

GCE 2003  
*June Series*



# Mark Scheme

## Law – Unit Five *(LAW5)*

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Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

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

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*Dr Michael Cresswell Director General*

## Assessment Objectives One and Two

### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of candidates, mainly 18 years old, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.*

### **Positive Marking**

*You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.*

### **Mark Range**

*You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.*

### **Levels of Response for Essay Marking**

*When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?*

### **Citation of Authority**

*Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.*

### Assessment Objective Three

#### Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- Level 3** Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling. **8-10 marks**
- Level 2** Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning. **4-7 marks**
- Level 1** Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning. **1-3 marks**
- Level 0** Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning. **0 marks**

**1****Total for this question: 75 marks**

(a) Discuss Andy's criminal liability arising out of the way in which he got the soft drink.

(25 marks)

**Potential Content**

- (A) Explanation of the offence of evading liability by deception (possible additional or alternative explanations of offence(s) of obtaining property by deception and theft)
- (B) Explanation of the offence of making off without payment
- (C) Explanation of the defence of intoxication

**Mark Bands**

- 21 – 25      The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20      The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**or**  
 clearly explains and applies any two of (A) – (C) (**max 18**) and makes some reference to the other.
- 11 – 15      The candidate shows clear understanding of the appropriate rules of law in two of (A) – (C), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies (A) (**max 13**) or (B) (**max 13**) with some reference to the other or to (C)  
**or**  
 there is a more balanced approach in which some explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion (**max 13** for 2 only).
- 6 – 10      The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5      The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
 Though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0      The candidate presents no information relevant to the question.

- (b) Discuss Andy's criminal liability for **property** offences arising out of the subsequent incidents in the cinema. (25 marks)

### Potential Content

- (A) Explanation of the offence of burglary under s9(1)(a), in particular, of the need for trespassory entry and for an intention to commit a specific offence at the time of entry
- (B) Explanation of the offence of burglary under s9(1)(b), in particular, of the need to prove many of the elements as in s 9(1)(a), and, in addition, the offence of inflicting grievous bodily harm; self defence issues
- (C) Explanation of the offence of criminal damage, including both the meaning of damage and the *mens rea* requirement as incorporating *Caldwell* recklessness
- NB** Appropriate discussion of intoxication enhances treatment of any or all above.
- NB** Appropriate discussion of personal injury may enhance an answer.

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20            The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**Or**  
clearly explains and applies any two of (A) – (C) (**max 18**) and makes some reference to the other.
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in two of (A) – (C), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
the answer clearly explains and applies any one of (A) – (C) (**max 13**) with some reference to another  
**or**  
there is a more balanced approach in which some explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion (**max 13** for 2).
- 6 – 10             The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5      The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0            The candidate presents no information relevant to the question.

- (c) How far would you agree that there have been few problems with the interpretation of the property offences contained in the Theft Acts 1968 and 1978? (25 marks)

**Potential Content**

- (A) Explanation and evaluation of Theft Act 1968 offences – this could involve a detailed survey of one offence, or a less detailed survey of two or more offences
- (B) Explanation and evaluation of Theft Act 1978 offences – this could involve a detailed survey of one offence, or a less detailed survey of two or more offences

**Mark Bands**

- 21 – 25 The candidate demonstrates the ability to soundly explain and evaluate as in both (A) and (B), though there may be greater emphasis on the one than the other.
- 16 – 20 The candidate shows clear understanding of both (A) and (B), though there may be some hesitation in explanation and/or in evaluation of either or both  
**or**  
deals soundly with (A) (**max 18**) or with (B) (**max 18**).
- 11 – 15 The answer shows clear understanding of aspects of either (A) or (B), integrating explanation with some evaluation or discusses both (A) and (B) with very limited explanation or evaluation, so that the answer tends either to lack a critical perspective or to lack a sufficiently sound explanatory framework for the evaluation attempted (**max 12** for 1 only).
- 6 – 10 The candidate begins to indicate some capacity for explanation and/or evaluation by introducing consideration of some appropriate aspects of (A) – (B) but the explanations and/or evaluation are very limited and superficial.
- 1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and/or evaluation can emerge  
**or**  
though the candidate attempts to introduce explanation and/or evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.



