

Mark Scheme (Results)

Summer 2012

GCE Law (9345)

Paper 2

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General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

General Marking Bands

The guidance on different types of responses below should be read in conjunction with the detailed marking content for each question.

Level	Mark	Descriptor
An excellent answer	25-22	<p>Presents a well-structured response to the question and demonstrates consistently a thorough knowledge and understanding of legal rules and legal institutions and excellent appreciation of the function of law in society. Shows a thorough understanding of legal classification and an excellent approach to problem solving with a particular strength in the use of legal authority together with a demonstrable awareness of matters of legal controversy and legal reform. Demonstrates an ability to appraise and criticise the application of legal principles across different branches of the law.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>
A very good answer	21-17	<p>Presents a clearly written answer with a detailed knowledge and understanding of legal rules and also the place and role of institutions, as well as demonstrating a very good appreciation of the role and function of law in society. Shows a good understanding of legal classification and demonstrates a clear grasp of analysis of legal problems, with a real ability to apply rules and use authority. Shows a good understanding of different branches of law and gives evidence of a critical awareness of controversial issues in law and law reform. The majority of relevant legal issues raised by the question are included with appropriate supporting material.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>

A good answer	16-13	<p>Demonstrates a sound knowledge and understanding of legal rules, and the role and function of law in society with some evidence of depth and breadth of argument. Is able, where required to distinguish between civil and criminal liability, and shows a sound approach to problem solving. Quotes some appropriate legal authority. Demonstrates a sound knowledge of some of the relevant issues raised by the question and shows awareness of current controversies and legal reform. Identifies significant points in the marking scheme but with some imbalance in the treatment of issues raised by the question.</p> <p>The candidate will express moderately complex ideas clearly and reasonably fluently through well linked sentences and paragraphs. Arguments will be generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.</p>
A satisfactory answer	12-8	<p>Presents an answer which demonstrates some knowledge and understanding of legal rules and institutions, and awareness of the role and function of law in society. Demonstrates some ability to solve problems, to identify sources, and to quote relevant authority. Shows knowledge of different branches of law, with some understanding shown also of legal classification. Although awareness of current controversies and reform issues is demonstrated, answers are more descriptive than analytical.</p> <p>The candidate will express straightforward ideas clearly, if not always fluently. Sentences and paragraphs may sometimes not 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 to suggest a weakness in these areas.</p>

A basic answer	7-4	<p>Presents an attempt to deal with the question with a superficial knowledge and understanding of legal rules, institutions and the role and function of law in society. Shows an attempt to deal with legal classification and problem solving and uses legal authority, with a little understanding of appropriate branches of law. Gives evidence of a little awareness of issues of controversy and reform. Answers may be commonsense with simple conclusions and little law.</p> <p>The candidate will express simple ideas clearly, but may be imprecise and awkward in dealing with complex or subtle concepts. Arguments may be of doubtful relevance or obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, suggesting weakness in these areas.</p>
	3-0	<p>Presents an answer which demonstrates difficulty in understanding the subject. Although struggling, may produce some relevant points. Perhaps produces a social answer with little relevance to law.</p>

Question Number	Indicative content	Mark
1	Offer and acceptance; advertisements; distinction between offers and invitations to treat; nature of open offers and changes of mind; counter offers; status of e-mail correspondence; telephone transactions; postal transactions; time of acceptance and validity; purchase without examining goods - sale of goods implications; debit card transactions; possible remedies; relevant case law.	(25)

Question Number	Indicative content	Mark
2	Legal rules relating to hire purchase agreements; possibility of sales pressure; requirements relating to need to read terms aloud; intention to create legal relations; family arrangements - presumptions and how they may be rebutted; requirements concerning cancellation rights; legal remedies, relevant statutory provisions; case law.	(25)

Question Number	Indicative content	Mark
3	Status of bookings; misrepresentation; false statements of fact; role of trading standards officers; frustration of contract; third party agreements; effect of death on contracts with third parties; validity of contract; legal remedies in contract and/or tort; once in a life-time events; relevant statutory provisions ; ;- discussion of relevant courts and financial limits for hearings; civil and criminal courts, case law.	(25)

