



**General Certificate of Education  
January 2012**

**Law                      LAW02**

**The Concept of Liability**

**Unit 2**

***Mark Scheme***

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 students' 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 students' 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 students' 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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## **LAW02**

### **Assessment Objectives One and Two**

#### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of students, 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 students 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 student'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 student's answer does not deserve credit, then no marks should be given.*

#### **Citation of Authority**

*Students 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**

<b>2 marks</b>	<p>The work is characterised by some or all of the following:</p> <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	<p>The work is characterised by:</p> <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	<p>The work is characterised by:</p> <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

### The level of understanding in AS Law – LAW02

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year-old, so the level of understanding required by these criteria will be that of the notional 17-year-old.

<p><b>Sound</b></p>	<ul style="list-style-type: none"> <li>• The material will be generally accurate and contain material relevant to the Potential Content.</li> <li>• The material will be supported by generally relevant authority and/or examples.</li> <li>• It will generally deal with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<p><b>Clear</b></p>	<ul style="list-style-type: none"> <li>• The material is broadly accurate and relevant to the Potential Content.</li> <li>• The material will be supported by some use of relevant authority and/or examples.</li> <li>• The material will broadly deal with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being fully rounded or developed.</p>
<p><b>Some</b></p>	<ul style="list-style-type: none"> <li>• The material shows some accuracy and relevance to the Potential Content.</li> <li>• The material may occasionally be supported by some relevant authority and/or examples.</li> <li>• The material will deal with some of the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content.</p>
<p><b>Limited</b></p>	<ul style="list-style-type: none"> <li>• The material is of limited accuracy and relevance to the Potential Content.</li> <li>• The material will be supported by minimal relevant authority and/or examples.</li> <li>• The material will deal superficially with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the concepts of the Potential Content will barely be established, as there will be many errors, omissions and/or confusion which almost completely undermine the essential elements of the Potential Content.</p>

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## Section A Introduction to Criminal Liability

Total for this question: 45 marks + 2 marks for AO3

<b>0 1</b> Explain the meaning of the term 'causation' in criminal law. (8 marks)
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### Potential Content

(A) Explanation of the meaning of causation. This can include:

Factual causation – 'but for' test and explanation, cases/examples to illustrate, eg **White**.

Legal causation – significant and operative cause; *novus actus interveniens*: cases/examples to illustrate:

- medical negligence, eg **Smith, Jordan, Cheshire**; contribution of others, eg **Benge**
- pre-existing medical condition, eg **Hayward**
- victim's own contribution, eg **Roberts, Williams**.

### Mark Bands

8 - 7 The student deals with (A) as follows:  
**one** sound.

6 - 5 The student deals with (A) as follows:  
**one** clear.

4 - 3 The student deals with (A) as follows:  
**one** some.

2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application

0 The answer contains no relevant information.

**0 2** Explain the meaning of, and the reasons for, strict liability in criminal offences.

(8 marks)

**Potential Content**

- (A) Explanation of the meaning of offences of strict liability, ie offences requiring no *mens rea* with respect to some/all of the *actus reus*. Possible reference to both statutory and common law offences.

Cases and/or examples in support, eg *A/G v PYA Quarries*, *Harrow LBC v Shah*, *Smedleys v Breed*, *Alphacell v Woodward*.

Explanation of the reasons for offences of strict liability, ie regulatory offences designed to protect public interest, easier to prove, saving court time, etc.

Max 5 if either meaning of or reasons for omitted.

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0 The answer contains no relevant information.

**0 3** Discuss the criminal liability of Kai with respect to the incident with the digger.  
(You should ignore the brain damage suffered by Lionel as a result of the injection.)  
(10 marks + 2 marks for AO3)

### Potential Content

- (A) Recognition of the crime(s) of assault and battery (assault by beating).  
Reference to s39 Criminal Justice Act 1988 and/or  
Assault occasioning actual bodily harm, s47 Offences Against the Person act 1861.

Discussion and application of the *actus reus* of assault/battery or abh. This should include a recognition of the apprehension of unlawful force/application of unlawful force and the lack of any significant physical injury. The swallowing of muddy water and subsequent vomiting would be linked to the injury required for an abh. Credit can be given for a discussion of causation with respect to the vomiting.

Discussion and application of the *mens rea* of assault/battery or abh. This should include a recognition that fear can be caused/force can be applied intentionally or recklessly, in this case probably recklessly.

Cases/examples in support, eg **Thomas, Haystead, Venna, Chan Fook, Savage & Parmenter.**

Note – discussion of assault only max clear 7. Discussion of battery only max sound 8. Discussion of assault and battery max sound 10. Discussion of abh (incorporating either assault or battery) max 10. Discussion of abh, assault and battery max 10.

