



## **General Certificate of Education**

# **Law 6161**

**Unit 4 (LAW4)      Criminal Law (Offences  
against the Person) or  
Contract**

## **Mark Scheme**

*2008 examination - January series*

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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## **LAW4**

### **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**

### **NOTE**

In the mark scheme which follows, there are two standard mark band descriptors:

- The substantive law question mark bands – question parts (a) and (b);
- The evaluative question mark bands – question part (c).

The substantive and evaluative question mark bands are supplied for both a 3 Potential Content and a 2 Potential Content mark scheme, to be applied as appropriate. These mark bands are set out at the beginning and are to be applied to each relevant question part. They are not repeated for each question part.

Except where otherwise indicated, ‘sound’, ‘clear’ and ‘some’ refer to both explanation and application/evaluation. Where, for any element of potential content, one is achieved at the higher level but the other at a lower level, the overall description for that potential content will tend towards the lower level.

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**Substantive law question mark bands (3 Potential Content)**

- 21 - 25 The candidate *soundly* explains and applies the rules of law in **two** of (A)-(C) (**max 21**), and *clearly* explains and applies the rules of law in the other (**max 23** for *some* explanation and application of rules of law in the other)  
**or**  
the candidate *soundly* explains and applies the rules of law in **one** of (A)-(C) and *clearly* explains and applies the rules of law in the other **two** (**max 21**).
- 16 - 20 The candidate *soundly* explains and applies the rules of law in **one** of (A)-(C), and *clearly* explains and applies the rules of law in another  
**or**  
the candidate *clearly* explains and applies the rules of law in any two of (A)-(C) (**max 18**) and presents *some* explanation and/or application of the other  
**or**  
the candidate presents *some* explanation and application of the rules of law in all three of (A)-(C) (**max 16**).
- 11 - 15 The candidate *soundly* explains and applies the rules of law in **one** of (A)-(C)  
**or**  
the candidate *clearly* explains and applies the rules of law in one of (A)-(C) and presents *some* explanation and/or application of the rules of law in any other one of (A)-(C)  
**or**  
the candidate presents *some* explanation and application of any two of (A)-(C) (**max 13**)  
**or**  
the answer focuses on explanation of rules of law with no significant application (**max 15** if *sound* on two or *clear* on three, **max 13** if *sound* on one or *clear* on two, **max 11** if *clear* on one or *some* on two)  
**or**  
the answer focuses on application to the facts with no significant legal framework (**max 12** where the answer displays a *sound* understanding of the elements of the analysis).
- 6 - 10 The candidate presents *some* explanation and/or application of any of the rules of law in (A)-(C).
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and application can emerge  
**or**  
though the candidate attempts to explain and/or apply rules of law, the explanation and/or application are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

**Substantive law question mark bands (3 Potential Content) – list of maximum marks**

|    |  |
|----|--|
| 25 | two sound, one clear   |
| 23 | two sound, one some  |
| 21 | two sound <b>or</b> one sound, two clear   |
| 20 | one sound, one clear <b>or</b> two clear, one some (explanation and/or application)  |
| 18 | one sound, one some <b>or</b> two clear  |
| 16 | three some   |
| 15 | one sound <b>or</b> two sound explanation <b>or</b> one clear, one some (explanation and/or application) <b>or</b> three clear explanation |
| 13 | one clear <b>or</b> one sound explanation <b>or</b> two clear explanation <b>or</b> two some   |
| 12 | sound application  |
| 11 | one clear explanation <b>or</b> two some explanation   |
| 10 | one some explanation and/or application  |
| 5  | relevant fragments <b>or</b> relevant but incoherent   |
| 0  | completely irrelevant  |

**Note:** It follows from the above that, however well the law is explained, answers which contain no application can never achieve more than 15 marks.

