



GCE MARKING SCHEME

**LAW
AS/Advanced**

SUMMER 2014

INTRODUCTION

The marking schemes which follow were those used by WJEC for the Summer 2014 examination in GCE LAW. They were finalised after detailed discussion at examiners' conferences by all the examiners involved in the assessment. The conferences were held shortly after the papers were 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 conferences was to ensure that the marking schemes were 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' conferences, teachers may have different views on certain matters of detail or interpretation.

WJEC regrets that it cannot enter into any discussion or correspondence about these marking schemes.

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GCE LAW PAPER LA1 (AS)

UNDERSTANDING LEGAL VALUES, STRUCTURES AND PROCESSES

Answer two questions

Q.1 (a) Explain the powers of the European Council, Commission and Parliament. [14]

Credit reference to:

- The co-operation procedure under Article 252
- Co-decision procedure under Article 251
- After the Council has received a proposal from the Commission and the opinion of the European Parliament, it adopts a common position on the basis of a qualified majority
- Issues of efficiency and democracy
- Powers of the council are set out in Article 202
- The commission’s power is to initiate the legislative procedure by making proposals and to act under powers delegated to it by the Council.

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0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO1
	Knowledge and Understanding
11-13	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
7-10	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
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Q.1 (b) Discuss the impact of the European Court of justice on the law of England and Wales.

[11]

Credit reference to:

- The role of the court in deciding whether member states have failed to fulfil obligations under the treaties, for example, re *Tachographs* (1979)
- The role of the European Court of justice in hearing references from national courts for preliminary rulings on points of law – Article 267 TFEU
- Discretionary referrals, for example, *Bulmer v Bollinger* 1974
- The significance of the European Court of Justice in ensuring uniformity of European law
- Candidates will be rewarded for accurate citation and discussion.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from communication of meaning.

Marks	AO2
	Skills
8-9	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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Q.2 (a) Explain the development of equity.

[14]

Credit reference to:

- Whether fusion took place is a controversial question. One of the oddities of the statute of limitation regime is that it does not expressly or directly apply to equitable claims
- The Judicature Acts brought about the re-organisation of the Superior Courts and was in fact the procedural fusion of law and equity
- Matters of both law and equity can now be determined in the course of one set of proceedings but if there is any conflict between rules of law and rules of equity, the latter are to prevail.
- Problems of common law
- Form vs fusion
- Judicature Acts 1873-75

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Q.2 (b) Discuss the impact of modern equity upon the development of the law in England and Wales. [11]

Credit reference to:

- Relevant citation especially of recent cases
- Examination of the scope of equity
- Modern day equitable remedies including injunctions, rescission, rectification
- The fusion of common law and equity

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Q.3 (a) Explain the role of the Crown Prosecution Service.

[14]

Credit reference to:

- The CPS is the prosecuting agency in England and Wales
- Background to the creation of the CPS
- There are other state funded prosecuting agencies such as the HMRC; the Health & Safety commission; pollution inspectorate; Local Authorities have responsibility for licensing and trading standards
- The possibility of private prosecutions

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Q.3 (b) Discuss the role of the Criminal Defence Service.

[11]

Credit reference to:

- Section 12 of the Access to Justice Act
- Duty solicitor schemes – advice and assistance, representation based on a merits and means test
- The Public Defender Service. Note the evaluation of the public defender service. Defendants who are charged and represented by the PDS were more likely to plead guilty in the Magistrates’ Court. The evaluation found that the cost effectiveness of the PDS was not as good as for private firms. During the first three years of its operation, the average costs for the PDS ranged from between 40% to just over 90% higher than the cost of private firms
- New rules under LASPO

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Q.4 (a) Explain the different types of jury trial available in England and Wales. [14]

Credit reference to:

- Criminal and civil juries including coroners courts
- Candidates will be rewarded for relevant citation

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Q.4 (b) To what extent is trial by jury reliable?

[11]

Credit reference to:

- The role of juries particularly in complex matters, for example, involving fraud
- The selection and composition of the jury. Occasional evidence emerges which supports the contention that verdicts are reached on inappropriate criteria
- Candidates will be rewarded for discussions on measures proposed to limit jury trial and also for citation of appropriate legal research

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Q.5 (a) Explain the relationship between law and morality.

[14]

Credit reference to:

- Morality cannot be deliberately changed. It evolves slowly and changes according to the will of the people. Law can be altered deliberately by legislation so that behaviour can be decriminalised
- Morality is voluntary with consequences but no official sanction, whereas law makes certain behaviour obligatory with legal sanctions to enforce it
- Breaches of morality are not usually subject to formal adjudication whereas breaches of the law will be ruled on by a formal legal system
- Hart v Devlin debate
- Credit will be given for relevant citation, for example, high profile cases involving moral dilemmas for the courts such as lawful killing type situations

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Q.5 (b) Discuss the significance of the Rule of Law in England and Wales. [11]

Credit reference to:

- The approach of Dicey. He held that there were three elements that created the rule of law in the absence of arbitrary power on the part of the state; equality before the law; supremacy of the rule of law
- Note the views of Hayek and also those of Raz
- The Constitutional Reform Act 2005 recognised the rule of law and the importance of the independence of the judiciary
- The principles of natural justice should be observed such as requiring an open and fair hearing with all parties being given the opportunity to put their case
- Rule of law within a wider context with, for example, experience seen overseas in common law jurisdictions

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Q.6 (a) Explain the Civil Procedure Rules.

[14]

Credit reference to:

- The culture of litigation which is one where there is co-operation between the parties
- Case management conferences
- A uniform procedure across England and Wales
- A very high rate of settlement
- Part 36 processes and sanctions attached to it is effective
- Costs increased overall because of the frontloading of costs
- The courts are under resourced and their IT system does not work well

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Q.6 (b) Discuss the impact of the Human Rights Act 1998 on the legal system of England and Wales. [11]

Credit reference to:

- The Human Rights Act 1998 and the European Convention of Human Rights
- The role of human rights in precedent and also statutory interpretation
- The impact of the role of human rights within the modern legal system
- Human rights affecting the principles of sentencing
- Judicial appointment and the need to ensure that at least the length of appointment provides a guarantee of independence for the judiciary from the Government
- The relationship between the rule of law, human rights and morality

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GCE LAW PAPER LA2 (AS)

UNDERSTANDING LEGAL REASONING, PERSONNEL AND METHODS

Answer *two* questions.

Q.1 Study the chart below and answer the questions based on it.

Name of project	Lead Department	Project key dates
Charity law – selected issues	Cabinet Office	Project to commence late 2012 Consultation paper late 2013 Final report and draft Bill late 2015
Conservation Covenants	Department for Environment, Food and Rural Affairs	Project to commence early 2012 Consultation paper late 2012 Final report & draft Bill late 2014
Contempt	Ministry of Justice	Project to commence autumn 2013 Consultation paper winter 2014 Final report winter 2016
Data sharing between public bodies	Ministry of Justice	Project to commence late 2012 Consultation paper summer 2013 Scoping report late 2013
Electoral law	Cabinet Office	Scoping report early 2012 Consultation paper summer 2014 Final report & draft bill early 2017
Electronic communications code	Department for Culture, Media and Sport	Project to commence autumn 2011 Consultation paper autumn 2012 Final report spring 2013
European contract law	Ministry of Justice & Department for Business, Innovation & Skills	Project commenced 1 April 2011 Advice to be published autumn 2011

Source: Extract from The Law Commission's 11th Programme of Law reform.

(a) Explain how the Law Commission ensures that the law is up to date.

[14]

Credit reference to:

- Background to the protocol entered into by the Lord Chancellor
- Consultation for the eleventh programme of Law Reform and approach adopted, for example, Chairman writes to Judicial Heads of Divisions, Judicial bodies, practising lawyers and other legal academics, representative organisations in the business and voluntary sectors
- Direct communications and also through public invitation such as using the media
- Stakeholders already in contact with the Law commissioners are told of the consultation
- Paper questionnaires are distributed and also electronic versions
- Assessment of the success of the eleventh programme.

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Q.1 (b) Discuss other mechanisms and procedures for law reform.

[11]

Credit reference to:

- Parliament enacted reforming legislation and this may be in pursuit of party political agendas or may be the outcome of Private member's bills
- Judges may also alter law especially the Common Law
- Royal Commissions which are by enquiry
- Media and other pressure points
- The role of the OFT in sponsoring enquiries
- Any relevant citation

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Q.2 Study the following and answer the questions based on it.

In view of an increasing concern about the numbers of migrant workers taking up employment in the UK, the Government introduced an Act of Parliament (fictitious) in which it temporarily suspended the right of foreign workers to enter into the UK to take up employment. The act says that it applies regardless of any provision of the European Communities Act 1972. Alberto, a Romanian, was appointed to a post in the public service just before the Act came into force. He was refused entry into the UK to take up his post.

(a) Explain what steps can be taken under EU Law to bring an action against the UK. [14]

Credit reference to:

- The ability of Alberto to claim a breach of Article 39 of the Treaty
- The role of the Commission to bring an action under Article 226
- The remedies available to Alberto, for example, an action for damages under State liability
- A blatant breach by the UK and the role of the ECJ – Article 228
- Any relevant citation, for example, the *Factortame* litigation

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Q.2 (b) Discuss the significance of European Law.

[11]

Credit reference to:

- The distinction between various types of European Law including European Human Rights Law
- Identification of different treaties and the development of EC Law
- The role of general principals within the legal system
- Specific examples including proportionality, non-discrimination
- Hierarchy of law
- Any relevant citation

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO2
Skills	
8-9	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
6-7	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation.
4-5	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-3	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.3 Study the following and answer the questions based on it.

“The distinction between intrinsic and extrinsic aids to the construction of Statutes is fundamental.”

