interfere with witnesses or the administration of justice).
- Circumstances in which police bail may be refused: s.38 – e.g., where the custody officer has reasonable grounds to believe that the name or address given by the suspect may not be genuine; where the custody officer has reasonable grounds to believe that the suspect will commit further offences, interfere with witnesses or the administration of justice; where detention is necessary for the suspect's own protection or for the protection of others; where the charge is murder (Coroners and Justice Act 2009).
- Factors to be taken into account when considering whether bail should be granted.
- Modification of the general presumption in favour of bail – e.g., bail can only be granted in exceptional circumstances where the defendant is charged with murder, manslaughter or rape, or where previously charged with a specified serious offence or where the offence was committed while already on bail (Criminal Justice and Public Order Act 1994 s.25 as amended by Crime and Disorder Act 1998).
- Right of the prosecution to appeal against grant of bail: Bail Amendment Act 1993.
- Powers of police and courts to impose bail conditions.
- Powers of arrest for breach of bail conditions.
- Evaluation of when it is appropriate to refuse bail; bail bandits, cases of Hogans and Weddell

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to the law on bail.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to the law on bail.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to the law on bail.
1	1 - 5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to the law on bail.
	0	Response not creditworthy or not attempted.

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
5	25-30	<ul style="list-style-type: none"> Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to the law on bail Excellent evaluation of the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders, including a valid and substantiated judgement. Excellent use of supporting case law and legal authorities. Writing demonstrates accurate grammar, punctuation and spelling
4	19 - 24	<ul style="list-style-type: none"> Very good analysis of legal rules, principles, concepts and issues relevant to the law on bail Very good evaluation of the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders, including a valid judgement. Very good use of supporting case law and legal authorities. Writing demonstrates mostly accurate grammar, punctuation and spelling
3	13 - 18	<ul style="list-style-type: none"> Good analysis of legal rules, principles, concepts and issues relevant to the law on bail Good evaluation of the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders, including reference to a judgement. Good use of supporting case law and legal authorities. Writing demonstrates generally accurate grammar, punctuation and spelling
2	7 - 12	<ul style="list-style-type: none"> Satisfactory analysis of legal rules, principles, concepts and issues relevant to the law on bail Satisfactory evaluation of the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders, including reference to a judgement. Satisfactory use of supporting case law and legal authorities. Writing demonstrates some errors in grammar, punctuation and spelling
1	1 - 6	<ul style="list-style-type: none"> Basic analysis of legal rules, principles, concepts and issues relevant to the law on bail Basic evaluation of the extent to which the law relating to bail contains ample safeguards to ensure that the public is not put at risk from suspected offenders. Basic use of supporting case law and legal authorities. Writing demonstrates many errors in grammar, punctuation and spelling
	0	Response not creditworthy or not attempted.