**Substantive law question mark bands (2 Potential Content)**

- 21 - 25 The candidate *soundly* explains and applies the rules of law in (A) and (B)  
**or**  
the candidate *soundly* explains and applies the rules of law in **one** of (A) and (B) and *clearly* explains and applies the rules of law in the other (**max 23**).
- 16 - 20 The candidate *soundly* explains and applies the rules of law in **one** of (A) and (B) (**max 18**), and presents *some* explanation and application of the other  
**or**  
the candidate *clearly* explains and applies the rules of law in both of (A) and (B)  
**or**  
the candidate *clearly* explains and applies the rules of law in **one** of (A) and (B) and presents some explanation and application of the other (**max 18**).
- 11 - 15 The candidate *clearly* explains and applies the rules of law in one of (A) and (B)  
**or**  
the candidate presents *some* explanation and application of both of (A) and (B) (**max 13** if **one** only)  
**or**  
the answer focuses on explanation of rules of law with no significant application (**max 15** if *sound* on two, **max 13** if *sound* on one or *clear* on two, **max 11** if *clear* on one or *some* on two)  
**or**  
the answer focuses on application to the facts with no significant legal framework (**max 12** where the answer displays a *sound* understanding of the elements of the analysis).
- 6 - 10 The candidate presents *some* explanation and/or application of any of the rules of law in (A) and (B).
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and application can emerge  
**or**  
though the candidate attempts to explain and/or apply rules of law, the explanation and/or application are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

**Substantive law question mark bands (2 Potential Content) – list of maximum marks**

- 25 two sound  
23 one sound, one clear  
20 one sound, one some **or** two clear  
18 one sound **or** one clear, one some  
15 one clear **or** two some **or** two sound explanation  
13 one some **or** one sound explanation **or** two clear explanation  
12 sound application  
11 one clear explanation **or** two some explanation  
10 one some explanation and/or application  
5 relevant fragments **or** relevant but incoherent  
0 completely irrelevant

**Note:** It follows from the above that, however well the law is explained, answers which contain no application can never achieve more than 15 marks.



**Evaluative question mark bands (3 Potential Content)**

- 21 - 25 The candidate *soundly* evaluates relevant aspects of the rules of law in **two** of (A)-(C) (**max 21**) and *clearly* evaluates relevant aspects of the rules of law in the other (**max 23** for *some* evaluation of the other)  
**or**  
the candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) and *clearly* evaluates relevant aspects of the rules of law in the other two (**max 21**).
- 16 - 20 The candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) and *clearly* evaluates relevant aspects of the rules of law in **one** other  
**or**  
the candidate *clearly* evaluates relevant aspects of the rules of law in **two** of (A)-(C) (**max 18**) and presents *some* evaluation of the other  
**or**  
the candidate presents *some* evaluation of the rules of law in all of (A)-(C) (**max 16**).
- 11 - 15 The candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C)  
**or**  
the candidate *clearly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) (**max 13**) and presents *some* evaluation of relevant aspects of the rules of law in **one** other  
**or**  
the candidate presents *some* evaluation of relevant aspects of the rules of law in **two** of (A)-(C) (**max 13**).
- 6 - 10 The candidate presents *some* evaluation of relevant aspects of the rules of law in any of (A)-(C).
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and evaluation can emerge  
**or**  
though the candidate attempts to explain and/or evaluate relevant rules of law, the explanation and/or evaluation are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

**Evaluative question mark bands (3 Potential Content) – list of maximum marks**

- 25 two sound, one clear  
23 two sound, one some  
21 two sound **or** one sound, two clear  
20 one sound, one clear **or** two clear, one some  
18 one sound, one some **or** two clear  
16 three some  
15 one sound **or** one clear, one some  
13 one clear **or** two some  
10 one some  
5 relevant fragments **or** relevant but incoherent  
0 completely irrelevant

**Evaluative question mark bands (2 Potential Content)**

- 21 – 25 The candidate *soundly* evaluates relevant aspects of the rules of law in (A) and (B)  
 or  
 the candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A) and (B) and *clearly* evaluates relevant aspects of the rules of law in the other (**max 23**).
- 16 – 20 The candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A) and (B) (**max 18**) and presents *some* evaluation of the other  
**or**  
 the candidate *clearly* evaluates relevant aspects of the rules of law in both of (A) and (B)  
**or**  
 the candidates *clearly* evaluates relevant aspects of the rules of law in **one** of (A) and (B) and presents *some* evaluation of the other (**max 18**).
- 11 – 15 The candidate *clearly* evaluates relevant aspects of the rules of law in **one** of (A) and (B)  
**or**  
 the candidate presents *some* evaluation of relevant aspects of the rules of law in both of (A) and (B) (**max 13** for **one**).
- 6 – 10 The candidates presents *some* explanation and/or evaluation of relevant aspects of the rules of law in either of (A) and (B).
- 1 – 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent explanation or evaluation can emerge  
**or**  
 though the candidate attempts to explain and/or evaluate rules of law, the explanation and/or evaluation are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