(a) Explain the use of intrinsic and extrinsic aids in the interpretation of Statutes. [14]

Credit reference to:

- Candidates should explain the distinction between intrinsic and extrinsic assistance
- Intrinsic assistance is derived from the Statute which is the object of interpretation
- The preamble to an Act
- Section headings and marginal notes
- Extrinsic assistance – sources outside of the Act itself
- The interpretation Act 1978
- Reference should be made to the decision in *Pepper V Hart* which is important for the fact that it replaced the long standing rule denying judges the right to use Parliamentary debates to decide the meaning of legislation
- Any relevant citation

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO1
Knowledge and Understanding	
11-13	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
7-10	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-6	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical application of the law.

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO1
	Knowledge and Understanding
11-13	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
7-10	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-6	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical application of the law.

Q.3 (b) Using your knowledge of statutory interpretation, explain how a court might approach the interpretation of section one in the light of the facts set out below. [11]

Police Powers (fictitious) Secret Operations Act 2013 reads as follows:

Section 1a “No police officer should counsel, incite or procure the commission of a crime.”

Section 1b “Where a police officer acting under cover, gives the police information about the intention of others to commit a crime in which he intends that he shall play a part, his participation should be allowed to continue only where he intends to play a minor role.”

Bob is a police officer and he has been working under cover for two years and has assumed the identity of a violent criminal in order to infiltrate a criminal gang. He has been helping gang members to plan a sophisticated robbery whilst providing information to the police.

While the planned robbery was taking place, a security guard was shot and killed. Bob drove the getaway car. The police arrest Bob.

Credit reference to:

- Application of different rules to the scenario
- Criminal legislation is interpreted strictly
- Application of other ways of interpreting the legislation
- Discussion of the purpose of the Act
- Any relevant citation

Q.4 Examine the data and answer the questions based on it.

Appointment name			Total in post
Justices of the Supreme Court			11
Hheads of Division	Lord Chief Justice Master of the Rolls President of the Queens Bench Division President of the Family Division		5
Lords Justices of Appeal			37
High Court Judges	Chancery Family Queen's bench division	18 19 71	108
Judge Advocates			8
Deputy Judge Advocates			5
Masters, Registrars, Costs Judges &			48
District Judges (Principal Registry of the Family Division)			74
Deputy Masters, Deputy Registrars,			665
Deputy Costs Judges and Deputy District Judges (PRFD)			1,221
			444
			788
			137
			143
Grand Total			3,694

Source: Judicial Database 2011

- (a) By reference to the data, explain the role of Judges in the hierarchy of the Court system in developing precedent. [14]**

Credit reference to:

- Judicial activism is limited by reference to the hierarchy of courts
- The significance of law in action and the number of Judiciary in senior posts
- The relationship between the various courts within the hierarchy and the amount of work on a daily basis conducted by the courts
- Any relevant citation

Q.4 (b) Discuss the appointment process of Judges

[11]

Credit reference to:

- The role of the Judicial Appointments Commission
- The emphasis no upon person specifications in identifying judges and the role of experience
- The importance of judges as representing a cross section of society as being an essential part of the legitimacy of a legal system
- Comment on the representative nature of judges by reference to well known statistical evidence
- Any relevant citation and also reference to academic studies and the views of leading academics, for example, Professor Griffith

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO2
Skills	
8-9	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
6-7	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation.
4-5	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-3	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO2
	Skills
8-9	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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0-3	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply to the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

GCE LAW - PAPER LA3 (A2)

UNIT 3: UNDERSTANDING SUBSTANTIVE LAW: FREEDOM, THE STATE AND THE INDIVIDUAL

OPTION 1: CONTRACT AND CONSUMER LAW

Answer *two* questions.

Q.1 Study the text and answer the questions based on it.

Sandra contracted to sell Peter her sailing yacht, its road trailer and two outboard motors. They agreed that Sandra would repair the light on the trailer which was necessary to make the trailer fit for road use and then tow it with the yacht and the outboard motors to Peter's house three days later. Whilst Sandra was delivering the trailer, unfortunately Sandra was involved in a road traffic accident on the M4 and the trailer burst into flames and the yacht together with one of the outboard motors, was destroyed. Fortunately, Sandra was unhurt. In the meantime having bought the yacht, Peter paid £500 to Louise to enter a sailing competition using the yacht that he had bought from Sandra.

(a) In the light of reported case law and other sources of law, advise Peter. [14]

Credit reference to:

- Frustration
- Common mistake
- The nature of frustrating events
- Impossibility

Candidates will be rewarded for relevant citation

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

	AO2
Marks	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.1 (b) Explain the approach taken by Judges in the interpretation of statutes

[11]

Credit reference to:

- Section 6 Sale of Goods Act 1979
- Section 7 Sale of Goods Act 1979
- Law Reform (frustrates contracts) Act 1943
- Candidates will be rewarded for appropriate citation
- Rules and aids

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

AO1	
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content <i>making a limited synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content <i>making some basic synoptic connections</i> with basic elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a basic understanding of the practical application of the law.

Q.2 Study the text and answer the questions based on it

Vince advertised a British bull dog for sale for £1,500 in the South Wales Evening Standard. Brenda faxed Vince and said that she would buy the bull dog for £1,500. Vince faxed back, stating that the price for the dog was now £2,000 and that he must have an answer within a week. Brenda telephoned Vince and asked if he could take payment in two instalments. Vince said no and that he would not be insulted in this way and put the phone down. Brenda, who wanted the dog, posted a letter the same day informing Vince that she wanted to buy the dog for £2,000 and would pay in one single instalment. Believing that Brenda was no longer interested, Vince has sold the dog for £1,500 to Hilary but has not yet delivered the dog to her.

(a) In the light of reported case law and other sources of law, advise Vince. [14]

Credit reference to:

- The need for communication and discussion of the general rule with reference to appropriate case law
- The postal rule and its appropriateness as a rule in the context of modern communication mechanisms
- The nature of agreement

Candidates will be rewarded for relevant citation

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

AO2	
Marks	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.2 (b) Explain the available sources of assistance for Hilary in funding litigation against Vince who is now refusing to deliver the dog to her [11]

Credit reference to:

- Analysis of the financial position and discussion of the legal service commission
- Private means
- Conditional fees
- The significance of legal insurance
- The nature of the remedy sought, for example, specific performance

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

AO1	
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content <i>making a limited synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
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Q.3 Study the text and answer the questions based on it.

Sparkling Windows Limited is an industrial window cleaning business based in Wrexham. Sparkling Windows Limited entered into a contract with Lisa Public Relations to clean the windows of her company office block. First impressions are very important in the public relations industry. The following clause was included in the contract:

“In the event of failure to clean the office windows as required, Lisa Public Relations will be entitled to terminate the contract with immediate effect.”

On two occasions between January 2012 and November 2012, Sparkling Windows Ltd. failed to turn up to clean Lisa’s offices. On each occasion this was blamed on the loss of a member of staff and in December 2012 Sparkling Windows Limited claimed that the problem had now been solved. Three months later Lisa found that her office had not been cleaned although all the other windows had been. She was fed up and relying on her clause in the contract, terminated with immediate effect, the window cleaning contract.

(a) In the light of reported case law and other sources of law, advise Sparkling Windows Limited. [14]

Credit reference to:

- Discussion on the rights of an innocent party to terminate a contract following a breach by the other party
- The nature of terms
- The difference between the conditions, warranties and innominate terms
- Credit will be given for relevant citation, for example, Schuler V Wickman Machine Tool Sales Limited (1973) and Ziess v Great Yarmouth Borough Council (2000)

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

	AO2
Marks	Skills
11-13	<p>Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation.</p> <p>This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.</p>
7-10	<p>Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.</p>
3-6	<p>Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.</p>
0-2	<p>Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.</p>

Q.3 (b) Explain the development of judge made law.

[11]

Credit reference to:

- The significance of case law and the doctrine of precedent
- Hierarchy of Courts
- Relevance of case law and statute law, particularly the Sale of Goods Act
- Credit will be given for relevant citation

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

AO1	
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content <i>making a limited synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content <i>making some basic synoptic connections</i> with basic elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a basic understanding of the practical application of the law.

Q.4 Study the text and answer the questions based on it.

Sarah who is 30, lives in a mansion left to her by her parents. The house is worth £750,000. One evening she met Colin aged 45 and a few weeks later Sarah invited Colin to live with her. For a number of months everything was happy until Sarah discovered that Colin had been imprisoned some time ago for attempted murder. Shortly after she knew this, Colin suggested to Sarah that he buy into half of the share of her house and offered her £20,000. Sarah was afraid of Colin and she accepted. Shortly thereafter, half the share of the house was formally transferred into Colin's named. Immediately, Colin took a loan from the Black Raven Bank for £200,000 secured against his half share of the house.

(a) In the light of reported case law and other sources of law, advise Sarah who now wants to avoid the transfer to Colin. [14]

Credit reference to:

- The requirement for duress
- The requirement for actual and presumed, undue influence
- Credit will be given for relevant citation, for example, Barclays Bank v O'Brien (1993) and RBS v Etridge (2) (2001) where there may be an argument around the interests of a third party

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

AO2	
Marks	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.4 (b) Explain the role of equity in the development of the law.

[11]

Credit reference to:

- The fusion of law and equity and the Judicature Acts 1873-75
- The nature of equitable remedies
- Candidates will be rewarded for relevant citation and especially the role of judges such as the approach of Lord Denning in *Lloyds Bank v Bundy* (1974)
- Duress is a common law concept whereas undue influence originated equity
- In the case of both duress and undue influence, the consequence of a successful argument for the existence of the remedy is that the resulting contract is regarded as voidable

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.
AO1	
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
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0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content <i>making some basic synoptic connections</i> with basic elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a basic understanding of the practical application of the law.

GCE LAW – PAPER LA3 (A2)

UNIT 3: UNDERSTANDING SUBSTANTIVE LAW: FREEDOM, THE STATE AND THE INDIVIDUAL

OPTION 2: CRIMINAL LAW AND JUSTICE

Answer two questions.