2

**Total for this question : 75 marks**

- (a) Discuss David's criminal liability in connection with the incidents involving his return to Cherreem's premises to photocopy the information. (25 marks)

**Potential Content**

- (A) Explanation of the offence of burglary under s9(1)(a) and s9(1)(b)
- (B) Explanation of the offence of theft, emphasising analysis of the meaning of 'property' and the *mens rea* of theft
- (C) Explanation of the offence of robbery

**Mark Bands**

- 21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20 The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**Or**  
Clearly explains and applies any two of (A) – (C) (**max 18**) and makes some reference to the other.
- 11 – 15 The candidate shows clear understanding of the appropriate rules of law in two of (A) – (C), but is unable to extend the analysis to achieve application of the rules to the facts  
**Or**  
the answer clearly explains and applies any one of (A) – (C) (**max 13**) with some reference to another  
**or**  
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion (**max 13** for 2 only).
- 6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
Though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) Discuss **Emma's** criminal liability in connection with the cheque for £500, and David's criminal liability in connection with the removal of the light bulbs. (25 marks)

### Potential Content

- (A) Explanation of the offence of theft, emphasising issues of 'appropriation' and 'property'
- (B) Explanation of the defence of duress
- (C) Explanation of the offences of basic and aggravated criminal damage

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20            The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**or**  
 Clearly explains and applies (A) and either (B) (**max 18**) or (C) (**max 18**) and makes some reference to the other.
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in two of (A) – (C), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies any one of (A) – (C) (**max 13**) with some reference to another  
**or**  
 there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion (**max 13** for 2 only).
- 6 – 10            The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0            The candidate presents no information relevant to the question.

(c) Analyse critically **either** the *actus reus* **or** the *mens rea* of the offence of theft. (25 marks)

### Potential Content

- (A) Reconsideration and evaluation of the meaning of one element of the *actus reus* in theft (appropriation or property or belonging to another)  
**or**  
 Reconsideration and evaluation of the meaning of dishonesty, perhaps focusing on the issue of whether dishonesty should be a matter of fact or law, and the implications of the current **Ghosh** test
- (B) Reconsideration and evaluation of the meaning of a second element of the *actus reus* of theft (appropriation or property or belonging to another)  
**or**  
 Reconsideration and evaluation of the meaning of intention permanently to deprive. The answer may consider issues such as the difficulties in interpreting s6 and whether an intention of *permanent* deprivation should be required at all

*Note:* Discussion of the *actus reus* of theft which deals with all three elements can be expected to be a little more superficial in explanation and/or evaluation of the individual elements.

### Mark Bands

- 21 – 25 The candidate demonstrates the ability to reconsider and evaluate both (A) and (B). Though there may be an imbalance in treatment as between the two, the answer will be coherent and sound.
- 16 – 20 The candidate demonstrates the ability to reconsider and evaluate either (A) (**max 17**) or (B) (**max 17**) and to discuss the other more tentatively  
**or**  
 to deal perceptively with both but with some hesitancy in evaluation.
- 11 – 15 The candidate demonstrates the ability to reconsider and evaluate either (A) or (B)  
**or**  
 Discusses both but with some superficiality in explanation and/or evaluation, so that, though coherent, the arguments appear tentative and incomplete.
- 6 – 10 The candidate begins to indicate some capacity for reconsideration and/or evaluation by introducing discussion of any of the material in (A) – (B) but any explanations and evaluation are limited and superficial.
- 1 – 5 The candidate merely introduces fragments of information from which no coherent reconsideration and evaluation can emerge  
**or**  
 Though the candidate attempts to introduce reconsideration and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

## Tort

3

Total for this question: 75 marks

- (a) Consider what rights and indicate what remedies the residents may have against Frank. (25 marks)

**Potential Content**

- (A) Explanation of the tort of nuisance, concentrating on private nuisance but perhaps with reference to public nuisance
- (B) Explanation of the tort in *Rylands v Fletcher*, including the defence of act of stranger
- (C) Indication of possible remedies for (A) and (B)

**Mark Bands**

- 21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 – 20 The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**or**  
 clearly explains and applies (A) and (B)  
**or**  
 clearly explains and applies (A) and (C) (**max 17**) or (B) and (C) (**max 17**) and makes some reference to the other.
- 11 – 15 The candidate shows clear understanding of the appropriate rules of law in two of (A) – (C), but is unable to extend the analysis to achieve application of the rules to the facts (**max 12** for (A)/(C) or (B)/(C))  
**or**  
 the answer clearly explains and applies (A) or (B)  
**or**  
 there is a more balanced approach in which some explanation, analysis and application are present in two of (A) – (C), but the answer is a little superficial or suffers from some confusion (**max 12** for (A)/(C) or (B)/(C)).
- 6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5      The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
Though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0            The candidate presents no information relevant to the question.