**Evaluative question mark bands (2 Potential Content) – list of maximum marks**

- 25 two sound  
 23 one sound, one clear  
 20 one sound, one some **or** two clear  
 18 one sound **or** one clear, one some  
 15 one clear **or** two some  
 13 one some  
 10 one some explanation and/or evaluation  
 5 relevant fragments **or** relevant but incoherent  
 0 completely irrelevant

**Maxima****Substantive law question mark bands (3 potential content) – list of maximum marks**

|    |   |
|----|---|
| 25 | two sound, one clear  |
| 23 | two sound, one some   |
| 21 | two sound <b>or</b> one sound, two clear  |
| 20 | one sound, one clear <b>or</b> two clear, one some (explanation and/or application)   |
| 18 | one sound, one some <b>or</b> two clear <b>or</b> one clear, two some   |
| 16 | three some  |
| 15 | one sound <b>or</b> two sound explanation or one clear, one some (explanation and/or application) <b>or</b> three clear explanation |
| 13 | one clear <b>or</b> one sound explanation <b>or</b> two clear explanation <b>or</b> two some  |
| 12 | sound application   |
| 11 | one clear explanation <b>or</b> two some explanation  |
| 10 | one some explanation and/or application   |
| 5  | relevant fragments <b>or</b> relevant but incoherent  |
| 0  | completely irrelevant   |

**Substantive law question mark bands (2 potential content) – list of maximum marks**

|    |  |
|----|--|
| 25 | two sound  |
| 23 | one sound, one clear   |
| 20 | one sound, one some <b>or</b> two clear                                  |
| 18 | one sound <b>or</b> one clear, one some                                  |
| 15 | one clear <b>or</b> two some <b>or</b> two sound explanation             |
| 13 | one some <b>or</b> one sound explanation <b>or</b> two clear explanation |
| 12 | sound application  |
| 11 | one clear explanation <b>or</b> two some explanation                     |
| 10 | one some explanation and/or application                                  |
| 5  | relevant fragments <b>or</b> relevant but incoherent                     |
| 0  | completely irrelevant  |

**Evaluative question mark bands (3 potential content) – list of maximum marks**

|    |  |
|----|--|
| 25 | two sound, one clear                                 |
| 23 | two sound, one some                                  |
| 21 | two sound <b>or</b> one sound, two clear             |
| 20 | one sound, one clear <b>or</b> two clear, one some   |
| 18 | one sound, one some <b>or</b> two clear              |
| 16 | three some   |
| 15 | one sound <b>or</b> one clear, one some              |
| 13 | one clear <b>or</b> two some                         |
| 10 | one some   |
| 5  | relevant fragments <b>or</b> relevant but incoherent |
| 0  | completely irrelevant                                |

**Evaluative question mark bands (2 potential content) – list of maximum marks**

|    |  |
|----|--|
| 25 | two sound  |
| 23 | one sound, one clear                                 |
| 20 | one sound, one some <b>or</b> two clear              |
| 18 | one sound <b>or</b> one clear, one some              |
| 15 | one clear <b>or</b> two some                         |
| 13 | one some   |
| 10 | one some explanation and/or evaluation               |
| 5  | relevant fragments <b>or</b> relevant but incoherent |
| 0  | completely irrelevant                                |