Q.1 Study the text below and answer the questions based on it.

Jason was driving along a motorway when he was suddenly forced to swerve on to the hard shoulder to avoid being hit by a van which was being driven by Brian. Furious, Jason chased after the van and rammed it from behind. The impact of the collision caused Brian to lose control of the van and crash into the concrete pillar of a motorway bridge, suffering serious injuries to his head and chest. The emergency services quickly arrived on the scene, and the air ambulance was summoned to take Brian to hospital by helicopter. Brian was placed in the helicopter under the care of Amy, a paramedic, who administered oxygen to him throughout the flight. However, as the helicopter was coming in to land, Brian's condition began to deteriorate sharply. Amy panicked, and increased the amount of oxygen that Brian was receiving. This was the wrong thing to do under the circumstances, and Brian later died from a combination of the injuries sustained in the accident and the excessive level of oxygen in his brain.

(a) In the light of reported case law and other sources of law, consider whether Jason might be criminally liable for the death of Brian. [14]

Credit reference to:

- Elements of murder and manslaughter: actus reus and mens rea.
- Mens rea of murder: intention to kill or cause grievous bodily harm.
- Direct and oblique intention: Maloney, Nedrick, Woollin.
- Causation: factual and legal causation, cases such as White, Pagett, Dalloway.
- Intervening acts by a third party: when sufficient to break the chain of causation; medical intervention: Smith, Jordan, Cheshire.
- Voluntary manslaughter: defence of loss of control under Coroners and Justice Act 2009.
- Involuntary manslaughter: unlawful act (constructive) manslaughter: need for an unlawful and dangerous act: Franklin, Lamb.
- Possibly, gross negligence manslaughter: duty of care towards other road users: duty of care under the neighbour principle (Donoghue v Stevenson); grossly negligent breach carrying a risk of death: Adamako, Mira and Srivastava.
- Possibly, reckless manslaughter: Andrews, Lidar (not necessary to consider this, but credit if mentioned).

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

	AO2
Marks	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation, analysis and analogy.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.1 (b) Explain the process of selecting a jury in the Crown Court.

[11]

Credit reference to:

- Mode of selection: random list of potential jurors generated by computer at the Central Summoning Bureau from the electoral register; summonses sent out to confirm that the individual is not a disqualified category; jury for a particular case chosen by random ballot; first 12 names called out are sworn in.
- Qualification for jury service: 18 – 70, resident in UK for at least 5 years since 13th birthday, not within a disqualified category.
- Criminal Justice Act 2003: only the over-65s and member of the armed forces are exempt. Those who are disqualified: anyone who has been sentenced at any time to 5 or more years imprisonment; or in the past 10 years has served any part of a sentence of imprisonment, or had a suspended sentence or a community order.
- People who suffer from mental illness or handicap and are being treated regularly may not serve. The judge can discharge anyone who is not fit to serve through physical disability (blind or deaf) or does not have sufficient understanding of English.
- Summoning Officer has a discretion to excuse anyone or allow them to defer their service to another time for good reason.
- Jury vetting: routine police check to exclude those disqualified because of a criminal record; in exceptional cases the Attorney-General may authorise vetting of background and political views.
- A jury must be random; a judge may not attempt to create a racial balance on a jury: R v Ford.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

	AO1
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content <i>making a limited synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding structures and processes. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content <i>making some basic synoptic connections</i> with the basic elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a basic understanding of the practical application of the law.

Q.2 Study the text below and answer the questions based on it.

Tyrone and Percy went to the cinema with Percy's new girlfriend, Natasha. They bought hot dogs and fizzy drinks to enjoy while watching the film Percy wanted to be alone with Natasha, so he asked Tyrone to sit somewhere else. Tyrone obligingly found himself a seat a few rows behind Percy and Natasha, but after the lights had gone down he crept gradually forward again, until he was sitting directly behind them. Tyrone waited until Percy and Natasha were absorbed in watching the film, and then stealthily removed the sausage from his hot dog and pushed it down the neck of Natasha's teeshirt. Natasha let out a scream, which brought one of the security guards, Austin, running to her aid. Thinking that Percy had assaulted Natasha, Austin dragged Percy from his seat and started punching him in the face, breaking his nose. Horrified at the consequences of his prank, Tyrone flung his arms around Austin's neck and attempted to pull him away from Percy. In doing so, he applied more pressure than he intended. Austin was unable to breathe, and suffered brain damage.

- (a) In the light of reported case law and other sources of law, consider whether Austin and Tyrone may have committed any criminal offences.**

[14]

Credit reference to:

- Assault and battery at common law: summary offences – Criminal Justice Act 1988, s.39.
- Offences Against the Person Act 1861: sections 47, 20 and 18.
- Elements of assault and battery: actus reus and mens rea.
- Elements of aggravated assaults under s.47, s.20 and s.18 of the OAP Act 1861.
- Section 47: actual bodily harm – actus reus is an assault which causes actual bodily harm, any injury calculated to interfere with the health or comfort of the victim (Miller) – under the CPS Charging Standards it includes temporary loss of consciousness, minor cuts and grazes and scalds, broken bone without complications. Mens rea is intention to commit assault/battery or recklessness. Foresight of the degree of harm is not necessary: Roberts; Savage, Parmenter.
- Section 20: actus reus is unlawful wounding or unlawful infliction of grievous bodily harm. GBH means serious harm: Smith. A wound must break the inner and outer skin: C v Eisenhower. Mens rea – intention or recklessness – D must foresee a degree of harm, but not necessarily the degree of harm which occurred: Mowatt, Savage and Parmenter.
- Section 18: actus reus is wounding or causing grievous bodily harm. Mens rea required intention to wound or cause GBH, or to resist or prevent a lawful arrest.
- Intoxication: Majewski; distinction between crimes of basic and specific intention; Kingston.
- Defence of another.

Marks	AO3
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0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

	AO2
Marks	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.2 (b) Explain the appeals process from the Magistrates' Court.

[11]

Credit reference to:

- Magistrates' court: lowest court in the hierarchy, limited powers of sentencing, hears cases which are summary only or triable either way. Two functions: to act as a court of summary jurisdiction determining cases without a jury, and to send a defendant to the Crown Court where the offence is triable only on indictment, or is triable either way but the defendant does not plead guilty and the magistrates consider the offence too serious for them to try.
- Crown Court: has exclusive jurisdiction over all offences which are triable only on indictment, and over triable either way offences which are sent to them by the Magistrates' Courts. A defendant who pleads not guilty is tried by judge and jury. The Crown Court can pass any sentence which is permitted by law. Another function is to sentence persons found guilty by the magistrates but committed to the Crown Court for sentence.
- Candidates may discuss the appellate function of the Crown Court – to hear appeals from the Magistrates' Court.
- Queen's Bench Division of the High Court – hears appeals by way of case stated from the Magistrates' Court from the Crown Court where that court has heard an appeal from the Magistrates' Court / Also hears claims for judicial review.
- Criminal Division of the Court of Appeal: hears appeals from the Crown Court against conviction and/or sentence. Appeals require leave. Not a retrial: the case is conducted by argument before usually 3 judges - (but can be as many as 6 – two judges can hear appeal against sentence). Also hears appeals by the prosecution against rulings of the Crown Court.
- Supreme Court – hears appeals on a point of law only from the Divisional Court and Court of Appeal. Leave is always required. Appeals require the court below to certify that a point of law of public importance is involved.
- The Constitutional Reform Act 2005 Part 3 replaced the former House of Lords with the Supreme Court. The Supreme Court consists of a President, a Deputy President and 10 Justices of the Supreme Court. Cases are heard by an uneven number of judges (at least 3) of whom at least half must be permanent and not acting judges.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

AO1	
Marks	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
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Q.3 Study the text below and answer the questions based on it.

Tom's brother was arrested on suspicion of burglary. Next day, Tom was stopped in the street by PC Nabb, who forcibly searched him and then told him that he was under arrest. When Tom asked why, PC Nabb told him that the police had the right to arrest him in order to question him about his brother's activities. Tom was taken to the police station and placed in a cell. Tom asked to be allowed to contact his family and speak to a solicitor, but these requests were refused. After fifteen hours in the cell, Tom was taken to be questioned by detectives. Throughout the interview, which lasted ten hours, Tom was not allowed to sit down and was refused food and water. At the end of that time the police accepted that Tom had no useful information to tell them, and released him on bail pending further enquiries.

- (a) In the light of reported case law and other sources of law, consider the legality of the actions of the police. [14]**

Credit reference to:

- Police and Criminal Evidence Act 1984, as amended.
- Police powers to stop and search: PACE ss.1-3 and Code A.
- Power of arrest: PACE s.24 (as amended by SIIO SOCPA) necessity tests; s28 and Code G.
- Role of custody officer; rights of suspect when brought to the police station; Code C.
- Right of suspect during detention: PACE s.56 – right to have someone informed of detention; s.58 – right to legal advice; when these rights can be delayed.
- Time limits on detention: PACE s.41
- Detention reviews: PACE s.40.

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	AO2
Marks	Skills
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Q.3 (b) Explain what powers the police have to grant bail.

[11]

Credit reference to:

- Police and Criminal Evidence Act 1984, ss.37 and 38: powers of police to grant bail pending further enquiries and bail following charge.
- Bail should be granted when a suspect has been charged with an offence (s.38) unless: there is doubt about the name or address of the suspect; or detention is necessary to protect the suspect from himself or others; to protect others from the suspect; there is a danger that the suspect may not answer to bail, or may interfere with witnesses or the administration of justice.
- Coroners and Justice Act 2009 says the police should not grant bail if the charge is murder.
- Bail can be granted after a suspect has been arrested but not charged (s.37) if the custody officer believes that there is sufficient evidence to charge the suspect of sufficient evidence to justify holding the suspect while the police continue their enquiries.
- Bail conditions: police may grant bail subject to conditions: Criminal Justice and Public Order Act 1994 – examples of conditions.
- The Police (Bail and Detention) Act 2011 provides retrospectively that the police can keep someone on bail without charge for as long as they consider necessary – reverses Greater Manchester Police v Hookway 2011.
- CJA 2003 - street bail.