(b) Consider what rights Gita may have against Frank.

(25 marks)

### Potential Content

(A) Explanation of the liability in tort for negligent misstatement, including the context (liability for words and for pure economic loss) and the special duty requirements

(B) Explanation of the elements of vicarious liability

(C) Outline indication of the remedy of damages available

**NB** Discussion of (C) enhances answers (consider higher mark in band or higher band)

### Mark Bands

21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A)-(B), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.

16 – 20 The candidate soundly explains and applies the rules of law in (A) and makes some reference to (B)

**or**

Clearly explains and applies (A), and (B).

11 – 15 The candidate shows clear understanding of the appropriate rules of law in (A), but is unable to extend the analysis to achieve application of the rules to the facts

**or**

the answer clearly explains and applies (B) with little or no framework in (A) **(max 13)**

**or**

there is a more balanced approach in which explanation, analysis and application are present in (A) – (B), but the answer is a little superficial or suffers from some confusion.

6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial

**or**

the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge

**or**

though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.

0 The candidate presents no information relevant to the question.

**NB** Where the candidate deals solely with Frank, ignoring Henry's role, apply the following:

21-25 Sound explanation and application of (A)

16-20 Clear explanation and application of (A)

11-15 Some explanation and application of (A) **or** clear explanation of (A) (no application)

- (c) Discuss the suggestion that the English law of tort has failed to ensure that claimants have adequate rights to compensation for economic loss. (25 marks)

### Potential Content

- (A) (Re)consideration and evaluation of the significance of the distinction between economic loss consequent on physical damage and pure economic loss
- (B) (Re)consideration and evaluation of the significance of the distinction between acts and statements causing economic loss
- (C) Reconsideration and evaluation of the special requirements in relation to statements causing economic loss

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to reconsider and evaluate any two of (A)-(C), so that a sustainable conclusion is presented. Discussion of all three may compensate for minor deficiencies in the treatment of all or any.
- 16 – 20            The candidate demonstrates the ability to reconsider and evaluate any one of (A) – (C) and to discuss tentatively any other  
**or**  
to deal perceptively with any two but with hesitant evaluation. Conclusions will be limited but related to the arguments presented.
- 11 – 15            The candidate demonstrates the ability to reconsider and evaluate any one of (A) – (C)  
**or**  
discusses any two but in which any explanations and/or evaluation remain hesitant. Where discussion of all three is present, there will be some confusion and increasing superficiality. Any conclusions advanced will be very limited and not well related to arguments presented.
- 6 – 10             The candidate begins to indicate some capacity for reconsideration and/or evaluation by introducing discussion of any of the material in (A) – (C) but the explanations and evaluation are limited and superficial.
- 1 – 5                The candidate merely introduces fragments of information from which no coherent reconsideration and evaluation can emerge  
**or**  
Though the candidate attempts to introduce reconsideration and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                     The candidate presents no information relevant to the question.



4

**Total for this question: 75 marks**

(a) Consider what rights and indicate what remedy Ken may have against Javed. (25 marks)

**Potential Content**

(A) Explanation of the liability of an occupier, distinguishing between liability to visitors and to trespassers, and concentration on liability under the 1984 Act (possible alternative explanation in the tort of negligence and vicarious liability)

(B) Explanation of the defence of contributory negligence

(C) Outline indication of the remedy of damages available

**NB** Discussion of (C) enhances treatment of any or all above

**Mark Bands**

21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (B), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.

16 – 20 The candidate soundly explains and applies the rules of law in (A) (**max 18**) and makes some reference to (B)

**or**

clearly explains and applies (A) and (B)

**or**

clearly explains and applies (A) (**max 16**)

11 – 15 The candidate shows clear understanding of the appropriate rules of law in (A), but is unable to extend the analysis to achieve application of the rules to the facts (**max 13**)

**or**

the answer explains and applies (B) with a very weak framework in (A) (**max 13**)

**or**

there is a more balanced approach in which some explanation, analysis and application are present in (A) – (B) but the answer is a little superficial or suffers from some confusion.

6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial

**or**

the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge

**or**

Though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.

0 The candidate presents no information relevant to the question.

(b) Consider what rights Mike and Nicola may have against Javed.