## Descriptors

| Level        | Explanation   | Application  |
|--------------|---|--|
| <b>sound</b> | The answer correctly identifies and accurately explains the relevant rule(s) in the central aspects of the potential content. Where appropriate, the explanations are supported by relevant statutory and/or case authority and illustration (which is adequately developed where necessary to explain the <i>ratio</i> and/or assist in the application to the facts). Where there are more marginal aspects of the rules, there may be some minor omissions or inaccuracies in the explanation of the rule(s) and/or supporting statutory/case authority and illustration.  | The answer selects and emphasises the relevant facts from the scenario and makes close reference to them when explaining how the rules (including any supporting statutory and/or case authority) apply to afford a solution. Where appropriate, the application explores the effect of different interpretations of the rule(s) and/or of conflicting rules and/or of different interpretations of the facts. The solution suggested is clearly based on the explanation and application of the rules and is sustainable.   |
| <b>clear</b> | The answer correctly identifies and accurately explains significant parts of the rule(s) in the central aspects of the potential content, though there are omissions of some part(s) of the rule(s), or errors in the explanation, in those central aspects. There may be a little over-emphasis on marginal aspects of the rules at the expense of some of the more central aspects. In the higher part of the level, statutory and/or case authority and illustration are used but there may be a little confusion and error in selection and/or explanation or the explanation may be limited. At the lower end of the level, there may be little evidence of statutory and/or case authority and illustration or more evident inaccuracies.   | The answer selects and emphasises some of the relevant facts from the scenario and makes reference to them when explaining how the rules (including any supporting statutory and/or case authority) apply to afford a solution. The application, though otherwise persuasive, may fail to canvass credible alternative solutions (based on alternative interpretations of the law or of the facts) or there may be a little error or confusion in the application to the facts. The solution suggested is broadly based on the explanation and application of the rules, though there may be some evident weakness.  |
| <b>some</b>  | The answer correctly identifies and accurately explains a very limited part of the relevant rule(s) in the central aspects of the potential content. There may be a very evident imbalance between explanation of central and of more marginal aspects of the rule(s). Alternatively, the answer explains a more substantial part of the relevant rule(s) in the central aspects of the potential content but the explanations suffer from significant omission, error or confusion. Explanations may emerge only out of attempts to introduce relevant case authority and illustration. If introduced at all, statutory and/or case authority and illustration may be of marginal relevance or the explanation may be highly superficial or subject to significant inaccuracies or not properly used to support the explanation of the relevant rule(s). | The answer selects and emphasises one or two relevant facts from the scenario and makes reference to them without being able to suggest a coherent application. More broad-ranging attempts to identify and make reference to relevant facts display confusion or error. Alternatively, the answer tends to make simple assertions or assumptions about the way in which the rule(s) apply to the facts, so that application is general and unspecific, being unrelated to particular facts. The application fails to canvass credible alternative solutions (based on alternative interpretations of the law or of the facts). Little use is made of whatever statutory or case authority and illustration is incorporated in explanations. The solution suggested is only imprecisely related to the explanation of the rule(s). |

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**Criminal Law (Offences against the Person)**

1

**Total for this question: 75 marks**

(a) Discuss the criminal liability of Alan and of Bob arising out of the incident in the street. (25 marks)

**Potential Content**

- (A) In relation to Bob's approach – the offence of assault, raising, in particular, issues of *mens rea* and of the effect of intoxication (given that Bob did not seem to realise what effect his conduct was having, though Chris was clearly concerned about it).
- (B) In relation to the bucket of detergent thrown by Alan – battery in relation to Bob, assault occasioning abh and/or unlawful and malicious infliction of gbh in relation to Chris (causation and *mens rea* issues) Note that appropriate treatment of either can be classed as sound, though less detail will be required where both are dealt with.
- (C) In relation to the bucket of detergent thrown by Alan – possible defence of self-defence: need for use of force (effect of genuine mistake), striking the first blow, proportion between injury inflicted and harm anticipated.

(b) Discuss the criminal liability of Dave for the murder of Edward. (25 marks)

**Potential Content**

- (A) The elements of the offence of murder – in particular, *mens rea*: sufficiency of intent to do serious injury, likelihood that Dave intended serious injury in stabbing Edward.
- (B) The defence of provocation – issues both of subjective and objective tests. Delay and deliberation in the subjective test. Relevance to the objective test of psychiatric illness creating anger and aggression.
- (C) The defence of diminished responsibility – abnormality, origins, substantial impairment of responsibility. Discussion of insanity may operate to enhance a discussion of diminished responsibility. (Discussion of insanity alone merits **max clear**).

(c) Choose **one** of the following:

In relation to murder (including voluntary manslaughter), consider whether the current law is satisfactory. (25 marks)

**OR**

In relation to involuntary manslaughter, consider whether the current law is satisfactory. (25 marks)

**OR**

In relation to the non-fatal offences against the person, consider whether the current law is satisfactory. (25 marks)

### Potential Content

#### Murder and voluntary manslaughter

- (A) General structural issues – the relationship between murder and manslaughter, the mandatory penalty of life imprisonment, should homicide be more or less structured.
- (B) Murder issues – the elements of murder: *actus reus* and *mens rea*.
- (C) Partial defence (voluntary manslaughter) issues.

