



GCE A LEVEL MARKING SCHEME

SUMMER 2022

**A LEVEL
LAW – UNIT 4
1150U40-1**

INTRODUCTION

This marking scheme was used by WJEC for the 2022 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.

GCE A LEVEL LAW
UNIT 4 - SUBSTANTIVE LAW PERSPECTIVES
SUMMER 2022 MARK SCHEME

Marking guidance for examiners Summary of assessment objectives for Unit 4

The questions assess assessment objectives 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 0** Analyse and evaluate the impact of the Human Rights Act 1998 on the protection of human rights in the UK. [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. 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:

- Scope of the European Convention on Human Rights. Residual rights - *Malone*
- HRA 1998 incorporates the rights given in the European Convention on Human Rights into UK law, with a few exceptions
- The HRA 1998 provides positive rights and not just residual liberties
- Rights under the European Convention on Human Rights are directly enforceable in the UK without need to apply to the European Court of Human Rights in Strasbourg
- Section 6 imposes a duty on all public authorities, including the courts, to act in a way which is compatible with Convention rights
- Section 2 imposes an obligation upon the courts to take account of Strasbourg jurisprudence
- Section 3 requires that all UK legislation must be interpreted in a way which is compatible with Convention rights so far as is possible to do so
- The courts have no power to overrule or refuse to apply primary legislation if it proves impossible to interpret it in a way which is compatible with Convention rights
- The higher courts have power to issue a declaration of incompatibility under s.4
- Section 10 provides a fast-track procedure whereby legislation which is not compatible can be amended. Evaluation – s.10(2).
- The government must include a statement that all proposed legislation is compatible with Convention rights, or state that it is not compatible but that the government intends to proceed with the Bill anyway: s.19. Credit for relevant citation. Evaluation – s.19(1)(b).
- Evaluation: HRA 1998 reflects the limitations as the European Convention on Human Rights e.g., only really protects civil and political rights; doesn't provide the kinds of rights people need in today's society such as right to housing, income, etc
- Bill of Rights – scope, formation, proposals. Current political debate.
- Evaluation: would it be better to have a Bill of Rights? Current debates
- Only really protects people from actions of state and public authorities – the narrow scope of public authorities – today, the need for protection is often against powerful private institutions like the banks.

- The powers of the courts are circumscribed so that in the last analysis, government is not constrained by the HRA 1998.
- Alternatively, the powers of the courts allow them too much scope to interfere with the will of democratically elected bodies.
- The HRA 1998 cannot prevent any government from acting in violation of the rights it enshrines or even abolishing the HRA 1998 itself.
- Reference to cases such as Malone V&T, McCann.

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.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to protection of human 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.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to protection of human 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 under the Human Rights Act 1998. • Excellent evaluation of the debates surrounding the Human Rights Act 1998, 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 under the Human Rights Act 1998. • Very good evaluation of the debates surrounding the Human Rights Act 1998, 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 under the Human Rights Act 1998. • Good evaluation of the debates surrounding the Human Rights Act 1998, 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 under the Human Rights Act 1998. • Satisfactory evaluation of the debates surrounding the Human Rights Act 1998, 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 under the Human Rights Act 1998. • Basic evaluation of the debates surrounding the Human Rights Act 1998. • 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 0

Analyse and evaluate the extent to which the law relating to public order offences provides an adequate balance between freedom of expression and freedom of assembly.

[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 legal rules and principles relevant to the law on obscenity. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues surrounding the extent to which the law relating to public order offences provides an adequate balance between freedom of expression and freedom of assembly. Candidates are expected to consider and debate the full range of issues and arguments surrounding public order offences, including an analysis and evaluation of Articles 10 and 11, their scope as qualified rights and the restrictions on freedom of expression under public order laws. 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 public order offences provides an adequate balance between freedom of expression and freedom of assembly.