(25 marks)

### Potential Content

- (A) General explanation of the approach to liability for psychiatric injury, distinguishing between physical and psychiatric injury, identifying the meaning of psychiatric injury and indicating the distinction between primary and secondary victims
- (B) Explanation of the rules on liability to primary victims and to secondary victims

### Mark Bands

- 21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (B), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 – 20 The candidate soundly explains and applies (B)  
**or**  
 the candidate shows clear understanding of the rules of law in (A) and (B), but is a little hesitant in developing the application required, or vice versa.  
**or**  
 soundly explains and applies (A) and clearly explains and applies (B).
- 11 – 15 The candidate shows clear understanding of the appropriate rules of law in (A) and (B), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer soundly explains and applies (A) or clearly explains and applies (B)  
**or**  
 the answer clearly explains and applies (A) (**max 13**) and refers to (B)  
**or**  
 there is a more balanced approach in which explanation, analysis and application are present in (A) and (B) but the answer is a little superficial or suffers from some confusion.
- 6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (B) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) Discuss the suggestion that the English law of tort has developed in such a way to ensure that claimants have appropriate rights to compensation for psychiatric injury. (25 marks)

**Potential Content**

- (A) (Re)consideration and evaluation of the significance of the distinction between physical and psychiatric injury, and the meaning of the latter
- (B) Reconsideration and evaluation of the significance of the distinction between primary and secondary victims
- (C) Reconsideration and evaluation of the special requirements where the claimant is classified as a secondary victim

**Mark Bands**

- 21 – 25 The candidate demonstrates the ability to reconsider and evaluate any two of (A) – (C), so that a sustainable conclusion is presented. Discussion of all three may compensate for minor deficiencies in the treatment of all or any.
- 16 – 20 The candidate demonstrates the ability to reconsider and evaluate any one of (A) – (C) and to discuss tentatively any other  
**or**  
to deal perceptively with any two but with hesitant evaluation. Conclusions will be limited but related to the arguments presented.
- 11 – 15 The candidate demonstrates the ability to reconsider and evaluate any one of (A) – (C)  
**or**  
Discusses any two but in which any explanations and/or evaluation remain hesitant. Where discussion of all three is present, there will be some confusion and increasing superficiality. Any conclusions advanced will be very limited and not well related to arguments presented.
- 6 – 10 The candidate begins to indicate some capacity for reconsideration and/or evaluation by introducing discussion of any of the material in (A) – (C) but the explanations and evaluation are limited and superficial.
- 1 – 5 The candidate merely introduces fragments of information from which no coherent reconsideration and evaluation can emerge  
**or**  
though the candidate attempts to introduce reconsideration and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

### Protection of Human Rights

5

Total for this question: 75 marks

- (a) Considering both English law and the law of the European Convention on Human Rights, discuss what rights Pat may have against Oliver, **and** what rights Pat and her mother may have to stop further enquiries and revelations being made. (25 marks)

#### Potential Content

- (A) Explanation of the duty of confidentiality, issues of public interest, the distinction between public figures and others
- (B) Explanation of the requirements of the Human Rights Act 1998 in relation to the European Convention on Human Rights: in particular, explanation of the right to respect for private and family life, home and correspondence contained in Article 8.1 of the Convention and the limitations and restrictions which may be justified under Article 8.2.
- (C) Explanation of the requirements of the Human Rights Act 1998 in relation to the European Convention on Human Rights: in particular, explanation of the right to freedom of expression contained in Article 10.1 of the Convention and the limitations and restrictions which may be justified under Article 10.2.

#### Mark Bands

- 21 – 25      The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20      The candidate soundly explains and applies (A) (**max 18**) and presents some discussion of (B) and/or (C), though the discussion is not fully integrated with the analysis of (A)  
**or**  
 Soundly explains and applies (B) with some discussion of (A) and/or (C) (**max 16**)  
**or**  
 Shows clear understanding of the rules of law in (A), and in (B) or (C), but is a little hesitant in developing the application required, or vice versa.
- 11 – 15      The candidate shows clear understanding of the appropriate rules of law in (A), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 The answer clearly explains and applies (B) (**max 13**) or (C) (**max 12**)  
**or**  
 the answer indicates some understanding of two of (A) – (C) but the explanations and/or application are not fully developed (**max 11** for 1).