#### Involuntary manslaughter

- (A) Unlawful act issues.
- (B) Gross negligence issues.
- (C) General overview issues (such as scope of involuntary manslaughter, relationship with rest of homicide – discussion of liability of corporations is not required but will be credited).

#### Non-fatal offences

- (A) Structural issues (connected, for instance, with sentencing). Language and associated issues.
- (B) Specific *actus reus* and *mens rea* issues.

**Note:** Candidates may obtain maximum marks by dealing either with two or with three pc items in any of the above options. Those who deal with three will be expected to introduce less detail than those who deal with two. However, irrespective of the number of pc items dealt with, candidates should be marked on whichever of the schemes gives the greater credit.

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

|  |            |
|--|------------|
| (a) Discuss the criminal liability of Isi and of Gill. | (25 marks) |
|--|------------|

**Potential Content**

- (A) Isi's possible liability in relation to Farrah – the offences of assault and assault occasioning actual bodily harm, raising issues of fear of 'immediate' violence, psychiatric injury, and *mens rea*. Discussion of unlawful and malicious infliction of grievous bodily harm may enhance the treatment of this issue. Isi's possible liability in relation to Gill – the offence of battery (possible reference to assault (battery) occasioning abh).
- (B) Gill's possible liability in relation to Isi – unlawful and malicious wounding/infliction of gbh, raising issues of the definition of the relevant injury and of *mens rea* (discussion of assault occasioning actual bodily harm may enhance the answer. Possible plea of self-defence by Gill – need for force, and proportion in force used.

|  |            |
|--|------------|
| (b) Discuss the criminal liability of Jack and of Leon for the involuntary manslaughter of Karl. | (25 marks) |
|--|------------|

**Potential Content**

- (A) In relation to Jack – the offence of unlawful act manslaughter based on the unlawful abduction (seen in general terms, as kidnap/false imprisonment (no technical detail required) or, perhaps, as battery with continuing threat amounting to an assault). Causation issues involving the attempted escape and the role of Leon.
- (B) In relation to Leon – the offence of gross negligence manslaughter. The argument may be based on either or both of Leon's act in driving into Karl, or his omission in failing to assist Karl or get help for him. Where the discussion relates only to the act of driving into Karl, this merits **max clear**.

(c) Choose **one** of the following:

In relation to murder (including voluntary manslaughter), consider whether the current law is satisfactory. (25 marks)

**OR**

In relation to involuntary manslaughter, consider whether the current law is satisfactory. (25 marks)

**OR**

In relation to the non-fatal offences against the person, consider whether the current law is satisfactory. (25 marks)

### Potential Content

#### Murder and voluntary manslaughter

- (A) General structural issues – the relationship between murder and manslaughter, the mandatory penalty of life imprisonment, should homicide be more or less structured.
- (B) Murder issues – the elements of murder: *actus reus* and *mens rea*.
- (C) Partial defence (voluntary manslaughter) issues.

#### Involuntary manslaughter

- (A) Unlawful act issues.
- (B) Gross negligence issues.
- (C) General overview issues (such as scope of involuntary manslaughter, relationship with rest of homicide – discussion of liability of corporations is not required but will be credited).

#### Non-fatal offences

- (A) Structural issues (connected, for instance, with sentencing). Language and associated issues.
- (B) Specific *actus reus* and *mens rea* issues.

**Note:** Candidates may obtain maximum marks by dealing either with two or with three pc items in any of the above options. Those who deal with three will be expected to introduce less detail than those who deal with two. However, irrespective of the number of pc items dealt with, candidates should be marked on whichever of the schemes gives the greater credit.



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**Contract Law**

**3**

**Total for this question: 75 marks**

- |   |
|---|
| (a) Taking into account the rules on formation of contract, consider whether Nirmal and Owen are each bound by a contract for the subscription to <i>Sportlife</i> , and whether each has any rights against Martens in relation to the free sports equipment. (25 marks) |
|---|

**Potential Content**

- (A) In relation to Nirmal – the formation issues: the status of the advertisement as offer/invitation to treat, acceptance by post and whether the postal rule applies, acceptance of the general subscription offer.
- (B) In relation to Owen – the formation issues: the status of the advertisement as offer/invitation to treat, withdrawal of offer and effect of communication by a third party, possible offer by Owen to include free equipment, possibility of contract being formed for the magazine but not the free equipment.