Marks	AO3
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1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

AO1	
Marks	Knowledge and Understanding
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Q.4 Study the text below and answer the questions based on it.

Nelly was in the final year of her college course in hairdressing and beauty. With exams looming, Nelly was anxious for an opportunity to practice her techniques. Nelly's older sister, Bella, worked at a beauty clinic, and she offered to smuggle Nelly into the clinic, lend her a uniform and introduce her to clients as a trainee working under Bella's supervision. All went well until one of the clients, Jenna, asked Nelly to perform a common but notoriously painful procedure using hot wax to remove unwanted body hair. Nelly inadvertently overheated the wax, with the consequence that she caused a severe burn to Jenna's leg which needed to be treated in hospital.

- (a) In the light of reported case law and other sources of law, consider whether Nelly could rely on the defence of consent if she were to be prosecuted for causing physical injury to Jenna. [14]**

Credit reference to:

- Consent is a common law defence developed through case law – as a general principle, consent is usually only accepted as a defence to minor assault and battery which does not reach the degree of harm needed for the offence of assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861, s.47, i.e. injury which interferes with the health and comfort of the victim (Miller) and is more than transient or trifling (Chan Fook).
- Cases where consent is accepted as a defence to more serious harms: A – G's Ref. (No. 6 of 1980) – activity permitted on a basis of public policy for their social usefulness – lawfully conducted sports, rough horseplay, tattooing, ear-piercing, surgery, non-violent sexual relations. Would cover normal range of socially accepted beauty treatments.
- Consent must be informed consent: not vitiated by duress or deception.
- Deception may be as to the nature of act or the identity of the defendant – here, the deception if any would relate to identity, as Nelly is pretending to be a trainee of the salon.
- Cases involving deception: Bolduc and Bird, Tabassum, Richardson – the courts seem to take the view that there is no deception as to identity where D has the qualifications she claims, even if the victim is deceived as to other circumstances.

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	AO2
Marks	Skills
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Q.4 (b) Explain how the Crown Prosecution Service decides whether to bring a prosecution. [11]

Credit reference to:

- The decision whether to prosecute is made using the “Full Code Test” contained in the Code for Crown Prosecutors, used by the Director of Public Prosecutions under s.10 of the Prosecution of Offences Act 1985. This is currently the 6th edition, issued February 2010.
- This consists of two tests, the evidential test and the public interest test, which must be applied in that order. If the evidential test is not passed, then the case should not be proceeded with at that time. If the evidential test is passed, the Crown Prosecutor should go on to consider the public interest test. Only if both tests are passed should proceedings be brought.
- Evidential test – is there a realistic prospect of conviction, i.e. would a court be more likely than not to convict. The CP must consider both issues: can the evidence be used in court, and is it reliable.
- Whether evidence can be used in court – is it likely to be excluded because of the way it was obtained; is it hearsay; does it relate to the bad character of the accused?
- Whether evidence is reliable – is it consistent with an innocent explanation; are there doubts about the reliability of a confession; is the identity of the suspect likely to be questioned; are there doubts about the reliability of any witnesses; does a witness have any ulterior motive; does a witness have convictions which cast doubt on his/her reliability; is there a need to gather more evidence?
- If it would be helpful in assessing a witness’s reliability, an appropriately trained Crown Prosecutor may conduct a pre-trial interview with the witness.
- Public interest test – it will usually be in the public interest to prosecute unless the prosecutor is satisfied that the public interest is better served by not bringing a prosecution or by offering an out-of-court disposal.
- Examples of factors tending in favour of prosecution: e.g. offence likely to result in a significant sentence; committed with a weapon; committed by a group; committed against someone serving the public; committed against a vulnerable person; the accused’s previous record, etc.
- Factors tending against prosecution: sentence likely to be small; prosecution would have a bad effect on the victim; offence was the result of a genuine mistake; accused has made reparation; accused suffers from significant physical or mental ill-health, etc.
- The prosecutor may take account of the views of the victim and his/her family. However, the prosecutor does not act for the victim or his/her family, and must form an overall view of the case.

Marks	AO3
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AO1	
Marks	Knowledge and Understanding
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GCE LAW - PAPER LA3

UNIT 3: UNDERSTANDING SUBSTANTIVE LAW: FREEDOM, THE STATE AND THE INDIVIDUAL

OPTION 03: FREEDOM OF THE INDIVIDUAL & PROTECTION OF HUMAN RIGHTS

Answer two questions

Q.1 Study the text below and answer the questions based on it

Emma, a wealthy young socialite, became a popular guest on television talk shows because of her willingness to express controversial opinions on any subject. One evening when Emma was having dinner in a restaurant with a group of friends, the conversation turned to whether sick and disabled people should be allowed to claim state benefits. Emma said, "You just have to be firm with these people. Mummy's maid has terrible heart trouble, but she never misses a day's work because she knows we'd kick her out." One of the other members of the group, Ryan, used his mobile phone to film Emma's speech and sent the recording to Damien, the editor of the Daily Slur. Damien printed Emma's comments word for word on the front page, together with a photo of Emma eating lobster in the restaurant, and topped it off with the headline: "Mummy's Little Madam Slams Sick Servant". Emma is very hurt by what she considers to be Ryan's breach of confidence, and feels that Damien's article was defamatory.

(a) In the light of reported case law and other sources of law, consider whether Emma may be able to sue Ryan or Damien. [14]

Credit reference to:

- Nature of defamation: publication of untrue, defamatory statements libel and slander.
- Elements of defamation.
- Is the defamatory? A statement which would tend to lower the claimant in the eyes of right thinking persons generally: *Sim v Stretch*, *Byrne v Dean*.
- Photographs and headlines must be considered in terms of its effects on the ordinary reasonable reader who reads the whole article, and not just someone who glances at it: *Charlesworth v NGN*.
- Innuendo – the phrase "Mummy's little madam" taken in conjunction with the photo at the reported conversation give an impression of a spoilt child. Cases: *Tolley v Fry*, *Cassidy v Daily Mirror*.
- The statement must refer to the claimant.
- The statement must be published.
- Defences – justification, fair (now honest) comment on a matter of public interest; absolute privilege; qualified privilege.
- Defences which might apply here – honest comment: *Spiller v Joseph* – the recording presumably provides enough information for an ordinary reasonable person to make up his own mind about whether the headline is fair.
- Qualified privilege: *Reynolds v Times Newspapers* – standard of responsible journalism. Query whether this is a matter of public interest - may be argued that it is in the public interest to expose the opinion of someone who has ready access to the media.
- Breach of confidence against Ryan: is the communication made in circumstances where there is a reasonable expectation of privacy? Arguably, a private dinner albeit in a restaurant would give rise to a reasonable expectation of privacy.
- Case law on breach of confidence: *Douglas V Hello!*, *Campbell v MGN*, etc.

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Marks	AO2
	Skills
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Q.1 (b) Explain the role of the jury in civil cases.

[11]

Credit reference to:

- Trial by jury is now very rare – less than one per cent.
- There is a qualified right to jury trial under the Supreme Court Act 1981 in cases of defamation, malicious prosecution, false imprisonment and fraud.
- The judge may refuse to grant jury trial even in these cases if he/she is of the opinion that the trial would involve prolonged examination of documents or accounts, or any scientific or local investigation which cannot conveniently be made with a jury.
- In all other cases, jury trial is at the discretion of the court. In *Ward v James*, the Court of Appeal stated that personal injury cases should be tried by a judge alone unless there were special circumstances.
- The role of the jury is to hear the evidence and arguments from both sides, and reach a finding in favour of the claimant or defendant.
- Candidates may refer to the role of the coroners' jury.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content <i>making a convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content <i>making a limited synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding structures and processes. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content <i>making some basic synoptic connections</i> with the basic elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a basic understanding of the practical application of the law.

Q.2 Study the text below and answer the questions based on it.

Oliver is a senior civil servant working in the Ministry of Defence. Oliver was approached by one of the Government's advisers, Frances, who told him that the Government was keen to test whether public opinion would support a further reduction in the armed forces. To that end, Frances wanted Oliver to "leak" certain information about the current numbers of troops into the public domain, without it being obvious that the information had come from a Government source. Oliver gave instructions to Sally, a junior civil servant, to pass the information to Martha Mutton, the editor of the Daily Probe. Sally did as she was told, and Martha published the information. Questions were then raised about how the information has been leaked. Frances claimed that the leak was a serious breach of national security, and sought to lay the blame on Sally and Martha.

- (a) In the light of reported case law and other sources of law, consider whether Sally or Martha may be prosecuted for a criminal offence. [14]**

Credit reference to:

- Official secrets Act 1989, s.2 defences.
- Sally may have committed the offence of making an unauthorised disclosure of protected information relating to defence.
- The disclosure must be "damaging" as defined within s.2.
- Sally may have the defence under s.7(4) that she did not know or have reasonable cause to believe that the disclosure was unauthorised.
- Martha may have committed an offence under s.5 of disclosure of information acquired as a result of an unauthorised disclosure by a Crown servant (s.5(1)(a)(i).
- Martha may have a defence that she did not know, or have reasonable cause to believe, that the information was protected against disclosure.
- There is no public interest defence: Shayler.

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.2 (b) Explain the relevance of the Rule of Law.