### Mark Bands

- 10 - 8 The student deals with (A) as follows:  
**one** sound.
- 7 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.



**Assessment Objective Three**

<b>2 marks</b>	<p>The work is characterised by some or all of the following:</p> <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	<p>The work is characterised by:</p> <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	<p>The work is characterised by:</p> <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

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<b>0 4</b> Discuss whether Kai <b>caused</b> Lionel's brain damage.	(6 marks)
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**Potential Content**

- (A) Application of factual and legal causation – ‘but for’ test;  
legal – significant and operative cause, *novus actus interveniens* of doctor, nature of victim’s individual allergy.

References to and application of cases such as **White, Jordan, Smith, Cheshire, Blaue**.

**Mark Bands**

- 6 - 5 The student deals with (A) as follows:  
**one** sound.
- 4 The student deals with (A) as follows:  
**one** clear.
- 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

**0 5** Briefly explain the aims of sentencing **and** outline the range of sentences available to the court if Kai were to be convicted of any offence. *(8 marks)*

### Potential Content

- (A) Brief explanation of aims of sentencing, ie punishment; reduction of crime; reform and rehabilitation of offenders; protection of the public; reparation by offenders; general and individual deterrence; possible reference to s142 of CJA 2003.
- (B) Outline of the range of sentences, ie custodial (immediate or suspended); community (+ requirements); financial (means); discharge (types).

Possible recognition of the 'seriousness' criteria (CJA 1991).

Possible reference to other relevant legislation.

Application to Kai.

### Mark Bands

- 8 - 7 The student deals with (A) and (B) as follows:  
max 8: **one** sound, **one** clear.  
max 7: **one** sound, **one** some or **two** clear
- 6 - 5 The student deals with (A) and (B) as follows:  
max 6: **one** sound or **one** clear, **one** some  
max 5: **one** clear or **two** some.
- 4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0 The answer contains no relevant information.

<b>0 6</b> Outline the procedure, up to the trial, that would be followed if Kai were charged with a summary offence. <p style="text-align: right;"><i>(5 marks)</i></p>
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**Potential Content**

- (A) Outline and application of procedure. This could include:
- first appearance at Magistrates Court
  - duty solicitor
  - plea
  - legal representation
  - pre-trial review
  - bail
  - trial to be at Magistrates Court.

**Mark Bands**

- 5 The student deals with (A) as follows:  
**one** sound.
- 4 The student deals with (A) as follows:  
**one** clear.
- 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

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## Section B Introduction to Tort

Total for this question: 45 marks + 2 marks for AO3

<b>07</b> Explain how the law decides whether a duty of care is owed in negligence. (8 marks)
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### Potential Content

- (A) Explanation with cases and/or examples of the meaning of the term duty of care:  
eg neighbour test, Caparo 3-part test.

Cases could include: *Caparo v Dickman*, *Donoghue v Stevenson*, *Kent v Griffiths*, *Bourhill v Young*, *McLoughlin v O'Brien*, *Hill v Chief Constable of West Yorkshire*, *Mitchell v Glasgow City Council*.

### Mark Bands

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

<b>08</b>	Damage in negligence involves the rules of factual causation <b>and</b> the rules of remoteness of damage. Explain these rules.	(8 marks)
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### Potential Content

- (A) Explanation of factual causation.  
Case/example, eg ***Barnett v Chelsea & Kensington Hospital, Fitzgerald v Lane.***
- (B) Explanation of the meaning of remoteness of damage. This can include:
- reasonable foreseeability test
  - kind of damage
  - thin skull rule
  - case/example, eg ***The Wagon Mound, Doughty v Turner Manufacturing, Smith v Leech Brain.***

### Mark Bands

- 8 - 7 The student deals with (A) and (B) as follows:  
max 8: **one** sound, **one** clear.  
max 7: **one** sound, **one** some or **two** clear
- 6 - 5 The student deals with (A) and (B) as follows:  
max 6: **one** sound or **one** clear, **one** some  
max 5: **one** clear or **two** some.
- 4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0 The answer contains no relevant information.

**09** Discuss whether Elaine owed a duty of care to Brian.

*(8 marks + 2 marks for AO3)*

**Potential Content**

- (A) Discussion and application with appropriate conclusion of duty owed. This can include application of Caparo 3-part test:
- it is foreseeable that someone in Brian's position would suffer loss as a result of Elaine's actions
  - they are physically proximate because of how the event took place (Elaine had made the seat)
  - there is no reason to exclude liability, as there is no public policy reason for this on the grounds of extending categories of liability or protecting public services.

Reference may be made to decided cases (from answer to 07 or otherwise) and application of those cases.