- |   |
|---|
| (b) Taking into account the rules on frustration and on breach of contract, consider the rights and remedies of Martens and of Ray in connection with the contract for the supply of the programmes for the match. (25 marks) |
|---|

**Potential Content**

- (A) The issue of frustration or breach. Possible frustration of the common venture. Possible fault on Ray's part. Consideration of breach.
- (B) The issue of consequences of frustration or breach. Effect of the Law Reform (Frustrated Contracts) Act 1943 if the contract is frustrated – sums paid recoverable but subject to recompense for expenses incurred and benefit conferred. Effect of the rules on breach if the contract has been broken – damages for loss incurred.

(c) Choose **one** of the following:

Relating your answer to the rules on offer and acceptance, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

**OR**

Relating your answer to the rules on consideration, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

**OR**

Relating your answer to the rules on intention to create legal relations, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

### **Potential Content**

#### **Offer and acceptance**

- (A) Issues concerning offers: for example, problems of distinguishing between offers and invitations to treat, and between counter offers and requests for further information; rules on withdrawal of offers.
- (B) Issues concerning acceptance: for example, in different forms of communication, such as face-to-face, electronic and via the postal service; interpretation of prescriptive forms of acceptance.

**Note:** these issues may be approached as part of a consideration of broader problems, such as the 'battle of the forms' or the difficulties in adapting the rules to cope with new technology.

#### **Consideration**

- (A) Issues concerning adequacy of consideration.
- (B) Issues concerning sufficiency (past consideration, existing duties as consideration).

#### **Intention to create legal relations**

- (A) General issues concerning the need for intention and the relationship with consideration.
- (B) Issues concerning the classification of agreements and the associated presumptions.

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4

**Total for this question: 75 marks**

- (a) Taking into account the rules on formation of contract and on terms in a contract, consider what rights, duties and remedies, if any, are available to Sara and to Tom arising out of their agreement in connection with the car and the secretarial services. *(25 marks)*

**Potential Content**

- (A) Formation issues: intention to create legal relations in domestic and commercial agreements; consideration in contract.
- (B) Terms, breach, and remedies issues: nature of the term as to provision of serviceable car; breach of condition or of warranty; remedy in damages for Sara (or, possibly, for Tom, if Tom's breach is of warranty only).

- (b) Taking into account the rules on mistake and misrepresentation, consider the rights and remedies of Vin and Tom, and of Amy and Tom, in connection with the various car repairs. *(25 marks)*

**Potential Content**

- (A) In relation to Tom and Vin – legal approach to mistake in contract: objective approach to construction of contract; kinds of mistake, especially mutual mistake; effect on contract if operative mistake; consequent remedies, whether operative or non-operative mistake.
- (B) In relation to Tom and Amy – the rules on misrepresentation: the nature of misrepresentation; the kinds of misrepresentation, especially fraudulent; the remedies for misrepresentation in rescission and/or damages.

(c) Choose **one** of the following:

Relating your answer to the rules on offer and acceptance, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

**OR**

Relating your answer to the rules on consideration, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

**OR**

Relating your answer to the rules on intention to create legal relations, consider the extent to which the rules on formation of contract are satisfactory. *(25 marks)*

### **Potential Content**

#### **Offer and acceptance**

- (A) Issues concerning offers: for example, problems of distinguishing between offers and invitations to treat, and between counter offers and requests for further information; rules on withdrawal of offers.
- (B) Issues concerning acceptance: for example, in different forms of communication, such as face-to-face, electronic and via the postal service; interpretation of prescriptive forms of acceptance.

**Note:** these issues may be approached as part of a consideration of broader problems, such as the 'battle of the forms' or the difficulties in adapting the rules to cope with new technology.

#### **Consideration**

- (A) Issues concerning adequacy of consideration.
- (B) Issues concerning sufficiency (past consideration, existing duties as consideration).

#### **Intention to create legal relations**

- (A) General issues concerning the need for intention and the relationship with consideration.
- (B) Issues concerning the classification of agreements and the associated presumptions.

**ASSESSMENT GRID**

(to show the allocation of marks to Assessment Objectives)

**A Level Law (LAW4)****(One question to be answered from 4)**

| <b>UNIT 4</b>           | <b>AO1</b> | <b>A02</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         |            |
| <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       |