



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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## **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.*

#### **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**

### LAW03 Descriptors

Level	Description
<b>Sound</b>	Accurate and comprehensive explanation and application, so that the answer reveals strong knowledge and understanding of the correct (or sustainable) analysis, leading to satisfactory conclusions. There may be some omission, error, or confusion but it will be insufficient to undermine the basic characteristics of the answer.
<b>Clear</b>	<p>Broadly accurate and relatively comprehensive explanation and application, though a little superficial in either or both and with some error and/or confusion that begins to affect the quality of the analysis.</p> <p>Or</p> <p>Accurate explanation and application over a narrower area, omitting some significant aspect(s) of the analysis.</p> <p>So that an answer emerges which reveals knowledge and understanding of the broad framework of the analysis, or of some of its detailed aspect(s).</p>
<b>Some</b>	<p>Explanation and/or application in relation to relevant aspects but characterised by significant omissions and/or errors and/or confusion.</p> <p>Or</p> <p>Explanation (including definitions of relevant offences/defences) and/or application which is generally accurate but confined to a limited aspect.</p> <p>So that, at best, a very superficial or partial analysis emerges.</p>
<b>Fragments</b>	<p>Isolated words or phrases, including case names and statutes, which have potential relevance but remain entirely undeveloped.</p> <p>Or</p> <p>Mere identification of relevant offences/defences.</p>

#### Use of case authority

1. It is usually sufficient to associate a relevant case with an explained/applied rule. Further explanation of cases is required only where necessary to elucidate the rule or its application.
2. An answer in relation to any Pc should not be described as 'sound' unless some relevant authority appears, where appropriate. However, where there is appropriate use of authority in relation to the other Pc('s) in the mark scheme for the question, an answer in relation to a Pc where no authority appears may be given a 'lower' sound (the candidate will have demonstrated ability to use appropriate authority at some point in the answer to the question, albeit not in the element in issue).

**Mark bands (3 potential content) – list of maximum marks**

25	two sound, one clear
23	two sound, one some <b>or</b> one sound, two clear
21	two sound <b>or</b> one sound, one clear, one some <b>or</b> three clear
19	one sound, one clear <b>or</b> one sound, two some <b>or</b> two clear, one some
17	one sound, one some <b>or</b> two clear <b>or</b> one clear, two some
14	one sound <b>or</b> one clear, one some <b>or</b> three some
13	two sound explanation only
11	one clear <b>or</b> two some
09	one sound explanation only <b>or</b> two clear explanation only <b>or</b> three some explanation only
07	one some <b>or</b> one clear explanation only <b>or</b> two some explanation only
05	one some explanation only
04	fragments or substantial error/incoherence
00	completely irrelevant

**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
17	one sound <b>or</b> one clear, one some
13	one clear <b>or</b> two some <b>or</b> two sound explanation only
11	one sound explanation only <b>or</b> two clear explanation only
08	one some <b>or</b> one clear explanation only <b>or</b> two some explanation only
06	one some explanation only
05	fragments or substantial error/incoherence
00	completely irrelevant

**Note:**

In *substantive* law questions, the two components are explanation and application. In *evaluative* questions, the two components are explanation and evaluation. The references above to explanation only are to be understood as explanation without application for substantive law questions, and as explanation without evaluation for evaluative questions. The quality of treatment of these two components, in combination, determines whether the treatment overall for that PC element is sound, clear or some. In determining the overall quality of treatment, descriptions of the quality of treatment of the individual components (whether explanation or application/evaluation) should be combined as follows:

sound/sound	- sound
sound/clear	- low sound
sound/some	- clear
clear/clear	- clear
clear/some	- low clear
some/some	- some

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## Criminal Law (Offences against the Person)

**Scenario 1****Total for this scenario: 80 marks**

<b>0</b>	<b>1</b>	Consider the possible criminal liability of Adam and of Chris arising out of the incidents in the garden and in the street.	<i>(25 marks + 5 marks for AO3)</i>
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**Potential Content**

