



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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## **LAW03**

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

#### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of students, 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 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.*

#### **Levels of Response for Essay Marking**

*When reading an essay you must 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 student. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the student's overall answer met the requirements for the top level? If not, the next level?*

#### **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**

#### **Quality of Written Communication**

- 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**

**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	- weak sound
sound/some	- clear
clear/clear	- clear
clear/some	- weak clear
some/some	- some

### 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 student will have demonstrated ability to use appropriate authority at some point in the answer to the question, albeit not in the element in issue).

## Criminal Law (Offences against the Person)

### Scenario 1

**Total for this scenario: 75 + 5 marks**

<b>0</b>	<b>1</b>	Discuss the possible criminal liability of Adrian for the injuries to Ben. <i>(25 marks + 5 marks for AO3)</i>
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#### Potential Content

- (A) Analysis of the offences of assault (battery) occasioning abh and of unlawful and malicious infliction/causing of gbh (with intent to cause gbh). The causation issue involving medical treatment.

**Max sound** gbh (s20 and/or s18) **and** medical negligence causation

**Max weak sound** abh and gbh (s20 and/or s18)

**Max clear** gbh (s20 and/or s18) or abh and medical negligence causation (even if unrelated to any offence)

**Max weak clear** abh

- (B) The possible defence of consent, based on the exception for rough horseplay, but raising issues of withdrawal of consent and actions outside the scope of the consent (possible discussion of the effect of intoxication both on the genuineness of consent and on the appreciation of its possible withdrawal). The effect of voluntary intoxication.

<b>0</b>	<b>2</b>	Discuss the possible criminal liability of Adrian arising out of his conduct in relation to Charles and to Dora. Discuss the possible criminal liability of Emma for her conduct in relation to George. <i>(25 marks)</i>
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#### Potential Content

- (A) In relation to Adrian and Charles: the offence of unlawful and malicious wounding (discussion of infliction of gbh is an alternative or additional, but not required, approach; **max weak clear** for abh only).
- (B) In relation to Adrian and Dora: the offence of assault occasioning abh, involving both *actus reus* (did Dora fear immediate personal violence against herself, and causation issues) and *mens rea* (**Max weak clear** for assault only). S20 gbh is an alternative approach which will involve analysis of 'inflict' and of *mens rea*, as well as psychiatric injury.
- (C) In relation to Emma and George: the offence of battery or of abh (established very simply); possible defence of another (the rules applicable to self-defence), involving mistake as to the identity of the aggressor, the need for the use of force, and issues of proportion.

<b>0</b>	<b>3</b>	Despite some recent reforms, there are still criticisms to be made of the current law on murder and voluntary manslaughter. Consider relevant criticisms of that law, and suggest any reforms that may be appropriate. <span style="float: right;">(25 marks)</span>
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**Potential Content**

- (A) General structural criticisms of the law of murder. Criticisms of specific aspects of *actus reus* and *mens rea*.
- (B) Criticisms of the defence of loss of control **and/or** of the amended defence of diminished responsibility.
- (C) Appropriate suggestions for reform, in relation to either or both (A) and (B).

[NB – credit should be given for any explanatory material on which criticisms are founded.]

**Scenario 2****Total for this scenario: 75 + 5 marks**

<b>0</b>	<b>4</b>	Discuss the possible criminal liability of Harry for the injuries to Lauren. Discuss the possible criminal liability of Harry and of James for the involuntary manslaughter of Kim. <span style="float: right;">(25 marks + 5 marks for AO3)</span>
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**Potential Content**

- (A) In relation to the injuries to Lauren: analysis of the wounding and inflicting gbh offences under s20, including causation issues involved in Lauren's 'attempted escape'. Possible lesser alternative in assault occasioning actual bodily harm (**max weak clear**).
- (B) In relation to Harry and Kim: the offence of unlawful act manslaughter based upon the initial crime of assault, battery or any more serious non-fatal offence, including the causation issue involving the negligence of James (any relevant discussion in relation to Lauren may be credited here, where appropriate). In view of possible lack of *actus reus/mens rea*, possible alternative in gross negligence manslaughter (**max clear** unless related to argument that unlawful act manslaughter is not available). **Note** discussion of the defence of automatism can be credited within the context of the causation discussion.
- (C) In relation to James and Kim: the offence of gross negligence manslaughter based on breach of a duty inevitably arising out of the work undertaken (the conduct can be viewed as either act or omission); the significance of Harry's conduct as representing a possible break in the chain of causation.



<b>0</b>	<b>5</b>	Discuss the possible criminal liability of Mike for the murder of Oliver.	(25 marks)
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**Potential Content**

- (A) The analysis of the offence of murder, referring both to *actus reus* issues (causation) and *mens rea* issues (stressing the possibility of proof of an intention to cause serious injury).
- (B) Analysis of the defence of loss of control under the Coroners and Justice Act 2009: loss of self-control; the anger trigger, including the issue of sexual infidelity; the objective test (**max weak clear** if fear trigger only).
- (C) Analysis of the defence of diminished responsibility under the Homicide Act 1957 s2 (as amended): abnormality of mental functioning (effect on ability to exercise control?); recognised medical condition; provides explanation. Insanity as a valid complete alternative (unlikely to be able to prove required effect of defect of reason from disease of the mind).