[11]

Credit reference to:

- The approach of Dicey. he held that there were three elements that created the rule of law in the absence of arbitrary power on the part of the State; equality before the law; supremacy of the rule of law.
- Note the views of Hayek and also those of Raz.
- The Constitutional Reform Act 2005 recognised the rule of law and the importance of independence of the judiciary.
- The principles of natural justice should be observed such as requiring an open and fair hearing with all parties being given the opportunity to put their case.
- Rule of law within a wider context with, for example, experience seen overseas in common law jurisdictions.

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1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content <i>making an entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Q.3 Study the text below and answer the questions based on it

Amy, who teaches in the Life Sciences department of the local university, discovered that experiments on kittens were being carried out there. Amy immediately organised a protest against the experiments. Accompanied by about a dozen other teachers and students, Amy stood outside the Life Sciences Department displaying a large poster with a picture of kittens on it, and a sign which read, "Don't Hurt Me." The university's head of security saw Amy's group on the CCTV cameras, and called the police. When Superintendent Smith heard that animal rights protestors were involved, he sent a detachment of fifty officers to deal with the protest, and instructed them to "go in hard". Amy's group was soon surrounded by officers, who ordered them to kneel on the ground with their hands behind their heads, and kept them there for four hours. At the end of that time, the protestors were taken in a police van to the police station, where they were charged with causing harassment, alarm or distress.

- (a) In the light of reported case law and other sources of law, consider whether the police were acting within their powers. [14]**

Credit reference to:

- Public Order Act 1986 gives the senior police officer present at the scene the power under s.14 to impose conditions on an assembly if he/she believes it necessary to prevent the threat of the "four triggers".
- The conditions that can be imposed relate to the place at which the assembly may be held or may continue, its maximum duration or the maximum number of people who can attend. In effect, the police can order the people to disperse – but arguable that s.14 doesn't give power to make them kneel for four hours.
- However, the case of *Austin and Saxaby* indicates that the police can do this under breach of the peace powers if they think it necessary in order to achieve an orderly dispersal of the protestors. The HL in that case even said that the police could claim to be using their s.14 power even if the police didn't have it in mind at the time.
- The requirement under Art 11 that the action of the police should be proportionate and necessary – arguably this is disproportionate for a small demonstration with no hint of violence.
- Breach of the peace powers – common law power (preserved in s.26 of PACE) to arrest to prevent breach of the peace. Cases on breach of the peace, e.g. *Moss V McLaughlan*, *Laporte*.
- Offence of causing harassment, alarm or distress under s.5 of the POA 1986 – display of offensive placard – a police officer may claim to have been harassed or distressed for the purpose of the section: *DPP V Orum*. Case of *Clarke*: displaying pictures of aborted fetuses – whether picture of kitten capable of causing harassment or distress in this context.
- The police can arrest for any offence under s.24 of PACE, so they would have power to arrest without needing to invoke the more limited arrest power given by s.5 itself.

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0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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Q.3 (b) Explain the appeal process from the magistrates court.

[11]

Credit reference to:

- Magistrates Court Act 1980, as amended by the Criminal Appeals Act 1995, s.142 – magistrates can rectify an error where it would be in the interests of justice to do so. The case is retried before a different bench, and the sentence may be varied.
- Appeal as of right to the Crown Court against conviction/sentence.
- Only appeals against sentence can be made if the defendant pleaded guilty.
- Appeal must be made within 28 days of conviction.
- Appeal is heard by a circuit judge sitting with 2-4 magistrates who were not involved in the original trial. Each vote carries the same weight but if the votes are evenly divided, the circuit judge has the casting vote.
- Appeal takes the form of a re-hearing.
- The court can either confirm the verdict or sentence of the original magistrates, or substitute its own decision. It can impose any sentence that the original magistrates could have imposed, and may increase as well as reduce the original sentence.
- Appeal by way of case stated to the Divisional Court. The magistrates, or the Crown Court when hearing an appeal from the Magistrates Court, may be asked by the prosecution or defendant to state the case for consideration by the Divisional Court.
- The Divisional Court can also hear applications for judicial review to decide whether the case has been heard according to the rules of natural justice.
- Appeals by way of case stated are heard by up to three judges of the Queen's Bench Division of the High Court.
- The court can confirm, reverse or vary the magistrates' decision; give their opinion on the relevant point of law, or make such other order it sees fit, including ordering a re-hearing.
- If an appeal has already been made to the Crown Court, either side can appeal against the Crown Court's decision by way of case stated, but a party who has already appealed to the High Court by way of case stated may not then appeal to the Crown Court.
- Further appeal on a point of law may be made directly to the Supreme Court, but only if the Divisional Court certifies that the case involves a point of law of general public importance, and either the Divisional Court or the Supreme Court grants permission for the appeal to be heard.

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1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content making an <i>entirely convincing synoptic connection</i> with elements of knowledge gained in understanding legal reasoning and methods and understanding legal structures and processes. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Q.4 Study the text below and answer the questions based on it.

Liam, a law student, took part in a televised question and answer session in which members of the public were invited to discuss matters of current debate with a panel of experts. The topic happened to be human rights. Next day, Liam was recognised in the street by PC Pinch, who had watched the programme and disliked Liam's views. PC Pinch ordered Liam to stop and submit to a search. In Liam's trouser pocket he found an asthma inhaler. PC Pinch said, "You could do someone serious damage with this," and took Liam to the police station for questioning. At the police station PC Pinch said to the custody officer, "This one doesn't need a lawyer. He knows his rights. You can put him straight in a cell." Liam was kept in a cell for twenty-six hours before being charged with carrying a weapon and being released on bail.

- (a) In the light of reported case law and other sources of law, consider whether the police were acting within their powers. [14]**

Credit reference to:

- Police and Criminal Evidence Act 1984.
- Power to stop and search: ss 1-3 and Code A.
- Reasonable suspicion: Code A – should not be based on personal factors alone.
- Requirements of a valid search: information to be given under s.2; failure renders search invalid: Osman.
- Procedure following search: s.3.
- Arrest power: s.24 as amended by SOCPA 2005, S.110, and code G police may arrest anyone who is, or is reasonably suspected to be, about to commit an offence; or in the act of committing an offence; or is guilty of committing an offence; or is reasonably suspected to be guilty of having committed an offence.
- Arrest power must only be exercised if the police have reasonable grounds to believe it is necessary (s.24(5) the grounds are: to enable the name and address of the person to be ascertained if it is not known, or the police believe it to be false; to prevent the person causing physical injury to himself or another, suffering physical injury, causing loss or damage to property, committing an offence against public decency, or causing unlawful obstruction of the highway; to protect a child or other vulnerable person; to allow the prompt and effective investigation of the offence of the conduct of the person; to prevent any prosecution for the offence being hindered by the disappearance of the person.
- Procedural requirements of a valid arrest: should be informed of the fact he is under arrest and also the ground for arrest (s.28) and he should be cautioned.
- Treatment of suspects in police custody: Code C.
- Right to have someone informed of arrest: s.56.
- Right to legal advice: s.58.
- Time limits on detention: s.41 allows police to authorise detention up to 36 hours but further detention up to 96 hours requires authorisation by magistrates.
- Detention should be reviewed after 6 hours and then every 9 hours by a review officer not involved in the case: s.40.

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0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
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Q.4 (b) Explain what powers the police have to grant bail to someone charged with an offence. [11]

Credit reference to:

- Police and Criminal Evidence Act 1984, ss.37 and 38: powers of police to grant bail either pending further enquiries (s.37) or following charge (s.38).
- Bail should be granted when a suspect has been charged with an offence (s.38) unless: there is doubt about the name or address of the suspect; or detention is necessary to protect the suspect from himself or others; to protect others from the suspect; there is a danger that the suspect may not answer to bail, or may interfere with witnesses or the administration of justice.
- Coroners and Justice Act 2009 says the police should not grant bail if the charge is murder.
- Bail can be granted after a suspect has been arrested but not charged (s.37) if the custody officer believes that there is sufficient evidence to charge the suspect or sufficient evidence to justify holding the suspect while the police continue their enquiries.
- Bail conditions: police may grant bail subject to conditions: Criminal Justice and Public Order Act 1994 – examples of conditions.
- The police (Bail and Detention) Act 2011 provides retrospectively that the police can keep someone on bail without charge for as long as they consider necessary – reverses Greater Manchester Police V Hookway 2011.

Marks	AO3
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1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
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GCE LAW - PAPER LA4

UNDERSTANDING LAW IN CONTEXT: FREEDOM, THE STATE AND THE INDIVIDUAL

OPTION 1: CONTRACT & CONSUMER LAW 1254/01

Answer **two** questions from Section A and **one** question from Section B.

SECTION A

- Q.1 Critically evaluate the protection provided to consumers who are in arrears provided by a default notice under the Consumer Credit Act 1974 (as amended).** [25]

Credit reference to:

- Arrears information and arrears notice
- Relevant citation including Section 8, Section 9, Section 11 of the Consumer Credit Act 2006
- Need for and effect of a default notice under Section 87 of the Consumer Credit Act 1974
- Non-default notice under Sections 76 and 98
- Time orders under Section 129 of the Consumer credit Act
- Protected Goods provision Section 90

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	Knowledge and Understanding
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	Skills
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Q.2 Critically evaluate the impact of Licensing in the effective regulation of consumer credit business.

[25]

Credit reference to:

- Licensing of consumer credit business is at the heart of the Consumer Credit Act 1974
- The scope of businesses covered has increased by the Consumer Credit Act 2006
- The consequences of trading without a licence and the better regulation approach
- The fitness test was expanded and became more stringent
- Variation of licences
- Powers of the Office of Fair Trading which include winding up of businesses

Marks	AO1
	Knowledge and Understanding
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Q.3 Evaluate the significance of implied terms in supply contracts involving consumers.

