



General Certificate of Education

Law

Unit 3 (LAW03) Criminal Law (Offences against the Person or Contract Law

Mark Scheme

Specimen mark scheme for examinations in June 2010 onwards
This mark scheme uses the [new numbering system](#)

The specimen assessment materials are provided to give centres a reasonable idea of the general shape and character of the planned question papers and mark schemes in advance of the first operational exams.

Further copies of this Mark Scheme are available to download from the AQA Website: www.aqa.org.uk

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Set and published by the Assessment and Qualifications Alliance.

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Dr Michael Cresswell, Director General.

LAW03

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.

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

- 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.
4-5 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.
2-3 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 mark
- 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
- The evaluative question mark bands

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.

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 or one sound, two clear
20	one sound, one clear or two clear, one some (explanation and/or application)
18	one sound, one some or two clear or one clear, two some
16	three some
15	one sound or two sound explanation or one clear, one some (explanation and/or application) or three clear explanation
13	one clear or one sound explanation or two clear explanation or two some
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

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

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) – 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

Descriptors for substantive law questions

Level	Explanation	Application
sound	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.
clear	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.
some	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).

Descriptors for Concepts of Law evaluative questions

Level	Explanation	Analysis/Evaluation
sound	<p>The answer presents a strong explanatory framework, correctly identifying and accurately and comprehensively explaining, say, relevant rules, procedures, institutions, and theories in the central aspects of the potential content. Where appropriate, the explanations are supported by relevant examples and illustration (which is adequately developed where necessary to further elucidate the explanations). Where there are more marginal aspects of the potential content, there may be some minor omissions or inaccuracies in the explanation and/or in the treatment of the supporting examples and illustration.</p>	<p>Arguments are developed perceptively and coherently, making careful use of framework explanations, examples and illustration, and are directly related to the thrust of the question. Summaries and conclusions are sustainable, and demonstrably emerge from the supporting explanations and arguments.</p>
clear	<p>The answer presents an explanatory framework, correctly identifying and accurately explaining significant parts of, say, relevant rules, procedures, institutions, and theory in the central aspects of the potential content, though there are omissions in the explanations of some parts of the rules, procedures, institutions, and theory or errors or some confusion in the explanation, in those central aspects. There may be a little overemphasis on marginal aspects at the expense of some of the more central aspects. In the higher part of the level, relevant examples 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 relevant examples and illustration or more evident inaccuracies.</p>	<p>Appropriate arguments are introduced but may not be fully developed, or may be restricted in range. Alternatively, the arguments suffer from a little inaccuracy or confusion. The arguments make use of framework explanations (including any relevant examples and illustration) but do not always succeed in incorporating them in a fully coherent way or in demonstrating their full relevance. Summaries and conclusions may be a little tentative and may not fully address the thrust of the question. Though broadly based on the supporting explanations and arguments, summaries and conclusions may not be closely and carefully related to them in the discussion.</p>
some	<p>The answer presents an explanatory framework which correctly identifies and accurately explains a very limited part of, say, relevant rules, procedures, institutions, and theory 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 potential content. Alternatively, the answer attempts explanation across a much broader range of relevant rules, procedures, institutions, and theory 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 examples and illustration. If introduced at all, examples and illustration may be of marginal relevance or their treatment may be highly superficial or subject to significant inaccuracies or not properly used to support the explanation of the relevant rules, procedures, institutions, and theory.</p>	<p>There are relevant arguments but they are undeveloped and may tend to consist of simple assertions or assumptions. Alternatively, arguments may be characterised by evident confusion which significantly impedes coherence. Very limited use is made of framework explanations and any examples and illustration. Summaries and conclusions may be absent. Where present, they may barely address the thrust of the question, and be only imprecisely related to any supporting explanations and arguments.</p>

Criminal Law (Offences against the Person)

Scenario 1

Total for this scenario: 80 marks

0	1	Discuss Andy's criminal liability for the death of Bob.	(25 marks + 5 marks for AO3)
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Potential Content

- (A) Unlawful act manslaughter. Explanation of battery as the offence (including acts to which there is no implied consent) to establish the possible unlawful act (gross negligence manslaughter can be selected as an alternative)
- (B) Causation issues involving attempted escape etc (the pushing raises causation and transferred malice issues which may be dealt with in (A))
- (C) The defence of involuntary intoxication

0	2	Discuss the criminal liability of Andy, Chris and Denzil arising out of the incidents during the chase.	(25 marks)
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Potential Content

- (A) In relation to Andy punching Chris – the offence of assault occasioning abh (s47). Consideration of self-defence issues
- (B) In relation to Denzil injuring Andy – the offence of inflicting gbh (s20). Consideration of justified use of force issues (equivalent to self-defence/prevention of crime)
- (C) In relation to Chris injuring Andy – wounding/gbh (s20/s18). Consideration of justified use of force issues

Note: The 'justified use of force' issues may be treated separately as a discussion of self-defence/prevention of crime but there should be some discussion of application to at least **two** of the three participants).

