

Examiners' Report

Summer 2012

GCE Law

Paper 9345/02

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## **A LEVEL LAW: JUNE 2012**

### EXAMINER'S REPORT

#### **General Comments.**

Candidates who entered the 2012 A Level Law examination produced answers of a comparable standard to those who sat the examination in previous years, but there was a distinct improvement in the quality of Paper Two answers. There were some excellent centres which produced candidates who achieved high grades on both papers, and it was pleasing to observe that comments made in earlier years by the examiners had been noted, resulting in a steady improvement in the standard of work offered by candidates. In general, many students had clearly worked hard to absorb details of the law across the entire breadth of the syllabus they had selected, though the knowledge gained in basic principles for Paper One was seldom transferred to Paper Two. Despite this, some well-reasoned arguments were produced, supported by relevant authorities drawn from cases and statutes. Although some candidates tended to write standardised answers, reproducing all they knew about the general area of law under consideration, this approach was no more widespread than in previous years. This tendency stems from lack of confidence on the part of candidates who have spent considerable time learning the law, but lack sufficient belief in their own ability to apply it adequately. Answers based on a "write all you know" approach can earn only a restricted range of marks, and examiners advise candidates to focus strongly on the terms of each question in order to ensure that they answer the particular question that has been asked. It is for the candidate to form and develop the connections required to make the answers relevant, and students should be encouraged by their teachers to read the questions carefully, to assess what the questions demand, to plan their answers meticulously, and write responses which demonstrate that they have selected law which is relevant to the question, with appropriate illustrations and examples.

There are some candidates who still attempt to answer questions without supporting and illustrating them with appropriate legal authority. However, most candidates were able to use legal authorities to some degree, and better candidates examined the cases in depth. Coupled with a clear demonstration of ability to appraise and criticise the application of legal principles, the use of authorities can yield some excellent answers.

Answering only three questions can result in disaster, even for candidates who write three good answers, as this almost inevitably means a lower grade overall. Consistency across both papers is

essential if candidates are to achieve a high grade, and they are advised to attempt all four questions as instructed on both papers. Although the examiners ensure that candidates are rewarded for what they have shown they can do, rather than penalising them for omissions, it is impossible to award marks for a question that has not been answered at all.

For Paper One, successful candidates demonstrated a very good appreciation of the role and function of law in society, an understanding of legal classification, and evidence of critical awareness of controversial issues in law and law reform. For Paper Two, better candidates showed a clear grasp of how to analyse legal problems, and real ability to apply rules and use authorities. Clarity of presentation, coupled with a good structure for each answer, and detailed discussion of the legal rules relevant to the questions are all the hallmarks of good answers.

The overall quality of Paper Two answers was much improved this year. Answering problem questions can be challenging for some candidates because good answers require the ability to apply the rules as well as simply reproducing them. However, there was evidence of sustained effort on the part of many candidates to deal with the questions logically, and to focus only on the issues that were identified at the outset, applying relevant legal rules to the facts, and offering balanced answers supported and illustrated by authorities. Fewer candidates produced standardised answers for Paper Two than for Paper One, and many well-prepared candidates produced higher marks for Paper Two as a result. The most popular sections were The Market, Criminal law, and the Individual.

As usual, many candidates wasted time re-writing the question. Although this is acceptable, and indeed necessary to some extent in order to focus on particular facts, it is not sensible for candidates to write out large sections of the questions, and it can give the impression that they know little about the topic and are simply filling in time. A simple and direct introductory paragraph is usually all that is needed. For example, when tackling the first question, a good candidate introduced the answer in the following way: "*The facts of this scenario suggest that discussion of misrepresentation, terms and conditions, exclusion clauses and breach of contract*". The candidate then discussed each point in turn in a chronological sequence, supporting comments with cases and sections of statutes, and this approach achieved a good mark.

## Section A

**Question 1.** This first question concerned offer and acceptance, the status of newspaper advertisements, modern methods of communication for conducting contractual negotiation, and standard rules concerning the timing of offer and acceptance. It was clear that many candidates had prepared well for a question of precisely this kind. A large number were able to discuss the nature of offers and their legal status. The question also contained elements of misrepresentation, and some candidates did not recognise this aspect of the question, so losing marks and omitting many important points. The various methods of responding to an offer were handled well. Good references to the case law were essential. Many answers displayed familiarity with the case law on the subject, but it would have helped some candidates to earn more marks had they stated the facts of cases more clearly and explained how and why they were relevant to the facts of the question.