[25]

Credit reference to:

- The standard form contract context
- The emergence of consumerism
- The theory of freedom of contract
- Identification of appropriate consumer protection legislation

Credit will be given for relevant citation and application of statutory provisions

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	Knowledge and Understanding
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Marks	A02
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Marks	A03
3	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
2	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Q.4 Evaluate the approach taken by the Courts in awarding damages in consumer transactions. [25]

Credit reference to:

- Definition of loss
- The whole of mitigation
- The need to approach loss from the point of view of compensation
- Categories of damages and claims
- The interaction between civil law and criminal law
- Other types of release, e.g. specific performance

Candidates will be rewarded for appropriate citation

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying that subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical application of the law.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
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Marks	AO3
3	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
2	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

SECTION B

Answer **one** question.

Q.5 Study the text and answer the questions based on it.

“.....There are some 80,000 CCA (Consumer Credit Act) licence holders currently regulated by the OFT (Office of Fair Trading). Some are banks or subsidiaries of banks; many are SMEs (Small and Medium Sized Companies) and of those, some are sole traders or small partnerships. In the 2010 review of consumer credit, the Government through BIS, (Department for Business, Innovation and Skills) demonstrated that it was familiar with the operations of the large clearing banks and bank lending to consumers. However, it also demonstrated that it was far less familiar with the activities of the finance companies engaged in the asset finance market and it made many mistakes in implementing reform as it related to hire purchase. Hire purchase and consumer credit more generally are the life blood of the motor industry in this country and also of the asset finance market place for replacing industrial equipment in what has been called “rusting Britain”. There is a real danger that the continued lack of understanding of these market places in Governmental circles will lead to unworkable reform of the CCA with the consequence that finance companies now seek to re-model new business strategies whereby they abandon the business of financing consumers (in the wide sense of the CCA) with consequent problems for the motor industry and industrial suppliers. In a recent statement the Government commented that the focus of the consumer credit market was distressed finance for vulnerable customers. That is simply wrong. Consumer credit is how Mr and Mrs UK and their family fund their lives: get their credit card for shopping or book their holiday ; afford the new suite; buy the new car.”

Source: Morton Fraser Solicitors Web Site May 2012

(a) **Explain the approach adopted in England and Wales to the reform of consumer credit law.** [11]

Credit reference to:

- Concern at over indebtedness and the policy response
- The publication of a white paper, e.g. *fair, clear and competitive - the consumer credit market in the 21st century*
- The approach to the reform of the Consumer Credit Act 1974 as seen in the Consumer Credit Act 2006
- Candidates will be rewarded for appropriate citation including European Union Law

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying the subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical application of the law.

Q.5 (b) Evaluate the significance of human rights in the development of consumer law in England and Wales. [14]

Credit reference to:

- The application of the Human Rights Act
- The relationship between human rights and consumer credit law, e.g. declarations of incompatibility
- The concept of unfair relationships and human rights

Credit will be rewarded for appropriate and relevant citation

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation, making an entirely convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation, making a convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation.
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Q.6 Study the text and answer the questions based on it.

Websites must obey consumer laws OFT warns top retailers.

“More than 60 top online retailers have been urged to change their websites after a sweep found that they may not be complying with consumer protection law. The Office of Fair Trading (OFT) has written to 62 retailers ahead of the Christmas period after a check of 156 websites found problems including unreasonable restrictions on refunds, inadequate contact details and unexpected charges at the point of checkout. It has declined to name those contacted while it awaits the requested changes a spokesman said.

The sweep to check for potential breaches of Distance Selling Regulations (DSRs) found 33% of sites that provided information on cancellation appeared to impose unreasonable restrictions on refunds, most commonly requiring the product to be in its original packaging or original condition, making it difficult for customers to reasonably inspect the item. It also revealed that 60% provided a web contact form rather than an e-mail contact address, while 2% provided no electronic contact details at all. While 60% of sites indicated up-front that compulsory charges would be added to the first price shown, 24% of these added further unexpected charges at the checkout.....Cavendish Elithorn, senior director for the goods and consumer group at the OFT said “The OFT recognises that most businesses want to play fair with their customers and to comply with the law. We encourage all online retailers to check their websites so customers can be confident their rights are being respected when they shop online. Businesses can find more information on our online Distance Selling Hub.”

Source: Western Mail, 13th October 2012

(a) Explain the role of the Office of Fair Trading (OFT) in the regulation of consumer credit advertisements. [11]

Credit reference to:

- The OFT regulates consumer credit advertisements for businesses that lend money or offer other forms of credit whether secured or unsecured; businesses that act as credit brokers by introducing consumers to sources of credit, e.g. retailers or motor dealers
- The key requirements of the CCA as specifically for advertising the 2004 Regulations are that: credit advertisements must not contain false or misleading information; credit advertisements must be clear and use language which is not difficult to understand; key information such as the typical APR is easily identifiable
- The regulations define an advertiser as anyone identified by the advertisement as willing to enter into transactions to which it relates
- The role of the OFT as a “bloodhound”
- The distinction between the role of the OFT and the powers of other bodies, for example, FSA

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Q.6 (b) Evaluate the mechanisms for the reform of consumer law in England and Wales. [14]

Credit reference to:

- The role of the Law Commission with appropriate examples
- The royal Commission and its application in recent years
- The review by Judges
- The role of pressure groups on informing the approach
- The impact of reform on the development of an integrated EU consumer market

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation, making an entirely convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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GCE LAW – PAPER LA4 (A2)

UNIT 4: UNDERSTANDING LAW IN CONTEXT: FREEDOM, THE STATE AND THE INDIVIDUAL

OPTION 2: CRIMINAL LAW & JUSTICE

Answer **two** questions from Section A and **one** question from Section B

SECTION A

Q.1 "The Crown Prosecution Service is the indispensable heart of the criminal justice system." Discuss. [25]

Credit reference to:

- 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.

Marks	AO1
	Knowledge and Understanding
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Marks	AO2
	Skills
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Marks	AO3
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1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Q.2 Critically examine the distinction between insane and non-insane automatism as defences to a criminal charge. [25]

Credit reference to:

- Law relating to insanity: M'Naughten Rules.
- Elements of insanity: disease of the mind, cases such as Kemp, Bratty; defect of reason, e.g., Clarke; knowledge that the act is wrong: Windle.
- Automatism: an act done without any control of the conscious mind (Bratty); concussion, sleepwalking.
- Distinction between sane and insane automatism: internal and external causes: Quick, Sullivan, Hennessy.
- Evaluation: M'Naughten rules outdated; do not correspond to modern medical opinion; illogical results that follow from the distinction between insane and non-insane automatism and the distinction between internal and external causes.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Marks	AO2
	Skills
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Q.3 Evaluate the criteria used by the courts in deciding whether Parliament intends an offence to be one of strict liability [25]

Credit reference to:

- Nature of strict liability; distinction between strict and absolute liability, e.g., Larsonneur, Winzar.
- General presumption that mens rea is required; e.g., 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., Sweet v Parsley.
- Does the offence relate to an issue of social concern? E.g., Gammon itself, Harrow London Borough Council s 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.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Marks	AO2
	Skills
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Marks	AO3
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1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Q.4 To what extent does the youth justice system make allowances for the immaturity of young people who are accused of committing offences? [25]

Credit reference to:

- Age of criminal responsibility: at 10, this is lower than other European nations, and has been criticised by the United Nations Committee on the Rights of the Child.
- Removal of presumption of doli incapax by Crime and Disorder Act 1998.
- Young people suspected of crime: particular provisions, e.g., Code C - young people should not be interviewed or arrested at school, or held in a police cell; PACE 1984, s.55 - people 17 or under should have an appropriate adult; children under 17 who are refused bail should normally be held in local authority accommodation.
- Use of reprimands and warning: Crime and Disorder Act 1998, s.65.
- Youth conditional cautions: Criminal Justice and Immigration Act 2008 - intended to reduce number of young people brought to trial for low level offences. The young person must admit guilt and accept the caution. Conditions must be approved by the CPS - usually a fine or some form of community punishment - effectively, punishment without trial at the discretion of the police, as with adults.
- Mode of trial; youth courts staffed by specially trained magistrates; separate from adult magistrates court, only those involved in proceedings, the parents and the press may be present, no wigs and gowns, procedure less formal than adult courts, etc.
- Crown court trial: if offence charged is murder or causing death by dangerous driving, or if there is an adult co-defendant. Since *Thompson and Venables v UK* and Lord Bingham's Practice Direction 2000, the trial judge must take account of the age, maturity and intellectual and emotional development of the young person on trial, and take steps to make the experience less stressful, including altering the layout of the courtroom and discarding wigs and gowns.
- Sentencing: under the Criminal Justice and Immigration Act 2008 the court must have regard to the fact that the principal aim of the youth justice system is to prevent reoffending, the welfare of the offender, and the purposes of sentencing (punishment, reform and rehabilitation, protection of the public, and reparation). Candidates may give examples of sentences for young persons, e.g., custody, referral orders, reparation orders, supervision orders, attendance centre orders, action plan orders, curfew orders, etc.
- The Criminal Justice and Immigration Act 2008 provides for the creation of youth rehabilitation orders which allow the court to select from a list of requirements that the young offender must comply with - the idea is to make sentencing more flexible and tailored to individual needs. Youth rehabilitation orders to replace most community sentences, although referral orders are retained. The reforms should be brought into force from 2010.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Marks	AO3
3	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
2	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

SECTION B

Answer **one** question from this section.

Q.5 Study the text below and answer the questions based on it.

"A woman from Abergavenny whose bail conditions banned her from entering every shop in England and Wales admitted breaching them after being captured on CCTV entering a Tesco store. In mitigation, her solicitor told Cwmbran magistrates court that the defendant had gone into town with her sister, and that her sister had left her outside the store in charge of one of her children, who ran into the store. The breach occurred when the defendant entered the store in pursuit of the child. Her solicitor described the bail condition as an odd condition which could cause somebody to starve to death. The court renewed the defendant's bail upon the same conditions, with the added condition that she must sleep at her sister's address."