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

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**Assessment Objective Three**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"><li>• clear expression of ideas</li><li>• a good range of specialist terms</li><li>• few errors in grammar, punctuation and spelling</li><li>• errors do not detract from the clarity of the material.</li></ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"><li>• reasonable expression of ideas</li><li>• the use of some specialist terms</li><li>• errors of grammar, punctuation and spelling</li><li>• errors detract from the clarity of the material.</li></ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"><li>• poor expression of ideas</li><li>• limited use of specialist terms</li><li>• errors and poor grammar, punctuation and spelling</li><li>• errors obscure the clarity of the material.</li></ul>



**10** Assuming that Elaine owed a duty of care to Brian, discuss whether she was in **breach** of that duty. **(8 marks)**

### Potential Content

- (A) Discussion and application with appropriate conclusion of breach of duty:
- reasonable man test and risk factors
  - application to the facts in the scenario
  - standard of care expected that of reasonable person assembling furniture (Elaine not a professional)
  - no known higher or lower risks of victim
  - magnitude of risk
  - potential seriousness of harm
  - conclusion.

Cases could include: *Blyth v Birmingham Waterworks*, *Paris v Stepney BC*, *Bolton v Stone*, *Wells v Cooper*, etc.

### Mark Bands

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

<b>1 1</b> Assuming that Elaine were to be found liable in negligence, explain how the court would calculate an award of damages to Brian. (8 marks)
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**Potential Content**

- (A) Explanation of the calculation of damages. This could include:
- general and special damages
  - heads of damage (damage to property and expenses incurred, loss of future earnings, loss of amenity, pain and suffering, ‘tariff’ award based on the injury itself)
  - mitigation
  - structure of awards (lump sum or structured settlement).

Application to Brian (general damages personal injury and pain and suffering, loss of amenity, additional care needed, loss of future earnings and special damages for the phone and quantifiable loss of earnings up to trial).

(Account should be taken of depth and breadth, ie a strong application can be balanced by a weaker framework explanation or vice versa.)

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

- |  |
|--|
| <p><b>1 2</b> Outline the three-track case management system used in the civil courts <b>and</b> identify which track and which court are most likely to be used in a claim that Brian could make against Elaine in the following situations:</p> <ul style="list-style-type: none"><li>• if he had only smashed his phone</li><li>• if he were claiming for the phone, minor injuries and the lost profit. <i>(5 marks)</i></li></ul> |
|--|

**Potential Content**

- (A) Outline of tracks (small claims, fast and multi) and financial limits.  
Civil Procedure Act 1997.  
Brief explanation and application to Brian's claims, ie:  
(i) small claims track for phone (under £5000)  
(ii) fast track for entire loss (assuming under £25 000).  
Both scenarios would be heard at the County Court.

Note – students do not need to cover all points to achieve full marks.

**Mark Bands**

- 5 The student deals with (A) as follows:  
**one** sound.
- 4 The student deals with (A) as follows:  
**one** clear.
- 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

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## Section C Introduction to Contract

Total for this question: 45 marks + 2 marks for AO3

<b>13</b>	Explain the difference between an offer and an invitation to treat.	(8 marks)
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### Potential Content

- (A) Explanation of the differences between an offer and an invitation to treat could include:
- meaning of offer; meaning of invitation to treat
  - offers can be accepted to form a contract; invitations cannot
  - invitation is a preliminary to negotiations; offer is part of negotiations.

Cases or examples, eg *Fisher v Bell*, *Partridge v Crittenden*, *Pharmaceutical Society of GB v Boots*, *Harvey v Facey*.

### Mark Bands

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

**1 4** Outline the meaning of the terms 'intention to create legal relations' **and** 'consideration'.  
(8 marks)

**Potential Content**

- (A) Outline of intention to create legal relations, eg basic requirement of a valid contract; rebuttable presumptions in relation to commercial situations and social/domestic situations.

Cases and/or examples, eg *Rose & Frank v Crompton Bros*, *Balfour v Balfour*.

- (B) Outline of consideration, eg consideration is something of value; must move from promisee; can be executed or executory.  
Outline of past consideration, eg past consideration is not valid consideration; already done at time of making contract; does not provide some new act or forbearance.

Cases and/or examples, eg *Chapple v Nestle*, *Re McArdle*, etc.

**Mark Bands**

- 8 - 7 The student deals with (A) and (B) as follows:  
max 8: **one** sound, **one** clear.  
max 7: **one** sound, **one** some or **two** clear
- 6 - 5 The student deals with (A) as follows:  
max 6: **one** sound or **one** clear, **one** some  
max 5: **one** clear or **two** some.
- 4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0 The answer contains no relevant information.