0	3	Critically consider the strengths and weaknesses of the current law on non-fatal offences against the person, including in your answer a discussion of any appropriate suggestions for reform.	(25 marks)
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Potential Content

- (A) Critical consideration of structural issues (connected, for instance, with sentencing). Language and associated issues
- (B) Critical consideration of specific *actus reus* and *mens rea* issues (including the issue of consent in non-fatal offences)

Note: The potential content should be understood to include some discussion of possible reform, though this need not apply to every issue in the potential content.

Scenario 2

Total for this scenario: 80 marks

0 4 Discuss Erin’s criminal liability for the murder of Ghulam. (In discussing any defences, consider only those which are defences to murder alone.)
(25 marks + 5 marks for AO3)

Potential Content

- (A) The elements of the offence of murder, concentrating on malice aforethought and, in particular, on intention
- (B) The partial defence of provocation, reducing the crime to manslaughter
- (C) The partial defence of diminished responsibility, reducing the crime to manslaughter

0 5 Taking into account any appropriate general defence, discuss Erin’s criminal liability for the burns suffered by Fazana, and her potential liability for the injuries sustained when Fazana slashed her wrists. (25 marks)

Potential Content

- (A) The elements of the offence of assault occasioning actual bodily harm (1861 Act s47)
- (B) The elements of the offences of wounding or inflicting grievous bodily harm (with intent) (1861 Act s20/s18), including causation in relation to reasonable foreseeability, “take your victim”, and suicide attempts
- (C) The general defence of insanity

0 6 Critically consider the strengths and weaknesses of the current law on non-fatal offences against the person, including in your answer a discussion of any appropriate suggestions for reform. (25 marks)

Potential Content

- (A) Critical consideration of structural issues (connected, for instance, with sentencing). Language and associated issues
- (B) Critical consideration of specific *actus reus* and *mens rea* issues (including the issue of consent in non-fatal offences)

Note: The potential content should be understood to include some discussion of possible reform, though this need not apply to every issue in the potential content.

Contract Law

Scenario 3

Total for this scenario: 80 marks

0 7 Discuss the rights, duties and remedies of Jen and of Les in connection with the re-fitting of the shop. *(25 marks + 5 marks for AO3)*

Potential Content

- (A) Formation issues: in particular, offer and acceptance and consideration (the performance of an existing duty)
- (B) Terms implied by the Supply of Goods and Services Act 1982 as to satisfactory quality/fitness for purpose of goods supplied, and as to reasonable care and skill in the supply of services
- (C) Possible remedies for breach, dependent on the nature of the term or the breach. Damages and rescission

0 8 Taking account of the rules on termination of contracts by frustration and by breach, consider Martin's rights and remedies following Jen's refusal to accept and pay for the leaflets. *(25 marks)*

Potential Content

- (A) The rules on frustration of contracts, especially on frustration of the common venture
- (B) The rules if the contract is frustrated – application of the Law Reform (Frustrated Contracts) Act 1943
- (C) Explanation of the rules on damages for breach of contract if the contract is not frustrated

0 9 Critically consider how satisfactory the current law on formation of contract is, including in your answer a discussion of any appropriate suggestions for reform. *(25 marks)*

Potential Content**Formation**

- (A) Critical consideration of first issue in connection with formation
- (B) Critical consideration of second issue in connection with formation

Note: Answers may concentrate on agreement, or on intention to create, or on consideration, or deal with any combination of the above, account being taken of breadth and depth.

The potential content should be understood to include some discussion of possible reform, though this need not apply to every issue in the potential content.

Scenario 4

Total for this scenario: 80 marks

1 0 Consider what rights and remedies, if any, are available to Jamal in connection with Harry's refusal to keep his promise to repair Jamal's central heating.
(25 marks + 5 marks for AO3)

Potential Content

- (A) Consideration issues – the nature of consideration, past consideration, implied promise
- (B) Intention to create legal relations issues – requirement for such intention, presumptions based on classification of relationship
- (C) Remedies – damages and specific performance

1 1 Consider Ian's rights and remedies, if any, against Norman in connection with the sale of the bicycle and the financial loss suffered on account of his injuries. (25 marks)

Potential Content

- (A) The Sale of Goods Act 1979 implied terms as to satisfactory quality and fitness for purpose
- (B) The rule on privity of contract and the effect of the Contracts (Rights of Third Parties) Act 1999
- (C) Remedies – rejection and damages and the effect of the purported limitation clause

1 2 Critically consider how satisfactory the current law on formation of contract is, including in your answer a discussion of any appropriate suggestions for reform. (25 marks)

Potential Content

Formation

- (A) Critical consideration of first issue in connection with formation
- (B) Critical consideration of second issue in connection with formation

Note: Answers may concentrate on agreement, or on intention to create, or on consideration, or deal with any combination of the above, account being taken of breadth and depth.

The potential content should be understood to include some discussion of possible reform, though this need not apply to every issue in the potential content.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

A Level Law (LAW03)**(One question to be answered from 4)**

UNIT 3	AO1	A02	AO3
Question 01	10	15	5
Question 02	10	15	
Question 03	10	15	
Question 04	10	15	5
Question 05	10	15	
Question 06	10	15	
Question 07	10	15	5
Question 08	10	15	
Question 09	10	15	
Question 10	10	15	5
Question 11	10	15	
Question 12	10	15	