- (A) In relation to Adam: analysis of the offence of assault (battery) occasioning abh; *actus reus* issues related to assault and/or battery and the degree of injury inflicted; *mens rea* issues related to Adam's possible intention to damage the greenhouse and his intention to cause, or awareness of the risk of causing, apprehension of unlawful touching and/or the unlawful touching itself (non-applicability of transferred malice). **Max clear** for assault/battery only.
- (B) In relation to Chris: analysis of the inflicting/causing gbh offences under s20 and s18 and the effect thereon of the voluntary intoxication.
- NB All three **max sound**; s18 plus intoxication **max weak sound**; any other two **max clear**; any one **max weak clear**.
- (C) In relation to Adam, the offences as above in (B) but in relation to wounding, and the defence of self-defence.
- NB s20 and/or s18 plus self-defence **max sound**; s20 and s18 only **max clear**; self-defence only **max clear**; s20 or s18 only **max weak clear**.

**AO3**

- 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**
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<b>0</b>	<b>2</b>	Consider the possible liability of Adam and of Frances in connection with Diane's death.	<i>(25 marks)</i>
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**Potential Content**

- (A) In relation to Adam: the offence of unlawful act manslaughter based upon the initial crime of assault; issues of causation; possible defence available to Adam: automatism, involuntary intoxication or, more generally, lack of *mens rea*.

NB Credit discussion of common relevant *actus reus* elements of murder and manslaughter (eg particularly causation), even if in the context of murder. Credit a general discussion of murder (eg *mens rea*) to enhance mark. Murder only without relevant *actus reus* discussion is **max some**.

- (B) In relation to Frances: the offence of gross negligence manslaughter based on a possible duty arising out of voluntary assumption of responsibility.

<b>0</b>	<b>3</b>	The non-fatal offences against the person have been subjected to frequent criticism. Explain and discuss these criticisms, and suggest what reforms might be desirable.	<i>(25 marks)</i>
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**Potential Content**

- (A) General structural criticisms, including antiquated language and hierarchy related to sentencing.
- (B) Specific *actus reus* and *mens rea* criticisms. Discussion of **consent** as a defence to personal injury offences can be credited in full as this PC, or can be treated as an additional element in this PC.
- (C) Appropriate suggestions for reform, probably based upon Law Commission proposals. Proposals for reform can include proposals for the reform of the law on consent.

NB In (A), "language" should be treated as including discussion of difficulties in defining, eg "actual" and "grievous" bodily harm, However, "wound" as a type of injury, leading to anomalies in comparisons of level of seriousness between s47 and s20/s18, as well as in relation to the JCC v Eisenhower kind of issue, should be treated as (B).



**Scenario 2****Total for this scenario: 80 marks**

<b>0</b>	<b>4</b>	Discuss the possible criminal liability of Harry arising out of the incidents involving George and Janet.	<i>(25 marks+ 5 marks for AO3)</i>
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**Potential Content**

- (A) In relation to the injuries to George: analysis of the wounding and inflicting gbh offences under s20.

NB

Where the offence selected is s47 or s18 only – **max clear**.

Where discussion of s47 is combined with discussion of s20 to construct an analysis of the liability in relation to the different phases of the incident (initial injury leading to subsequent infection), this may enhance to **max sound**.

- (B) The effect, if any, on the criminal liability in (A) of George's consent: genuineness of consent; the relevance of Harry's state of mind on his perception of George's consent. Insanity as a possible defence to either or both of (A) and (C).

NB Consent only **max sound**; insanity only **max clear**.

- (C) In relation to the incident involving Janet: analysis of the offence of assault, requiring, in particular, V's fear/awareness of imminent possible infliction of personal violence. Analysis of the offence of assault occasioning abh, with reference to psychiatric injury.