Adapted from the South Wales Argus, 4 October 2012

(a) Explain the powers of courts to grant conditional bail. [11]

Credit reference to:

- Bail Act 1976 s.3 enables Magistrates' Courts to grant bail subject to conditions. The purpose of conditions is to make sure that the defendant surrenders to bail when required, e.g. for trial, does not commit offences while on bail, does not interfere with witnesses or pervert the course of justice.
- Examples of bail conditions - surety, surrender passport, curfew, banning from certain places or areas, requirement to reside at a certain place, requirement not to contact certain people, to obtain legal advice etc.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying the subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical application of the law.

Q.5 (b) Evaluate the importance of bail in the criminal justice system. [14]

Credit reference to:

- Bail Act 1976, s.4 - the presumption in favour of bail.
- Importance of bail: principle that everyone is innocent unless proven guilty - a fundamental legal value.
- Advantages of bail: enables accused to remain free until trial, keep job, family, etc.
- Ensures that accused remains free but also ensures that he/she turns up for trial.
- Limits the numbers of people remanded in custody.
- Means that police and other elements of the justice system can have time to carry out investigations etc. while accused remains on bail.
- Evaluation - candidates can only be expected to refer to material from AS level, but should be credited for inclusion of synoptic material such as reference to Art.5 of the ECHR: right to freedom of movement, etc.

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation, making an entirely convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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Q.6 Study the text below and answer the questions based on it.

"The law of England and Wales is unusual among modern societies in that it lacks a criminal code. The Law Commission in 1989 produced a draft criminal code, but it was in many ways simply a statement of the existing law, together with some proposals for reform which were open to criticism. Accordingly, the Law Commission adopted a policy of reviewing areas of the criminal law one by one, so that they could be modernised before being assembled into a Criminal Code. In its 10th Programme the Law Commission took the opportunity to reconsider whether projects with codification of the criminal law from its programme, and introduced a new item of undertaking projects to *simplify* the criminal law. However, the Law Commission has reiterated its commitment to the eventual codification of the criminal law at some time in the future."

Adapted from the Law Commission's website (visited 08 10 2012)

(a) Explain the arguments for and against codification of the criminal law. [11]

Credit reference to:

Arguments against:

- loss of opportunity for the courts to develop the law to mitigate injustice
- loss of flexibility in developing the law to meet social change
- arguments from academics and judges that the legal structure/system of England and Wales is not designed for codification
- incompatible with common law system

Arguments for:

- clarification of the actus reus of offences
- clarification of the meaning of mens rea
- uniformity in the interpretation and application of the law
- removal of inconsistencies in the law
- bringing the criminal law into line with the Human Rights Act 1998

(b) Evaluate the effectiveness of law reform agencies in bringing about law reform in England and Wales. [14]

- The role of the Law Commission in developing the law
- Law Commission Act 2009
- Functions of the Law Commission identifying anomalies modernising agenda
- The relationship of the Law Commission to the government
- Publication of reports and draft bills
- Lack of progress towards codification of the criminal law
- The significance of Royal Commissions and Public Inquiries
- The Criminal Law Revision Committee
- Difficulties agencies face, e.g. lobby groups; parliamentary sovereignty, future political parties changing reforms, e.g. legal aid
- Alternative methods of law reform. e.g. pressure groups; treaty obligations; [political parties and civil servants

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1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
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Marks	AO2
	Skills
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GCE LAW – PAPER LA4 (A2)

UNIT 4: UNDERSTANDING LAW IN CONTEXT: FREEDOM: THE STATE AND THE INDIVIDUAL

OPTION 3: FREEDOM OF THE INDIVIDUAL AND PROTECTION OF HUMAN RIGHTS

Answer **two** questions from Section A and **one** question from Section B

SECTION A

Q.1 "The introduction of a Bill of Rights would overcome the limitations of the Human Rights Act 1998." Discuss. [25]

Credit reference to:

- 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 50 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 might make the government more accountable for its actions if these could be challenged.
- Arguments against a bill of rights: gives judges too much power.
- Makes it very difficult to bring about arguably desirable changes, e.g. gun control in the USA.
- A bill of rights can become ossified and out of date.
- A bill of rights is no guarantee of protecting human rights – tends towards a due process model, as in USA, where the authorities can do as they like so long as the procedures are formally compliant with the constitution.

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	Knowledge and Understanding
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	Skills
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Marks	AO3
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Q.2 To what extent does the Equality Act 2010 provide a comprehensive system of protection against unjustifiable discrimination? [25]

Credit reference to:

- Equality Act 2010 – codifies and clarifies previous legislation.
- Protected categories – sex, race/ethnicity, religion, age, disability, sexual orientation, gender reassignment, marital status, pregnancy, maternity.
- Meaning of direct discrimination with examples from case law.
- Meaning of indirect discrimination with examples from case law.
- Discrimination on the basis of presumed characteristics.
- Discrimination on grounds of association (e.g, carers).
- Victimisation.
- Harassment.
- Post-employment discrimination.
- Remedies: Employment Tribunal can now make recommendations going beyond the instant case.

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	Knowledge and Understanding
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	Skills
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Q.3 To what extent does the law of England and Wales provide citizens with protection against intrusion into their privacy by the media? [25]

Credit reference to:

- The outcome of the Leveson Inquiry into media standards, which will presumably be known by June 2014.
- At present there is no specific right to privacy in the law of England and Wales: *Kaye v Robertson*.
- Art.10 of the ECHR gives the right to freedom of expression and the ECtHR has frequently affirmed the high importance which it attaches to freedom of the press, e.g. *Goodwin v UK*.
- Section 12(4) of the HRA 1998 states that UK courts must have particular regard to the convention right to freedom of expression, and where the material in question is journalistic, literary or artistic material, to the extent to which is in the public interest for it to be published, and any relevant privacy code.
- Art.8 of the European Convention on Human Rights: “Everyone has the right to respect for his private and family life, his home and his correspondence”. The possibility of using Art.8 to protect against media intrusion was recognised by the ECtHR in *Spencer v UK* (1998), where the Court said that contracting states are obliged to provide a measure of protection to the right of privacy of an individual affected by others’ exercise of their right to freedom of expression. This was confirmed in *von Hannover v Germany* (2005) where the ECtHR ruled there was an infringement of the privacy of Princess Caroline of Monaco by publication of photos of her in the German press. The photos did not contribute to any debate in the public interest, and so the right to privacy prevailed over the right of the press to freedom of expression under Art.10. These decisions are ones which the courts of England and Wales ought to take into account under the HRA 1998, s.2.
- In the absence of a specific right to privacy a claimant may be able to use the law on defamation, malicious falsehood, trespass, nuisance, copyright or breach of confidence.
- Breach of confidence has been developed by the courts so as to provide some protection for privacy.
- Expansion of breach of confidence – courts have dropped the requirement to find a specific relationship of confidence between the parties – a duty of confidence will arise whenever the person subject to the duty knows, or ought to know, that the claimant can reasonably expect his privacy to be protected: Lord Woolf in *A v B and C*; Lord Goff in *A-G v Guardian Newspapers (No.2)*
- *Venables v News Group Newspaper* – confidence can arise independently of any relationship between the parties – injunctions imposed to protect the claimants’ rights under Art.2 and Art.3.
- Examples of cases: *Prince Albert v Strange*; *Argyll v Argyll*; *Stephens v Avery*; *Douglas v Hello!*; *Campbell v MGN*; etc.
- Recent use of “super injunctions” to protect the identity of the claimant.

Marks	AO1
	Knowledge and Understanding
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Marks	AO2
	Skills
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Q.4 "The safeguards surrounding the powers of the police to conduct secret surveillance are inadequate." Discuss. [25]

- Art.8 of the ECHR gives a right to a private and family life - a qualified right which can be restricted, inter alia, for the prevention of disorder or crime.
- Candidates may mention the background to current legislation regulating surveillance; cases such as Malone v UK, Khan v UK.
- Candidates should refer to the Police Act 1997 and the Regulation of Investigatory Powers Act 2000.
- Police Act 1997 III, give police power to enter premises and plant surveillance devices without a warrant (the "bug and burgle" power).
- Section 93 give power to enter premises without a warrant and interfere with wireless telegraphy.
- Section 92 give absolute immunity against criminal prosecution or civil suit for any action authorised under the Act.
- Authorisation can be given by the Chief Constable or Assistant Chief Constable (s.94).
- Basis for authorisation: that the authorising officer believes the action to be necessary because it will be a substantial value in the prevention or detection of serious crime, and that the action is proportionate (s393(2)).
- "Serious crime" is widely defined as crime which involves the use of violence or results in substantial gain, or is conduct by a larger number of persons in pursuit of a common purpose. The offence must be for which a person over 21 with no previous convictions could expect a sentence of 3 years or more.
- Authorisation should normally be in writing, but may be given orally in certain cases by the Chief Constable. A written authorisation lasts 3 months; one issued orally lasts 72 hours, and either can be renewed in writing for a further
- 3 months without limit on the number of renewals.
- Procedures under the Police Act 1997 are supervised by the Surveillance Commissioners, headed by the Chief Surveillance Commissioner (a senior judge). The Chief Surveillance Commissioner reviews actions taken and makes an annual report to parliament. This can be edited by the Prime Minister before it is presented.
- Every authorisation must be notified to a Commissioner.
- Prior approval must be obtained from a Commissioner if the property is a dwelling house, a hotel bedroom or offices premises, or if the action is likely to reveal matters which are subject to legal privilege, confidential personal information or confidential journalistic information. Prior approval can be dispensed with in urgent cases.
- Regulation of Investigatory Powers Act 2000, Part II, provides the legal basis for actions not covered by the PA 1997, and also deals with covert surveillance.
- Covert surveillance is defined (s.26) to include monitoring observing and listening to people's movements, conversations or other activities, recording anything monitored, etc., and the use of electronic surveillance devices.
- Section 26 draws a distinction between surveillance and intrusive surveillance.
- Directed surveillance is surveillance conducted for the purposes of a particular operation which is likely to result in obtaining private information about a person. Directed surveillance can be authorised by a superintendent or in urgent cases, by an inspector.