- 6 – 10            The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

- (b) Explain, and discuss the application of, rules of English law and the law of the European Convention on Human Rights in relation to the incidents which occurred at the premises of the *Morning News*. (25 marks)

### Potential Content

- (A) Explanation of public order issues, including Public Order Act 1986 offences, breach of the peace and police powers, harassment, etc
- (B) Explanation of the requirements of the Human Rights Act 1998 in relation to the European Convention on Human Rights: in particular, explanation of the right to freedom of assembly and association contained in Article 11.1 of the Convention and the limitations and restrictions which may be justified under Article 11.2.
- (C) Explanation of the requirements of the Human Rights Act 1998 in relation to the European Convention on Human Rights: in particular, explanation of the right to freedom of expression contained in Article 10.1 of the Convention and the limitations and restrictions which may be justified under Article 10.2.

### Mark Bands

- 21 – 25      The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20      The candidate soundly explains and applies (A) (**max 18**) and presents some discussion of (B) and/or (C), though the discussion is not fully integrated with the analysis of (A)  
**or**  
 Soundly explains and applies (B) with some discussion of (A) and/or (C) (**max 16**)  
**or**  
 Shows clear understanding of the rules of law in (A), and in (B) or (C), but is a little hesitant in developing the application required, or vice versa.
- 11 – 15      The candidate shows clear understanding of the appropriate rules of law in (A), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies (B) or (C)  
**or**  
 the answer indicates some understanding of two of (A) – (C) but the explanations and/or application are not fully developed (**max 12** for 1).

- 6 – 10            The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

- (c) Discuss the suggestion that English law correctly values the right to privacy above the right to freedom of expression. (25 marks)

### Potential Content

- (A) General explanation and evaluation of the need to strike a balance between the right to privacy and the right to freedom of expression, and consideration of how and where the balance might be struck
- (B) Reconsideration of the existing actions which tend towards, or amount to, a right to privacy (including the effect of Article 8), in the light of (A)
- (C) Reconsideration of the requirements of Article 10 and of relevant Human Rights Act 1998 provisions on the right to freedom of expression, in the light of (A)

### Mark Bands

- 21 – 25      The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in (B) and (C) so as to reach a sustainable conclusion, though there may be some imbalance in treatment as between these elements.
- 16 – 20      The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in either (B) or (C) (**max 16**), and with a more tentative examination of the other  
**or**  
 explores the approach as in (B) and (C) (**max 16**) but against a much more tentative exploration of the framework in (A). Any conclusion advanced will be a little tentative or a little undermined by incomplete integration of the elements.
- 11 – 15      The candidate explores the issues by reference to any two of (A)-(C)  
**or**  
 deals with any one of (A)-(C) (**max 13**)  
**or**  
 attempts a more balanced approach in which some explanation of the framework in (A) and exploration of the approach of the current law as in (B) and (C) are present but in which the answer is a little superficial or suffers from some confusion. Any conclusions advanced will be limited and not well related to evidence presented.
- 6 – 10      The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A) – (C) but the explanations and evaluation are limited and superficial.
- 1 – 5      The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge  
**or**  
 though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0              The candidate presents no information relevant to the question.



6

**Total for this question: 75 marks**

- (a) Discuss Rudi's rights against Sam and consider the possible liability of persons such as Tara. Include in your answer, a discussion of the effect of the Human Rights Act 1998 and of the European Convention on Human Rights. (25 marks)

**Potential Content**

- (A) Explanation of the tort of defamation (discussion of confidentiality issues in relation to the document is not a requirement but may enhance answers)
- (B) Explanation of the criminal and civil law of harassment and an indication of other possible wrongs, such as Public Order Act offences and the tort of trespass (be prepared to give credit here for different approaches – depth as against breadth, and vice versa)
- (C) Explanation of the Human Rights Act 1998 and of the requirements of Articles 8 and 10 of the European Convention on Human Rights

**Mark Bands**

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20            The candidate shows clear understanding of the rules of law in two of (A) – (C), but is a little hesitant in developing the application required, or vice versa  
**or**  
 Soundly explains and applies any one of (A) – (C) and develops some explanation and/or application of another. Discussion of all three may compensate for some superficiality or errors in any or all.
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in one of (A) – (C), with some discussion of another, but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer shows some understanding by explaining and applying two of (A) – (C) (**max 12** for 1).
- 6 – 10             The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
                  though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