**Question 2.** This question was not popular and those candidates who did answer it appeared to find it difficult to support their answers with appropriate authorities. Many did not recognise which areas of law were involved in the question, and as a result some focused their answers too narrowly, omitting some of the relevant material identified in the mark scheme. There was evidence of confusion about the current safeguards and statutory remedies, and many were unable to produce in-depth analysis and discussion of the consumer protection legislation.

**Question 3.** This popular question attracted a good many candidates, and was answered very well by many, though the possibility of frustration of contract was seldom discussed. The cases and statutory authorities on misrepresentation were well-known, though the relative advantages of different approaches to obtaining remedies were only covered by the better candidates. The rights of third parties were described, illustrated and explained well.

**Question 4.** This question proved attractive to many candidates who tackled this section of the paper. There were several points of law to be discussed, and few candidates identified all of them. However, there was some good analysis of the rules relating to remoteness of damage, causation and the extent of liability in damages. Some of the stronger answers contained a large amount of detail about the legislation relating to sale of goods, referring to the case law and precise statutory provisions. Few were able to identify the appropriate courts to be used in this case.

## **Section B**

**Question 5.** This was not a popular section of the paper with the candidates entering the examination this year. This first question on the section required candidates to distinguish between employees and independent contractors and to describe the legal consequences for people falling into each category. There were various scenarios for discussion which raised important points of law, including aspects of Tort and Health and Safety at work. However, answers contained too little reference to legal authorities, and some displayed little meaningful analysis. Few candidates who attempted the question were able to deal effectively with every aspect of the scenario, or to differentiate between the different types of employees and their situations.

**Question 6.** This was a rather topical question as it raised issues about the correct approach to selection for redundancy. However, it was not tackled very well and the essential involvement of trade unions in the process was barely referred to. The practical steps that were necessary for candidates to identify were barely mentioned. There was some opportunity for candidates to discuss the law of unfair dismissal but there was little reference to statute or case law in their answers.

**Question 7.** This question, which concerned the nature of restrictive covenants, was popular. However, not all the candidates who attempted to answer the question considered discussion of the important issues arising from the validity or otherwise of the clause in question – whether it was void or reasonable in the circumstances. Nevertheless, it was possible to observe good knowledge of some of the case law in answers to this question.

**Question 8.** No candidates decided to answer this question, although the topic is firmly on the syllabus. However, given that so few candidates attempted the section on the Workplace, it is not surprising that one question had no response.

## Section C

This year, the Family Law section of the paper again proved much less popular than some of the other sections of the paper, but those candidates who had prepared thoroughly for this section and chose to answer it, tended to do well. However, as is so often the case, in answers to the family law section there were candidates who produced common-sense answers, and who did not refer to the relevant legal provisions and case law.

**Question 9.** The question covered issues concerning marital breakdown, potentially unreasonable behaviour as a ground for divorce and the Protection from Harassment Act. Some candidates did identify all these issues, but few were able to analyse them in any depth. There were several answers which contained little or no detail about the need to protect the children, and this left a large gap in their answers, as the courts focus particularly on the best interests of children in Family Law cases.

**Question 10.** Some interesting and topical matters of law were raised in this question concerning paternity and the various formalities that surround certain forms of fertility treatment, in particular AID, depending on the circumstances. Not all of these matters were discussed with reference to the legal rules. However there was some good discussion about civil partnerships and the best interests of children who live in households where there are civil partners caring for them. The role of grandparents was largely ignored by candidates who selected this question.

**Question 11.** The difficult topic of ancillary relief was tackled quite well by some of the candidates. However, few answers contained detailed discussion of the relevance of the income and financial and other contributions of the parties to the marriage in the decision-making process in the courts. Some were able to give a reasonable account of the relevant legislation and the role of the court in cases of this kind. The law relating to divorce was known quite well, however, as was the importance of residence and contact orders and the notion of the best interests of children. The question of disability in the context of relationship breakdown gave rise to some interesting observations by candidates.

