



ASSESSMENT and
QUALIFICATIONS
ALLIANCE

Mark scheme January 2004

GCE

Law

Unit LAW3

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Assessment Objectives One and Two

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of candidates, mainly 17 years old, who have completed some part of the advanced subsidiary course, 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. **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**

1**Total for this question: 35 marks**

- (a) Explain the terms *actus reus* and *mens rea*. Using those explanations, outline an appropriate offence with which Kevin might be charged. (15 marks)

Potential Content

- (A) Explanation of *actus reus*
- (B) Explanation of *mens rea*
- (C) Outline an appropriate offence (s18 or s20)

Mark Bands

- 12 – 15 The candidate deals with (A)-(C) as follows:
max 15: two sound, one clear
max 13: one sound, two clear
max 12: three clear **or** one sound, one clear, one some.
- 8 – 11 The candidate deals with (A)-(C) as follows:
max 11: two clear, one some
max 10: one sound **or** two clear **or** one clear, two some
max 9: one clear, one some **or** three some
max 8: one clear **or** two some.
- 4 – 7 The candidate begins to display some understanding by introducing discussion of any of the material in (A)-(C). Where the candidate introduces material across the range it will be superficial.
- 1 – 3 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

(b) Some crimes are known as crimes of **strict liability**. Explain, with appropriate examples, what is meant by the term **strict liability**. *(10 marks)*

Potential Content

(A) Explanation of strict liability

Mark Bands

- | | |
|--------|--|
| 8 – 10 | The candidate demonstrates a sound understanding of (A). |
| 5 – 7 | The candidate demonstrates a clear understanding of (A). |
| 3 – 4 | The candidate displays some understanding by introducing consideration of any of the material in (A). |
| 1 – 2 | The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at description is fundamentally undermined by mistakes or confusion. |
| 0 | The answer contains no relevant information. |

- (c) Briefly explain the range of sentences available to the criminal courts if Kevin, who is over 21, were to be convicted of any offence. Briefly discuss the range of factors which the court may take into account before Kevin is sentenced. (10 marks)

Potential Content

- (A) Explanation of the range of sentences available
NB Credit will be given for reference to the aims of sentencing
- (B) Aggravating and mitigating factors
- (C) Application and conclusion

Mark Bands

- 8 – 10 The candidate deals with (A)-(C) as follows:
max 10: two sound, one clear
max 9: one sound, two clear
max 8: two clear, one some.
- 5 – 7 The candidate deals with (A)-(C) as follows:
max 7: one sound **or** two clear **or** one clear, two some
max 6: one clear, one some **or** three some
max 5: one clear **or** two some.
- 3 – 4 The candidate demonstrates some capacity for explanation and/or application but neither is clear.
- 1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

2**Total for this question: 25 marks**

(a) Discuss whether West Coast College owes a duty of care to Pamela.	(10 marks)
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Potential Content

- (A) Explanation of duty of care
- (B) Application to the facts of the problem and conclusion

Mark Bands

- 8 - 10 The candidate deals with (A) and (B) as follows:
max 10: two sound
max 8: one sound, one clear
- 5 - 7 The candidate deals with (A) and (B) as follows:
max 7: sound (A) **or** clear (A), some (B)
max 5: clear (A) **or** two some
- 3 - 4 The candidate demonstrates some capacity for explanation and/or application but neither is clear.
- 1 - 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

- (b) Assuming West Coast College owes a duty of care to Pamela, discuss whether or not the college is in **breach** of that duty. (15 marks)

Potential Content

- (A) Explanation of standard of care (reasonable man test)
- (B) Explanation of factors used to determine the standard of care
- (C) Application of factors used to determine the standard of care and conclusion as to whether the college is in breach

Mark Bands

- 12 – 15 The candidate deals with (A)-(C) as follows:
max 15: two sound, one clear
max 13: one sound, two clear
max 12: three clear **or** one sound, one clear, one some.
- 8 – 11 The candidate deals with (A)-(C) as follows:
max 11: two clear, one some
max 10: one sound **or** two clear **or** one clear, two some
max 9: one clear, one some **or** three some
max 8: one clear **or** two some.
- 4 – 7 The candidate begins to display some understanding by introducing discussion of any of the material in (A)-(C). Where the candidate introduces material across the range it will be superficial.
- 1 – 3 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

UNIT 3	AO1	AO2	AO3
Question 1 (a)	8	7	1
Question 1 (b)	4	6	1
Question 1 (c)	4	6	1
Question 2 (a)	4	6	1
Question 2 (b)	8	7	1
AO3 (Quality of written communication for the paper as a whole)			5
Total marks	28	32	5
% of AS	17	20.5	2.5
% of the A Level	8.5	10.25	1.25