- (b) In relation to the incidents at Rudi’s company premises, discuss the legal issues concerning the gathering of information by the police, and consider what actions are open to the police to minimise the risks of violence and disorder arising out of the planned march. Include in your answer, a discussion on the effect of the Human Rights Act 1998 and of the European Convention on Human Rights. (25 marks)

### Potential Content

- (A) Outline explanation of the relevant law on interception of communications (regulation of investigatory powers)
- (B) Explanation of powers of stop and search (and possibly of arrest) which may be exercised under PACE Act 1984 and Criminal Justice and Public Order Act 1994
- (C) Explanation of the rules permitting prohibition of all marches and of powers to control marches by directing the route etc. under the Public Order Act 1986. Explanation of police powers in connection with (suspected) breach of the peace
- (D) Explanation of the Human Rights Act 1998 and of the requirements, in particular, of Articles 10 and 11 of the European Convention on Human Rights (though Article 8 may be considered in relation to interception of communications)

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A), (C) and (D), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1). Discussion of (B) may help to compensate for some deficiencies in the explanation and/or application of all or any.
- 16 – 20            The candidate shows clear understanding of the rules of law in three of (A) – (D), but is a little hesitant in developing the application required or vice versa  
**or**  
 Explains and applies any two of (A) – (D) (sound on 1, clear on 1). Discussion of a greater range may compensate for some superficiality or errors in any or all.
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in two of (A)-(D), but is unable to extend the analysis to achieve application of the rules to the facts (**max 12** for 1)  
**or**  
 The answer shows some understanding by explaining and applying two of (A)-(D) (**max 12** for 1).
- 6 – 10             The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (D) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5      The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0            The candidate presents no information relevant to the question.

- (c) Discuss the suggestion that English law correctly values the right to freedom of expression above the need to preserve public order. (25 marks)

### Potential Content

- (A) General explanation and evaluation of the extent to which there is a need to strike a balance between preservation of public order and protection of freedom of expression, and where that balance should be struck
- (B) (Re)consideration of the existing preventive and reactive powers to deal with protest and order (including the requirements of Article 11), in the light of (A)
- (C) Reconsideration of the requirements of Article 10 and its impact on English law in consequence of the 1998 Act, in the light of (A)

### Mark Bands

- 21 - 25            The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in (B) and (C) so as to reach a sustainable conclusion, though there may be some imbalance in treatment as between these elements.
- 16 - 20            The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in either (B) (**max 16**) or (C) (**max 16**), and with a more tentative examination of the other  
**or**  
 Explores the approach as in (B) and (C) (**max 16**) but against a much more tentative exploration of the framework in (A). Any conclusion advanced will be a little tentative or a little undermined by incomplete integration of the elements.
- 11 - 15            The candidate explores the issues by reference to any two of (A) – (C)  
**or**  
 Deals with any one of (A) – (C) (**max 13**)  
**or**  
 Attempts a more balanced approach in which some explanation of the framework in (A) and exploration of the approach of the current law as in (B) and (C) are present but in which the answer is a little superficial or suffers from some confusion. Any conclusions advanced will be limited and not well related to evidence presented.
- 6 – 10            The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A) – (C) but the explanations and evaluation are limited and superficial.

- 1 – 5            The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge  
**or**  
                    Though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                 The candidate presents no information relevant to the question.

**Consumer Protection**

7

**Total for this question: 75 marks**

(a) Discuss Bridget's rights and remedies against Cosynights Hotel. (25 marks)

**Potential Content**

- (A) Explanation of the incorporation of express terms in a contract, with discussion of formation of contract issues (possible reference to the requirements of the Supply of Goods and Services Act 1982)
- (B) Explanation of the common law and statutory (UCTA 1977, UTCCR 1999) control of exclusion clauses – interpretation of the clause as an exclusion clause
- (C) Explanation of the remedies for breach of contract

**Mark Bands**

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20            The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required or vice versa  
**or**  
 Clearly explains and applies any two of (A) – (C) (**max 18**) and deals briefly with the third.
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in any two of (A)-(C), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies any one of (A) – (C) (**max 13**) and introduces discussion of another  
**or**  
 there is a more balanced approach in which explanation, analysis and application are present in 2 of (A) – (C) but the answer is a little superficial or suffers from some confusion (**max 12** for 1).
- 6 – 10             The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5      The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0            The candidate presents no information relevant to the question.