**Question 12.** The distressing topic of physical abuse of young children, aggression and domestic violence were approached with sensitivity by most of the candidates who tackled this question. The respective roles of social services and the courts were handled sensibly, with focus on the importance of ascertaining what would be in the best interests of children in the decision-making process. There



was good understanding displayed of the relevant law, but few candidates referred to the guidelines on dealing with alleged child abuse, and the role of the police in these cases. Once again, some candidates produced common-sense answers and were therefore unable to obtain a good mark for this question, which required detailed knowledge of the law.

## **Section D**

The Criminal Law section proved to be as popular as ever with this year's group of candidates. It was very encouraging for the examiners to note that a large number of candidates demonstrated a good understanding of basic criminal law concepts of actus reus and mens rea and were able to explain them clearly and to apply their knowledge and understanding appropriately.

**Question 13.** This question required discussion of the law relating to causing actual bodily harm, and assault and battery were discussed in some depth by many candidates. The issues surrounding causation were handled less well, and there was considerable confusion about the correct legal position. Surprisingly the law of murder and manslaughter was not always very well analysed in the context of this scenario. The possibility of Corporate Manslaughter was barely mentioned. Many candidates mentioned relevant cases, and some candidates discussed them in good detail.

**Question 14.** This deceptively straightforward question gave rise to some very complex matters concerning intention, recklessness and criminality. The majority of those who answered this question were, however, able to describe and apply the law concerning the crimes of murder and manslaughter, and this aspect of the question was handled well. Questions of foresight, intention and remoteness in criminal law were tackled less well, however, and some of the candidates omitted any cases from their answers, even though much of the question concerned many issues of the common law.

**Question 15.** The main focus of this question was on the law of theft, but there were also issues of fraud involved, and it was pleasing that many candidates were fully aware of the legislation relating to both areas of criminal activity and of the basics of the way in which the courts approach the question of dishonesty. In addition to statutory provisions, many candidates were able to use cases to illustrate and support the points they made.

**Question 16.** This question raised issues relating to fraud and dishonesty and also to the crime of murder and the possibility of

automatism. It was this last point that many candidates were unable to identify as relevant. Those who did recognise the importance of that potential defence in this case were able to discuss it in depth and to illustrate their answers with examples from the cases.

## **Section E**

**Question 17.** Although this section is still not as popular as the sections on Consumer Law and Criminal Law, it is clearly growing in popularity. Some of the candidates who tackled the section had little grasp of the complexities of the legal framework in this area, and the relevance of human rights. There are many detailed statutory rules and there is also a supporting volume of case law dealing with the law in this section. This first question in the section concerned several public order offences and the law that deals with remedies against police officers who themselves infringe the legal rules. The majority of candidates who elected to answer this section were able to identify the relevant public order offences and other criminal offences that might apply, but some did not discuss the law in sufficient depth.

**Question 18.** This question on defamation proved to be very popular, and many candidates were able to reproduce successful definitions. A large number stated the criteria for successful claims, and pointed to the possible defences. The topical matter of super-injunctions appeared to interest the candidates, and it was surprising how much some of them knew about this area of law. However, too many candidates simply wrote everything they could remember about defamation, with insufficient focus on the question and the scenario described in it. The law of confidentiality, and question of whether there is a law of privacy in the UK did not feature in many answers.

**Question 19.** Candidates tend to expect a question like this on arrest, detention and the rights of suspects, and many covered very well the relevant legislation and Code of Practice made under it. The Police and Criminal Evidence legislation was known thoroughly by many candidates, who gave good accounts of the rights of suspects in relation to stop and search, arrest, questioning, detention and removal of property. Although these aspects of the question were very well handled, the remedies that are available to those who are not treated correctly in accordance with the law were less well-known, and discussion about them tended to be sketchy. Case law is very important in this respect, and a large volume has built up over the years, on which candidates can draw when answering.

**Question 20.** Questions about the law relating to trespass, protest marches and demonstrations do appear quite frequently on Paper Two, and this year many candidates provided a good account of the legal rules regulating to peaceful protest. Some aspects of public nuisance and trespass were not handled particularly well, however, and few cases were mentioned in the course of the answers, even though there is a wealth of case law in this area, some of which is interesting and colourful.

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