- Intrusive surveillance involves placing surveillance devices in residential premises or a private vehicle. It requires authorisation from a chief constable under a system similar to the authorisation procedure under the Police Act 1997. Authorisation lasts for 3 months and can be renewed indefinitely.
- Powers to conduct directed surveillance are given to a wide range of bodies including the Department of Social Security, Department of Trade and Industry, and also to local authorities.
- There is a Tribunal, the RIPA Tribunal, which hears complaints. It is the only body which has jurisdiction in proceedings brought under the HRA 1998, and ousts the jurisdiction of the ordinary courts. The Tribunal can only consider whether authorisation was validly given, and not whether the action itself was justified. It can give no reasons for its decision, and there is no appeal.
- In theory, the Tribunal has power to order the cessation of surveillance and destruction of such material already obtained as it is not needed by the police. However, most targets are not aware they are under surveillance, and it is impossible to show that surveillance was undertaken without authorisation. It is believed that no complaint from a member of the public has ever succeeded.

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7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Marks	AO3
3	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
2	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

SECTION B

Answer **one** question.

Q.5 Study the text below and answer the questions based on it.

“Freedom of speech is the lifeblood of democracy. The free flow of information and ideas inform political debate. It is a safety valve: people are more ready to accept decisions that go against them if they can, in principle, seek to influence them. It acts as a brake on the abuse of power by public officials. It facilitates the exposure of errors in the governance and administration of justice of the country...”

Lord Steyn in R v Secretary of State for the Home Department, ex p. Simms (2000) 2 AC 115 at 126.

(a) Explain how freedom of speech is protected in the law of England and Wales. [11]

Credit reference to:

- Art. 10(1) of the ECHR: everyone has the right to freedom of expression, including the freedom to hold opinions and to receive and impart information.
- Art. 10(2) states that since the exercise of these freedoms carries with it duties and responsibilities, it may be subject to ‘such conditions or restrictions as are prescribed by law and necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the rights or reputation in confidence, or for maintaining the authority and impartiality of the judiciary’. (candidates are not expected to reproduce Art. 10(2) verbatim – just the essence is sufficient.)
- The ECtHR has stressed the importance of freedom of expression as a mainstay of liberal democratic society: Handyside.
- Wide meaning given to “expression” – includes speech, written material, demonstrations, artistic expression, political expression e.g. Bowman v UK (giving money to support anti-abortion candidate), commercial expression such as advertising, e.g. R (British American Tobacco) v Sec of State for Health held by High Court to be protected.
- The courts of the UK are obliged to act compatibly with Convention rights in any case where those rights are an issue: s.6 of the HRA 1998.
- Indigenous tradition of free speech within UK law: limited by crimes such as those involving obscenity, blasphemy (now abolished), defamation, breach of confidence, etc.
- Recent upsurge in limitations on freedom of speech in the social media: prosecutions for racist or offensive speech using public order provisions.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying the subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical applications of the law.

Q.5 (b) Evaluate the role of the courts in upholding the Rule of Law.

[14]

Credit reference to:

- Role of the courts under the HRA 1998.
- Limitation on effectiveness of courts in protecting human rights: they are subordinate to Parliament and cannot ignore legislation which has been properly passed (*British Railways Board v Picken*).
- Possible exception to the above: where legislation is in conflict with UK's legal obligations under EU law (*Factortame* case).
- HRA has given courts a more central role in protecting human rights.
- Cases where the courts have been willing to challenge the government in defence of human rights.

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation, making an entirely convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
7-10	Candidates demonstrate an adequate evaluation of how the law operates, or a generally accurate and substantiated application of the law to a given factual situation, making a convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question and support their conclusions by citation.
3-6	Candidates demonstrate a limited evaluation of some of the points of how the law operates, or apply the law to a given factual situation in a partly accurate and occasionally unsubstantiated way, making a limited synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through a limited selection of legal authorities and limited ability to apply the law to a given question.
0-2	Candidates demonstrate a basic evaluation of one of the simpler points of how the law operates or apply the law to a given factual situation in a generally inaccurate and unsubstantiated way, making some basic synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. There will be little or no reference to legal authorities and points will not be developed. There will be very limited evidence of structure in the candidate's response.

Q.6 Study the text below and answer the questions based on it.

“The European Court of Human Rights treats the Convention as a living instrument which must be interpreted in the light of present day conditions. This means that the doctrine of precedent does not operate in the way that stare decisis operates in Common Law jurisdictions. Instead, the Court regards its previous decisions as a starting-point rather than as binding precedent and any part of the judgment may provide guidance for the interpretation of the Convention in later cases.”

(a) Explain the nature of the European Convention on Human Rights. [11]

Credit reference to:

- Origins and nature of the ECHR: Treaty of Rome produced by the Council of Europe and signed in 1950 in the wake of World War II.
- European Court of Human Rights in Strasbourg.
- Enforcement – under Art.33, a state which is a party to the ECHR may bring an application against another state which is a party, e.g. Ireland v UK. Under Art. 34, individuals, groups of individuals or non-government organisations may bring an application alleging they are a victim of a violation by a member State.
- Issue of a judgement that state’s laws are in contravention of the ECHR imposes an obligation upon that state under international law to bring its law into line with the ECHR.
- Content of the ECHR: examples of Articles.
- Limitations of the ECHR, e.g. it does not deal with political and social rights, states may derogate from the ECHR under Art.15, the majority of articles give qualified and not absolute rights.
- Horizontal and vertical effect: application can only be brought against a member state, but indirect horizontal effect may follow from the obligation for the law of a state to comply with the ECHR.
- Significance of the ECHR in UK law: is enshrined in UK law via the Human Right Act 1998; judges obliged to interpret the law in a way which is compatible with Convention rights and have regard to Strasbourg jurisprudence.

Marks	AO3
2	Presents a wholly logical and coherent argument and provides clear application using appropriate legal terminology. This does not mean that there are no errors in grammar, punctuation and spelling but these will only be occasional.
1	Presents a mostly logical and coherent argument and provides a reasonably adequate application using appropriate legal terminology. Whilst there may be errors in grammar, punctuation and spelling, these are not enough to detract from a mostly effective communication of meaning.

Marks	AO1
	Knowledge and Understanding
8-9	Candidates display a sound knowledge and understanding of the subject content relevant to the question and a good perception of the concepts and principles underlying that subject content. They display a sound understanding of the practical application of the law and are aware of current debate and criticism including the major proposals for reform.
6-7	Candidates display an adequate knowledge and understanding of the subject content relevant to the question and have a perception of some of the concepts and principles underlying that subject content. They display a general understanding of the practical application of the law and are aware of aspects of current debate and criticism.
3-5	Candidates display a limited knowledge and understanding of the subject content relevant to the question with limited insight into some of the concepts and principles underlying the subject content. They display a limited understanding of the practical application of the law and are aware in general terms of some of the current criticisms.
0-2	Candidates display a basic knowledge and understanding of the subject content relevant to the question and/or identify some of the relevant principles. They demonstrate occasional basic insights into some of the concepts and principles underlying the subject content. They display a basic understanding of the practical applications of the law.

Q.6 (b) Evaluate the operation of judicial precedent in the law of England and Wales. [14]

Credit reference to:

- Explanation of precedent: stare decisis – decisions of higher courts are binding on lower courts in like cases
- Types of precedent: original, binding and persuasive precedent
- Hierarchy of the criminal courts: Supreme Court follows its own previous decisions; Court of Appeal bound by Supreme Court and own previous decisions apart from exceptions in *Young v Bristol Aeroplane*; Divisional Court bound by same rules as Court of Appeal (Criminal Division) when hearing appeals by way of case stated; Crown Court and Magistrates' Court bound by superior courts and do not make precedent themselves.
- Practice statement of 1966: Supreme Court can depart from a previous decision where it appears right to do so. e.g, *Anderton v Ryan* overruled by *Shivpuri*. Court of Appeal (Criminal Division) will also depart from its own previous decisions to avoid an injustice.
- Following, distinguishing, disapproving, avoiding, overruling, reversing.
- Importance of precedent generally: promotes consistency in the law; promotes rationality because it requires judges to give reasons for their decisions; promotes fairness because like cases are treated alike; enables people to know what the law is and assess the legal consequences of their actions; assists lawyers to advise clients, etc.
- Importance of precedent in criminal law: enables the superior courts to adjust (sometimes change) the criminal law when necessary to achieve justice.
- Examples of precedent and departure from precedent in criminal cases, e.g. *Maloney*, *Nedrick*, *Hancock and Shankland*, *Woollin*, *Majewski*, *Gladstone Williams*, etc. credit should be given for all relevant material including effect of decisions of the European Court of Human Rights, other jurisdictions, etc.

Marks	AO3
1	Presents effective communication using appropriate legal terminology. Nonetheless, there may be several errors in grammar, punctuation and spelling, although not enough to detract from communication of meaning.
0	Fails to communicate and present logical argument, including inadequate use of legal terminology. There are significant errors of grammar, punctuation and spelling which detract from communication of meaning.

Marks	AO2
	Skills
11-13	Candidates demonstrate a sound evaluation of how the law operates, or an accurate and well-substantiated application of the law to a given factual situation, making an entirely convincing synoptic connection with elements of skills gained in understanding legal reasoning, personnel and methods and understanding legal values, structures and processes. This is achieved through their selection of legal authorities, by appropriate methodologies and by their ability to apply the law to a given question. They support their conclusions by citation, analysis and analogy.
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