- (b) Discuss the rights and remedies of Bridget and Dianne in connection with the sunburn they suffered. (25 marks)

### Potential Content

- (A) Explanation of the SGA 1979 implied terms as to description, satisfactory quality and fitness for purpose
- (B) Explanation of the rule on privity of contract (possible mention of the effect of the C(RTP)A 1999). Explanation of the provisions of the CPA 1987 (possible alternative in negligence)
- (C) Explanation of the common law and statutory approach to exclusion clauses.  
(NB candidates may refer to discussion previously introduced in answering Question 7(a))
- (D) Explanation of the remedies available for breach of rights in (A) and (B)

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (D), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based; though all four will be addressed, answers may vary in the weight devoted to each. (Sound on 2, clear on 1, some on 1.)  
**or**  
explains and applies as above (A) and (B) and either (C) (**max 22**) or (D) (**max 22**). (Sound on 1, clear on 1.)
- 16 – 20            The candidate shows clear understanding of the rules of law in three of (A) – (C), but is a little hesitant in developing the application required or vice versa  
**or**  
soundly explains and applies any two of (A) – (D) (including (A) and/or (B)).
- 11 – 15            The candidate shows clear understanding of the appropriate rules of law in two of (A) – (D) (**max 13**), with some discussion of another, but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
the answer clearly explains and applies any one of (A) – (C) (**max 13**) with some reference to another  
**or**  
there is some explanation and application of two of (A) – (D).
- 6 – 10             The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (D) but the explanations are limited and superficial  
**or**  
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
                  though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

- (c) At present, the consumer is protected by a combination of civil **and** criminal law rules. Considering the extent of the protection supplied by each, discuss the suggestion that both are equally necessary to achieve adequate protection. (25 marks)

### Potential Content

- (A) Explanation and evaluation of the protection provided by rights in civil law
- (B) Explanation and evaluation of the protection provided by remedies in civil law, including reference to, for example, exclusion clauses, enforcement issues
- (C) Explanation and evaluation of criminal law provisions and sanctions
- (D) Discussion and evaluation of the need for both, with reference to the strengths and weaknesses of each in providing protection

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to explain and evaluate any three of (A) – (D) (which must include (C) and (D)). Where all four are dealt with, there may be minor deficiencies in explanation and/or evaluation of all or any.
- 16 – 20            The candidate demonstrates the ability to explain (A) or (B), together with (C) and to supply some evaluation (**max 18**) and to introduce some discussion of (D)  
**or**  
adopts a strong evaluative approach in (A) or (B), together with (C) and (D) against a weaker framework of explanation  
**or**  
attempts explanation and evaluation across the range of (A)-(D) which is relatively coherent but a little superficial.
- 11 – 15            The candidate demonstrates the ability to explain and evaluate any one of (A) – (C) (**max 13**) and to introduce some reference to any other or to (D)  
**or**  
to explain or evaluate any two of (A) – (C)  
**or**  
the candidate attempts to approach the issues through (D) with a generally weak framework in explanation of (A) – (C)  
**or**  
the candidate attempts a balanced approach across a range from (A) – (D) but in which the answer is superficial or suffers from some confusion.
- 6 – 10             The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A) – (D) but the explanation and evaluation are limited and very superficial.

- 1 – 5            The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge  
**or**  
                  though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

8

**Total for this question: 75 marks**

- (a) Discuss the civil **and** criminal law obligations of Waleed's Power Store in connection with the advertising and sale of the electric saw blades, and consider Vic's rights and remedies. (25 marks)

**Potential Content**

- (A) Explanation of the requirements of the Sale of Goods Act 1979 in terms of description, satisfactory quality and fitness for purpose
- (B) Explanation of the remedies of rejection and damages
- (C) Explanation of the criminal law rules on trade descriptions and on misleading price indications in sales promotions

**Mark Bands**

- 21 – 25 The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20 The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required or vice versa  
**or**  
 clearly explains and applies (A) and either (B) (**max 17**) or (C) (**max 18**), and deals briefly with the third.
- 11 – 15 The candidate shows clear understanding of the appropriate rules of law in (A) – (C) (**max 13** for any 2), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies (A) (**max 13**) and introduces discussion of either (B) or (C)  
**or**  
 the answer clearly explains and applies (C) (**max 13**) and introduces discussion of (A) or (B)  
**or**  
 there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 6 – 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
                  though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

- (b) Discuss Vic's rights and remedies against Alec in connection with the installation of the alarm system and the loss of the jewellery. Include in your discussion consideration of the effect of the final clause in the contract between Vic and Alec. (25 marks)