- |   |
|---|
| <p><b>1 5</b> Briefly discuss the legal effect of each stage in the negotiations between Liam and SSL, and decide whether those negotiations resulted in a contract.<br/><i>(8 marks + 2 marks for AO3)</i></p> |
|---|

**Potential Content**

- (A) Statement on website invitation to treat not offer (***Partridge v Crittenden***).  
Liam makes request for information (not an offer or acceptance (***Harvey v Facey***)).  
SSL's reply can be seen as an offer to sell at £1950 (accept merely supplying information).  
Liam emailed back asking if they would accept £1750; this can be seen as a counter offer (***Hyde v Wrench***).  
SSL emailed back saying they could supply the system for £1900 and include postage is a new offer.  
Liam's 'Agreed' accepts the offer.

Credit may be awarded for applications of other elements in the formation of a contract (intention to create legal relations).

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

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**Assessment Objective Three**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"><li>• clear expression of ideas</li><li>• a good range of specialist terms</li><li>• few errors in grammar, punctuation and spelling</li><li>• errors do not detract from the clarity of the material.</li></ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"><li>• reasonable expression of ideas</li><li>• the use of some specialist terms</li><li>• errors of grammar, punctuation and spelling</li><li>• errors detract from the clarity of the material.</li></ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"><li>• poor expression of ideas</li><li>• limited use of specialist terms</li><li>• errors and poor grammar, punctuation and spelling</li><li>• errors obscure the clarity of the material.</li></ul>

- |  |
|--|
| <p><b>1 6</b> Briefly explain the law with respect to breach of contract. Assume that there is a contract between Liam and SSL and briefly discuss whether SSL is in breach of that contract. <span style="float: right;">(8 marks)</span></p> |
|--|

**Potential Content**

- (A) Brief explanation of actual breach and anticipatory breach and significance to claimant.  
Cases and/or examples, eg *Poussard v Spiers*, *White and Carter Councils v McGregor*, etc.

Application and conclusion - discussion whether the requirement for battery packs is a term of the contract – ‘ready for immediate use ....’.  
Discussion of anticipatory or actual breach (actual).  
Use of cases or examples.

Note: Max 5 if no application

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.



<b>1 7</b> Explain how the court would decide the amount of damages to be awarded to Liam if SSL were found to be in breach of contract. (8 marks)
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**Potential Content**

- (A) Explanation of the way in which court calculates an award of damages, ie:
- the two-stage test in ***Hadley v Baxendale***; mitigation.
  - application to Liam’s claim – Loss of estimated profit from performance; cost of expense of getting batteries (£150); mitigation of loss, for example using other (hired) equipment.

**Mark Bands**

- 8 - 7 The student deals with (A) as follows:  
**one** sound.
- 6 - 5 The student deals with (A) as follows:  
**one** clear.
- 4 - 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application
- 0 The answer contains no relevant information.

- 1 8** Outline the three-track case management system used in the civil courts **and** briefly explain which track and which court are most likely to be used in any claim that Liam could make against SSL. *(5 marks)*

**Potential Content**

- (A) Outline of tracks (small claims, fast and multi) and financial limits.  
Civil Procedure Act 1997.  
Brief explanation and application to Liam's claim (small claims for batteries or possibly fast track if loss from performance takes it over £5 000 but less than £25 000), based on reference to financial limits; County Court.

**Mark Bands**

- 5 The student deals with (A) as follows:  
**one** sound.
- 4 The student deals with (A) as follows:  
**one** clear.
- 3 The student deals with (A) as follows:  
**one** some.
- 2 - 1 The student demonstrates limited capacity for explanation and/or application but neither is clear  
**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)

**Advanced Subsidiary Level Law (LAW02)**

		AO 1	AO 2	AO 3
<b>Section A:</b>				
Question	0   1	5	3	
Question	0   2	5	3	
Question	0   3	5	5	2
Question	0   4	1	5	
Question	0   5	3	5	
Question	0   6	4	1	
Totals Section A		23	22	2
<b>Section B:</b>				
Question	0   7	5	3	
Question	0   8	5	3	
Question	0   9	3	5	2
Question	1   0	3	5	
Question	1   1	3	5	
Question	1   2	3	2	
Totals Section B		22	23	2
<b>Section C:</b>				
Question	1   3	5	3	
Question	1   4	5	3	
Question	1   5	3	5	2
Question	1   6	3	5	
Question	1   7	3	5	
Question	1   8	3	2	
Totals Section C		22	23	2

### **Mark Ranges and Award of Grades**

Grade boundaries and cumulative percentage grades are available on the Results Statistics page of the AQA Website: <http://www.aqa.org.uk/over/stat.html>.

### **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)