The response might consider issues such as:

- Article 10 of the European Convention on Human Rights is a qualified right and permits restrictions that 'are prescribed by law, necessary and proportionate in a democratic society and fulfils a legitimate aim' such as for the protection of morals, rights of others, etc.
- Article 11 of the European Convention on Human rights has two elements – the right to freedom of assembly *and* the right to freedom of association.
- The requirement under Art 11 that the action of the police should be proportionate and necessary
- The right to freedom of assembly covers peaceful protests, demonstrations and public and private meetings. Being a **qualified** right, it can be restricted for legitimate reasons. There is a clear balance to be struck between articles 10 and 11.
- Public Order Act 1986 and Criminal Justice and Public Order Act 1994. Breach of the peace powers.
- Requirement to give prior notice of a procession: s.11 of the POA 1986. Evaluation – impact on FOE.
- Section 13: ban on public processions requires the chief constable to apply to the local council which has power to issue the ban, subject to approval by the Home Secretary.
- Section 12: power to impose conditions on processions; the "four triggers" - serious public disorder, serious damage to property, serious disruption to life of community, intimidation. The senior officer may impose such conditions as appear to him necessary to prevent the consequences which is feared: may include conditions as to the route to be followed or prohibiting the procession to enter a certain public place (e.g. a road).
- Refusal to comply with a condition is an offence: s.12(5) and (4) for which the police may arrest if they believe it necessary: PACE 1984, s.24. The police can presumably also use the common law power to arrest and detain because of anticipated breach of the peace: Austin and Saxby.
- Right of freedom of expression: Art.10 of the ECHR - police action must be for a legitimate aim and proportionate: Percy.
- Laporte - police must only do what is necessary to preserve the peace - not justified in forcibly returning the protestors to London.

- Section 14: chief constable may seek a ban on trespassory assemblies issued by the local authority - no other power to prohibit assemblies. Under s.14, police may impose conditions upon assemblies (same triggers as for s.12).
- Breach of the peace powers: Howell, apprehended breach of the peace: Moss v McLachlan, Laporte, Austin and Saxby.
- Right of freedom of assembly: Art.11 of the ECHR - police actions must be for a legitimate aim and proportionate (but considerable leeway allowed: Austin and Saxby).
- Other public order offences – restrictions on FOE and art 11. S.1, 2, 3, 4, 4A, 5. Restrictions on FOE and article 11. Legitimate and proportionate.
- Possible discussion of offences against public order including incitement to racial and religious hatred.

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 the legal rules and principles relating to the principle of freedom of expression, freedom of assembly and the law relating to public order offences.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of the legal rules and principles relating to the principle of freedom of expression, freedom of assembly and the law relating to public order offences.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of the legal rules and principles relating to the freedom of expression, freedom of assembly and the law relating to public order offences.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of the legal rules and principles relating to the freedom of expression, freedom of assembly and the law relating to public order offences.
	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 principle of freedom of expression, freedom of assembly and the law relating to public order offences. • Excellent evaluation of the issues relating to freedom of expression, freedom of assembly and the law relating to public order offences, 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 freedom of expression, freedom of assembly and the law relating to public order offences. • Very good evaluation of the issues relating to freedom of expression, freedom of assembly and the law relating to public order offences, 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 freedom of expression, freedom of assembly and the law relating to public order offences. • Good evaluation of the issues relating to freedom of expression, freedom of assembly and the law relating to public order offences, 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 freedom of expression, freedom of assembly and the law relating to public order offences. • Satisfactory evaluation of the issues relating to freedom of expression, freedom of assembly and the law relating to public order offences, 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 freedom of expression, freedom of assembly and the law relating to public order offences. • Basic evaluation of the issues relating to freedom of expression, freedom of assembly and the law relating to public order offences. • 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 0 Analyse and evaluate the extent to which the remedies available for a breach of contract provide consumers with an adequate solution. [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 legal rules and principles relevant to remedies available for a breach of contract. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues surrounding the granting of common law and equitable remedies. Candidates are expected to consider and debate the full range of issues and arguments surrounding remedies, including an analysis and evaluation of the availability of common law and equitable remedies. In order to reach a judgment about these issues, candidates will offer a debate and come to a substantiated judgment regarding whether the remedies available provide adequate protection for consumers.

The response might consider issues such as:

- Common Law remedies: available as of right if a contract has been breached Damages: an award of money that aims to compensate the wronged party for the financial losses they have suffered as a result of the breach. General rule is that innocent parties are entitled to such damages as will put them in the position they would have been in if the contract had been performed. Damages can be pecuniary or non-pecuniary Analysis and evaluation of damages may consider the limitations on awards of damages such as causation, remoteness of damage – *Hadley v Baxendale*, mitigation of loss by the claimant – *Pilkington v Wood*
- Equitable remedies: these are not available as of right, they are provided at the discretion of the court, taking into account the behaviour of the both parties and the satisfaction of equitable maxims Specific Performance: this is ordered where damages are inadequate and is available for contracts concerning unique items or interests in land. Specific Performance forces the parties to conduct the contract as agreed and can be seen in cases such as *Beswick v Beswick*
Injunction: this forces the defendant to not do a particular thing. Injunctions can be mandatory, prohibitory or interlocutory
- Remedies agreed at formation: Liquidated Damages: a contract will specify the amount of damages to be paid in the event of a breach - *Dunlop Pneumatic Tyres Co v New Garage and Motor Co*
Penalty Clauses: If the pre-agreed sum is not a genuine estimate of the loss suffered, then this is a penalty clause and the amount of damages will be determined by the ordinary rules of contract law
- Other evaluation and analysis points that may be considered and discussed are the statutory time limits put on claims, the different time limits for equitable claims, the fact that financial loss is very much protected but little consideration is given to other issues such as mental distress, anxiety and the inconvenience of a breach of contract. Other factors that may be considered are the time and effort involved in litigation, including cost factors of bringing the matter to court
- There are also concerns about defendants profiting from their own breach – *Aggravated, Exemplary and Restitutionary Damages*, No 247 (1997) Law Commission

- Even though satisfactory remedies may be available, consumers may be unable to take advantage of them due to the limitations on legal aid for civil cases. In addition, the recent reforms to 'no win no fee' cases might reduce the amount of damages received. The availability of remedies does not mean consumers will receive adequate satisfaction.

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 contract and the protection afforded to consumers.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to breach of contract and the protection afforded to consumers.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to breach of contract and the protection afforded to consumers.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to breach of contract and the protection afforded to consumers.
	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 common law and equitable remedies and the adequacy of protection afforded to consumers. • Excellent evaluation of the law relating to damages, 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 common law and equitable remedies and the adequacy of protection afforded to consumers. • Very good evaluation of the law relating to damages, 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 common law and equitable remedies and the adequacy of protection afforded to consumers. • Good evaluation of the law relating to damages, 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 common law and equitable remedies and the adequacy of protection afforded to consumers. • Satisfactory evaluation of the law relating to damages, 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 common law and equitable remedies and the adequacy of protection afforded to consumers. • Basic evaluation of the law relating to damages. • 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 0

Analyse and evaluate the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers.

[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 legal rules and principles relevant to misrepresentation. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect the assessment of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers, including analysis and evaluation of relevant supporting case law. In order to reach a judgment about this issue, candidates will offer a debate and come to a substantiated judgment regarding the extent of the protection offered.

The response might consider issues such as:

- Requirements of a misrepresentation: a statement of material fact, made by one party to a contract to the other party, during the negotiations leading up to the formation of the contract, which induced the other party to enter the contract, but which was not intended to be a binding obligation, and which was untrue or falsely or incorrectly stated
- Types of misrepresentation: fraudulent misrepresentation – *Derry v Peek*, negligence misrepresentation – *Hedley Byrne v Heller & Partners*, innocent misrepresentation
- Classification of misrepresentation not so relevant since 1967 Act – previously only fraudulent misrepresentation could be awarded damages, otherwise innocent misrepresentation could be awarded rescission. Since 1967 Act, negligent misrepresentation is actionable with damages
- Common law rule: *Hedley Byrne & Co Ltd v Heller & Partners Ltd* – requirement for a “special relationship”, where the person making the misrepresentation owed a duty of care to the other party
- Misrepresentation Act 1967 s. 2(11) – no need to prove fraud or the existence of a “special relationship”
- Requirements under 1967 Act: defendant must show he had a reasonable belief in the truth of the statement; claimant has a choice to sue under the 1967 Act or under the Hedley Byrne principle, no need to prove special relationship
- Other remedies: rescission, damages
- Areas for reform: The Law Commission (2011), *Consumer redress for misleading and aggressive practices*. Suggestion made that statute should be passed which imposes liability on traders where the overall presentation of a product or service would be likely to mislead the average consumer

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 misrepresentation.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to misrepresentation.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to misrepresentation.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to misrepresentation.
	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 misrepresentation. • Excellent evaluation of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers, 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 misrepresentation. • Very good evaluation of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers, 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 misrepresentation. • Good evaluation of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers, 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 misrepresentation. • Satisfactory evaluation of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers, 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 misrepresentation. • Basic evaluation of the extent to which the Misrepresentation Act 1967 protects buyers against negligent statements made by sellers. • 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 0 “The Crown Prosecution Service provides quality, efficiency and justice.” Analyse and evaluate this statement. [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 legal rules and principles relevant to the defence of consent. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues surrounding the defence of consent.