### Potential Content

- (A) Explanation of the requirements of the Supply of Goods and Services Act 1982 in terms of reasonable care and skill
- (B) Explanation of the common law and statutory (UCTA 1977, UTCCR 1999) control of exclusion clauses
- (C) Explanation of the remedies for breach of contract

### Mark Bands

- 21 – 25      The candidate demonstrates the ability to recognise and soundly explain the rules of law in (A) – (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. (Sound on 2, clear on 1.)
- 16 – 20      The candidate shows clear understanding of the rules of law in (A) – (C), but is a little hesitant in developing the application required or vice versa  
**or**  
 clearly explains and applies (A) and either (B) (**max 18**) or (C) (**max 18**), and deals briefly with the third.
- 11 – 15      The candidate shows clear understanding of the appropriate rules of law in (A) and (B) or (A) and (C) (**max 13** if (B) and (C) only), but is unable to extend the analysis to achieve application of the rules to the facts  
**or**  
 the answer clearly explains and applies any one of (A) – (C) (**max 13**) and introduces discussion of another  
**or**  
 there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion (**max 13** for 2).
- 6 – 10      The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A) – (C) but the explanations are limited and superficial  
**or**  
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 – 5            The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge  
**or**  
                  though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.



- (c) Incorporating in your answer an evaluation of the common law and statutory approach to the control of exclusion clauses, consider how satisfactory are the remedies available to a consumer whose rights have been broken in a contract for goods or services. (25 marks)

### Potential Content

- (A) Explanation and evaluation of the common law remedy of damages
- (B) Explanation and evaluation of the remedy of the right to reject the goods, including the circumstances in which the right is lost
- (C) Explanation and evaluation of the common law (and UTCCR) approach to terms purporting to exclude or limit liability
- (D) Explanation and evaluation of the statutory approach to terms purporting to exclude or limit liability (UCTA/UTCCR)

### Mark Bands

- 21 – 25            The candidate demonstrates the ability to explain and evaluate the rules in any three of (A) – (D). Discussion of all four may compensate for minor deficiencies in the discussion of all or any.
- 16 – 20            The candidate demonstrates the ability to explain and evaluate the rules in any two of (A) – (D) (**max 17** unless one is from (A)/(B) and one is from (C)/(D))  
**or**  
 there is clear explanation with some evaluation of any three of (A) – (D)  
**or**  
 some explanation and more substantial evaluation of any three of (A) – (D).
- 11 – 15            The candidate demonstrates the ability to explain and evaluate the rules in any one of (A) – (D)  
**or**  
 to explain the rules in any two of (A) – (D) with very hesitant evaluation (**max 12 for one only**)  
**or**  
 to adopt a strongly evaluative approach to any two of (A) – (D) (**max 12 for one only**) which lacks some foundation in explanation of rules  
**or**  
 attempts a more balanced approach across a range from (A) – (D) in which explanation and/or evaluation are limited or suffer from some confusion.
- 6 – 10             The candidate begins to indicate some capacity for explanation and evaluation by introducing discussion of any of the material in (A) – (D) but the explanations and evaluation are restricted and superficial.

- 1 – 5            The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge  
**or**  
                  though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0                The candidate presents no information relevant to the question.

**ASSESSMENT GRID**

(to show the allocation of marks to Assessment Objectives)

**A Level Law (LAW5)  
(One question to be answered from 8)**

<b>UNIT 5</b>	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
Question 1 (a)	7	18	10
Question 1 (b)	7	18	
Question 1 (c)	7	18	
Question 2 (a)	7	18	10
Question 2 (b)	7	18	
Question 2 (c)	7	18	
Question 3 (a)	7	18	10
Question 3 (b)	7	18	
Question 3 (c)	7	18	
Question 4 (a)	7	18	10
Question 4 (b)	7	18	
Question 4 (c)	7	18	
Question 5 (a)	7	18	10
Question 5 (b)	7	18	
Question 5 (c)	7	18	
Question 6 (a)	7	18	10
Question 6 (b)	7	18	
Question 6 (c)	7	18	
Question 7 (a)	7	18	10
Question 7 (b)	7	18	
Question 7 (c)	7	18	
Question 8 (a)	7	18	10
Question 8 (b)	7	18	
Question 8 (c)	7	18	
<b>Total marks</b>	21	54	10
<b>% of the A2</b>	7.5	19	3.5
<b>% of the A Level</b>	3.75	9.5	1.75