**AO3**

**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**

<b>0</b>	<b>5</b>	Discuss the possible liability of Harry for the murder of Matt.	<i>(25 marks)</i>
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**Potential Content**

- (A) The analysis in particular of the *mens rea* of murder, with specific reference to direct and oblique intention both in relation to killing and causing serious injury.
- (B) Analysis of the defence under the Coroners and Justice Act 2009 of loss of control attributable to circumstances of a grave character causing D to have a justifiable sense of being seriously wronged (or the defence of provocation).
- (C) The defence of diminished responsibility under the Homicide Act 1957 s2 (as amended by the Coroners and Justice Act 2009), or in its unamended form as appropriate. Possible alternative in insanity (use may be made of any explanations of insanity provided in answer to question 04). (**Max clear for insanity only.**)

<b>0</b>	<b>6</b>	The non-fatal offences against the person have been subjected to frequent criticism Explain and discuss these criticisms, and suggest what reforms might be desirable.	<i>(25 marks)</i>
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**Potential Content**

- (A) General structural criticisms, including antiquated language and hierarchy related to sentencing.
- (B) Specific *actus reus* and *mens rea* criticisms. Discussion of **consent** as a defence to personal injury offences can be credited in full as this PC, or can be treated as an additional element in this PC.
- (C) Appropriate suggestions for reform, probably based upon Law Commission proposals. Proposals for reform can include proposals for the reform of the law on consent.

NB In (A), “language” should be treated as including discussion of difficulties in defining, eg “actual” and “grievous” bodily harm, However, “wound” as a type of injury, leading to anomalies in comparisons of level of seriousness between s47 and s20/s18, as well as in relation to the JCC v Eisenhower kind of issue, should be treated as (B).

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## Contract Law

**Scenario 3****Total for this scenario: 80 marks**

<b>0</b>	<b>7</b>	Consider the rights and remedies, if any, of Andrew and of Ben against Clarksons. <i>(25 marks + 5 marks for AO3)</i>
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**Potential Content**

- (A) The issue of privity of contract at common law and by statute (making it likely that Ben, as well as Andrew, will have rights against Clarksons).
- (B) The rights available to Andrew/Ben against Clarksons by virtue of the Sale of Goods Act 1979 in relation to satisfactory quality, and fitness for purpose.
- (C) The remedies available for breach of the rights above, including damages, the right to reject (and circumstances in which the right is lost), and to rescind, or to require repair, replacement, or reduction in price. The common law and statutory control of exclusion clauses.

**AO3**

- 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**
-

<b>0</b>	<b>8</b>	Consider the rights and remedies, if any, of Dan, of Grasslife, of Sportgear, and of the participating teams, arising out of the cancelled football tournament. <span style="float: right;"><i>(25 marks)</i></span>
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**Potential Content**

- (A) The issue of frustration of contract, including frustrating events and the effect of fault. Consideration of frustration and of breach of contract in relation to the various parties.
- (B) The rights available consequent upon either frustration or breach: apportionment of losses under the Law Reform (Frustrated Contracts) Act 1943; damages for breach of contract in relation to the footballs.

<b>0</b>	<b>9</b>	Choosing any aspect(s) of contractual terms, consider how satisfactory the law is in that area and discuss any appropriate proposals for reform. <span style="float: right;"><i>(25 marks)</i></span>
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- (A) Explanation and evaluation of terms in general – for example, issues concerning representations and terms, certainty of terms, express and implied terms, descriptions of terms as conditions, warranties and innominate terms.
- (B) Explanation and evaluation of specific kinds of terms – for example, statutory implied terms in connection with the sale of goods and with the supply of goods and services.
- (C) Explanation and evaluation of terms which purport to exclude or limit liability – common law and statutory approaches to the control of such terms.

**Note:** Candidates may choose to deal with all or any of the above content and marking should take account of the balance between depth and breadth. An answer taking the broad-ranging approach indicated in the three PC's above might be expected to deal with one issue from each and to incorporate a suggestion for reform in at least two. Alternatively, an answer could deal with, say, (A) and (B) in a little more depth, with (C) as suggestions for reform. An answer taking a narrower approach concentrating, say, on terms in general (that is, on (A) as indicated above) might be expected to present some explanation and evaluation of at least two of the issues listed (or of any other relevant issues), and to make some suggestions for reform (3 PC).