Candidates are expected to consider and debate the full range of issues and arguments surrounding the defence of consent, including an analysis and evaluation of the circumstances when the defence is and is not accepted as a defence to a criminal charge. 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 defence of consent is accepted as a defence to a criminal charge.

The response might consider issues such as:

- Background and reasons for the establishment of the CPS (e.g. Justice Report, Phillips Commission)
- Prosecution of Offences Act 1985.
- Role of the CPS within the criminal justice system: taking the decision whether to prosecute; advising the police; conducting prosecutions in the magistrates’ courts and crown court.
- Early problems and proposals for reform: Glidewell Report, Narey review.
- Major reforms: the Narey fast track system; establishment of Criminal Justice Units; closer collaboration with the police.
- Present structure of the CPS: 13 areas corresponding to police areas, each headed by a chief Crown Prosecutor.
- Roles of the Attorney.
- General and Director of Public Prosecutions
- Recent reforms, e.g. full advocacy rights; CPS Direct; CPS has taken over charging in all but minor cases.
- Establishment of CPS Inspectorate.
- Evaluation: the importance of an independent prosecution service, whether the CPS has made the system fairer and more efficient.

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 the legal rules and principles relating to the law of consent.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of the legal rules and principles relating to the law of consent.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of the legal rules and principles relating to the law of consent.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of the legal rules and principles relating to the law of consent.
	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 of consent. • Excellent evaluation of the extent to which the law accepts consent as a defence to a criminal charge, 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 of consent. • Very good evaluation of the extent to which the law accepts consent as a defence to a criminal charge, 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 of consent. • Good evaluation of the extent to which the law accepts consent as a defence to a criminal charge, including a 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 of consent. • Satisfactory evaluation of the extent to which the law accepts consent as a defence to a criminal charge, including a 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 of consent. • Basic evaluation of the extent to which the law accepts consent as a defence to a criminal charge. • 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 0

Analyse and evaluate the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability.

[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 legal rules and principles relevant to strict liability. Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues that affect the decision whether an offence is one of strict liability, including an analysis and evaluation of relevant supporting case law. In order to reach a judgement about these issues candidates will offer a debate and come to a substantiated judgement regarding whether there is clear criteria used by the courts in deciding whether an offence should be one of strict liability.

The response might consider issues such as:

- Nature of strict liability; distinction between strict and absolute liability, e.g. possible support may come from *Larsonneur*, *Winzar*
- General presumption that mens rea is required; e.g. possible support may come from *Sweet v Parsley*, *Gammon Ltd v A-G for Hong Kong*
- The principles set out by Lord Scarman in *Gammon* as to when the presumption of mens rea can be displaced
- Is the offence truly criminal or merely regulatory in character? E.g. possible support may come from *Sweet v Parsley*
- Does the offence relate to an issue of social concern? E.g. possible support may come from *Gammon* itself, *Harrow London Borough Council v Shah*
- Did Parliament intend to create a strict liability offence by use of certain words in the statute, e.g. "cause" as in *Alphacell v Woodward*
- How serious is the penalty? The more serious the penalty, the less likely it is that Parliament intended the offence to be strict
- Illustration of the *Gammon* principles with examples of case law, e.g., *Callow v Tillstone*, *Sweet v Parsley*, *DPP v B (A minor)*, *Smedleys v Breed*, *LBC of Handsworth v Shah*, *Storkwain*, *Alphacell v Woodward*

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	• Excellent, detailed knowledge and understanding of the legal rules and principles relating to strict liability.
3	11-15	• Good knowledge and understanding of the legal rules and principles relating to strict liability.
2	6-10	• Satisfactory knowledge and understanding of the legal rules and principles relating to strict liability.
1	1-5	• Basic knowledge and understanding of the legal rules and principles relating to strict liability.
	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 strict liability. • Excellent evaluation of the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability, 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 strict liability. • Very good evaluation of the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability, 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 strict liability. • Good evaluation of the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability, 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 strict liability. • Satisfactory evaluation of the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability, 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 strict liability. • Basic evaluation of the extent to which the courts have been reluctant to accept that Parliament intended a crime to be one of strict liability. • 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.