<b>0</b>	<b>6</b>	Despite some recent reforms, there are still criticisms to be made of the current law on murder and voluntary manslaughter. Consider relevant criticisms of that law, and suggest any reforms that may be appropriate.	(25 marks)
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**Potential Content**

- (A) General structural criticisms of the law of murder. Criticisms of specific aspects of *actus reus* and *mens rea*.
- (B) Criticisms of the defence of loss of control **and/or** of the amended defence of diminished responsibility.
- (C) Appropriate suggestions for reform, in relation to either or both (A) and (B).

[NB – credit should be given for any explanatory material on which criticisms are founded.]

## Contract Law

### Scenario 3

**Total for this scenario: 75 + 5 marks**

<b>0</b>	<b>7</b>	Consider the rights, duties and remedies of Anna and of Quickstep, in view of the statements in Quickstep's advertisement and Anna's experiences in the first three lessons.	<i>(25 marks + 5 marks for AO3)</i>
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#### Potential Content

- (A) Analysis of possible misrepresentation in the advertisement, and classification of type.
- (B) Analysis of terms in the contract as to the provision of personal tuition (express term) and as to the exercise of reasonable care and skill (implied by the Supply of Goods and Services Act 1982), including their nature as conditions, warranties, or innominate terms; possible breach.
- (C) Analysis of the remedies available in connection with (A) and (B), including the effect (if any) on the remedies of the exclusion clause (Unfair Contract Terms Act 1977).

<b>0</b>	<b>8</b>	Taking into account that it was Cal who purchased the coat, discuss Anna's rights and remedies against BFS. Discuss Cal's rights and remedies against BFS in connection with the discount voucher.	<i>(25 marks)</i>
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#### Potential Content

- (A) Analysis of the doctrine of privity of contract and the effect of the Contracts (Rights of Third Parties) Act 1999. Analysis of the issues arising out of the voucher. Note that this can be viewed in general formation terms, or specifically as either an offer and acceptance or a consideration issue. Remedy of damages.
- (B) Analysis of the implied terms in the Sale of Goods Act 1979, as to description, satisfactory quality and fitness for purpose. Consideration of the remedies for breach, including rejection and damages, as well as repair, replacement and financial adjustments.

<b>0</b>	<b>9</b>	Consider what criticisms may be made of the current rules on making an agreement in contract (offer and acceptance issues) and suggest any appropriate reforms. <i>(25 marks)</i>
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#### Potential Content

- (A) Issues concerning offer, invitation to treat, withdrawal of offers.
- (B) Issues concerning acceptance, counter offers, requests for further information.
- (C) Suggestions for possible reforms.

Note: these issues may emerge as a part of a discussion about the general validity of offer and acceptance notions (for example 'battle of the forms') and/or as part of a discussion about application to modern forms of communication.

**Scenario 4****Total for this scenario: 75 + 5 marks**

<b>1</b>	<b>0</b>	Consider the rights and remedies, if any, of Eric against Dave in connection with the arising out of the burst pipes, and the installation of the tap. <i>(25 marks + 5 marks for AO3)</i>
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**Potential Content**

- (A) In connection with the work on the burst pipes: analysis of the rules on consideration, including, in particular, the notion of past consideration.
- (B) In connection with the installation of the tap: analysis of the rules on the making of agreements – offer and acceptance, preliminary negotiations, statements of price, certainty of terms.
- (C) In connection with both of the above: analysis of the rules on intention to create legal relations (business and social relationships); analysis of possible remedies.

<b>1</b>	<b>1</b>	Discuss the rights, duties and remedies of Eric and of Fastbuild arising out of the indefinite stopping of the building work, and discuss Eric's possible rights and remedies against Plumbserve. <i>(25 marks)</i>
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**Potential Content**

- (A) In connection with Eric and Fastbuild: analysis of the doctrine of frustration (probably analogous with destruction of the subject matter, or possibly illegality in a health and safety issue) and of the alternative in breach (should Fastbuild have been aware of the deposits?). Analysis of the effect of frustration Law Reform (Frustrated Contracts) Act 1943, and of breach.
- (B) In connection with Eric and Plumbserve: analysis of the implied terms in the Sale of Goods Act 1979, as to satisfactory quality and fitness for purpose. Consideration of the remedies for breach: significance of business and consumer contracts; rejection (and loss of the right to reject) and damages; impact, if any, of the limitation clause (incorporation, and Unfair Contract terms Act 1977).

<b>1</b>	<b>2</b>	Consider what criticisms may be made of the current rules on making an agreement in contract (offer and acceptance issues), and suggest any appropriate reforms. <i>(25 marks)</i>
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**Potential Content**

- (A) Issues concerning offer, invitation to treat, withdrawal of offers.
- (B) Issues concerning acceptance, counter offers, requests for further information.
- (C) Suggestions for possible reforms.

Note: these issues may emerge as a part of a discussion about the general validity of offer and acceptance notions (for example 'battle of the forms') and/or as part of a discussion about application to modern forms of communication.

**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>

**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>.

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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)