This may be treated as a 2PC scheme in which credit for proposals for reform is incorporated into the credit given for either or both of the PCs.

**Scenario 4****Total for this scenario: 80 marks**

<b>1</b>	<b>0</b>	Consider what rights and remedies, if any, are available to Etta, to Gary and to Helen arising out of the sales promotion by <i>The Reporter</i> .	(25 marks + 5 marks for AO3)
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**Potential Content**

- (A) In relation to Etta: the analysis of the offer and acceptance issues arising out of the advertisement; requirement to meet the terms in a unilateral contract; acceptance by post; consideration of remedies.
- (B) In relation to Ferdy and Gary: the analysis of formation issues, in particular of intention to create legal relations and consideration; consideration of remedies.
- (C) In relation to Helen: the analysis of issues connected with withdrawal of offers prior to acceptance; consideration of remedies.

**AO3**

**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**

<b>1</b>	<b>1</b>	<p>Consider the rights and remedies available to Jack arising out of:</p> <ul style="list-style-type: none"> <li>• his agreement to pay £500 to Kamal to ensure Kamal's availability for repair and restoration services</li> <li>• the work done by Kamal on the antique table.</li> </ul> <p style="text-align: right;"><i>(25 marks)</i></p>
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**Potential Content**

- (A) In relation to the year's contract: the issue of misrepresentation; the meaning of misrepresentation; the types; the associated remedies.
- (B) In relation to the work on the table: analysis of the term implied by the Supply of Goods and Services Act 1982 as to reasonable care and skill; consideration of remedies in the light of the limitation clause and the common law and statutory rules restricting the use of such clauses.

<b>1</b>	<b>2</b>	<p>Choosing any aspect(s) of contractual terms, consider how satisfactory the law is in that area and discuss any appropriate proposals for reform.</p> <p style="text-align: right;"><i>(25 marks)</i></p>
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**Potential Content**

- (A) Explanation and evaluation of terms in general – for example, issues concerning representations and terms, certainty of terms, express and implied terms, descriptions of terms as conditions, warranties and innominate terms.
- (B) Explanation and evaluation of specific kinds of terms – for example, statutory implied terms in connection with the sale of goods and with the supply of goods and services.
- (C) Explanation and evaluation of terms which purport to exclude or limit liability – common law and statutory approaches to the control of such terms.

**Note:** Candidates may choose to deal with all or any of the above content and marking should take account of the balance between depth and breadth. An answer taking the broad-ranging approach indicated in the three PC's above might be expected to deal with one issue from each and to incorporate a suggestion for reform in at least two. Alternatively, an answer could deal with, say, (A) and (B) in a little more depth, with (C) as suggestions for reform. An answer taking a narrower approach concentrating, say, on terms in general (that is, on (A) as indicated above) might be expected to present some explanation and evaluation of at least two of the issues listed (or of any other relevant issues), and to make some suggestions for reform (3 PC).

This may be treated as a 2PC scheme in which credit for proposals for reform is incorporated into the credit given for either or both of the PCs.

**ASSESSMENT GRID**

(to show the allocation of marks to Assessment Objectives)

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

<b>UNIT 3</b>	<b>AO1</b>	<b>A02</b>	<b>AO3</b>
<b>Scenario 1</b>			
Question 0 1	10	15	5
Question 0 2	10	15	
Question 0 3	10	15	
<b>Scenario 2</b>			
Question 0 4	10	15	5
Question 0 5	10	15	
Question 0 6	10	15	
<b>Scenario 3</b>			
Question 0 7	10	15	5
Question 0 8	10	15	
Question 0 9	10	15	
<b>Scenario 4</b>			
Question 1 0	10	15	5
Question 1 1	10	15	
Question 1 2	10	15	
<b>Total marks</b>	<b>30</b>	<b>45</b>	<b>5</b>

**Converting Marks into UMS marks**

Convert raw marks into marks on the Uniform Mark Scale (UMS) by using the link below.

**UMS conversion calculator** [www.aqa.org.uk/umsconversion](http://www.aqa.org.uk/umsconversion)