Question Number	Indicative content	Mark
4	Terms and conditions; advertisements, mere puffs and terms; status of attempts to exclude liability; validity of terms; extent of liability in damages; remoteness of damage; appropriate courts and remedies; consumer protection legislation ; sale of goods legislation ; statutory provisions and case law.	(25)

Question Number	Indicative content	Mark
5	Employers' liability; Nature of employment; legal rules and guidance in cases for identifying employees as opposed to independent contractors - the legal consequences; health and safety at work - statute and regulations; liability in tort and for breach of terms implied into employment contracts; negligence; vicarious liability; contributory negligence.	(25)

Question Number	Indicative content	Mark
6	Selection for voluntary early retirement; rules relating to age of retirement; unfair selection processes; possible involvement of ACAS and trade unions; how and where a challenge may be brought; discrimination law in employment context; statute and case law; appropriate procedures and possible remedies.	(25)

Question Number	Indicative content	Mark
7	Terms of employment contracts; extent of restrictive covenants; validity of covenants; breach of contract; confidentiality in the employment context; remedies; appropriate courts/tribunals; case law.	(25)

Question Number	Indicative content	Mark
8	Status of employment contract; terms relating to bonus payments and other benefits; procedural requirements; when immediate dismissal is possible; employee's right to give his version of events; damages; effect of psychiatric illness; validity of gagging clauses; case law.	(25)

Question Number	Indicative content	Mark
9	Domestic violence and emotional abuse; harassment and how it may legally be controlled; legal means of preventing emotional abuse; practical steps available to women; attitudes to children; legal responsibilities towards children; protection of children; role of social workers; role of the courts; relevant legislation and case law.	(25)

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Question Number	Indicative content	Mark
10	Status of civil partnerships in law; distinction between formal and informal AID methods and procedures; child support; role of Government bodies; whether name of father on birth certificate affects legal duty to support child; rights and duties of fathers; rights and duties of grandparents.	(25)

Question Number	Indicative content	Mark
11	Ancillary relief; relevance of income and contributions of the parties; decision-making process; relevant legislation; role of the court; adultery; grounds for divorce; residence and contact orders; best interests of children; removal from the jurisdiction ; decision-making process; legislation and case law.	(25)

Question Number	Indicative content	Mark
12	Child protection; role of various agencies, including social workers, doctors and others; best interests of children in decision-making; statutes and case law; guidelines on child abuse; role of the police; identification of perpetrator - the legal rules where each partner blames the other; rights of grandparents; rules relating to care and fostering; relevant statutes and cases.	(25)

Question Number	Indicative content	Mark
13	Mens rea and actus reus; basic criminal law concepts; effect of alcohol on intention etc; distinction between murder and manslaughter; causation; criminal negligence - gross negligence manslaughter; corporate liability; relevant statutes and case law.	(25)

Question Number	Indicative content	Mark
14	Rules relating to criminal intent; mens rea actus reus; mistake as to	(25)

	intention; assaults and other acts of violence; self defence; legal rules relating to omissions as opposed to positive acts; courts in which various crimes are tried; relevant statutes and cases.	
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Question Number	Indicative content	Mark
15	Theft; mens rea and actus reus; fraud; legal status of various possible types of theft/fraud in terms of gravity of offences; sentencing - relevance of age on sentences; relevance of social background reports; appropriate references to statutes and case law.	(25)

Question Number	Indicative content	Mark
16	Criminal damage; arson; mens rea and actus reus Fraud; effect on insurance contracts; mens rea and actus reus; possible mention of prostitution; murder/manslaughter distinction; <u>insanity</u> ; possible automatism; epilepsy; cases and statutes; criminal process.	(25)

Question Number	Indicative content	Mark
17	Public order offences, including riot; other criminal offences; criminal damage; public nuisance; highway offences; demonstrations and marches; role of the police in handling serious situations; responsibility of demonstrators; possible remedies against the police; legislation and case law	(25)

Question Number	Indicative content	Mark
18	Confidentiality and privacy law in the UK; the Human Rights issues; legal rules and practical difficulties surrounding super injunctions; distinction between injunctions in defamation and breach of privacy cases; role of the social networking media; definitions; criteria for success; role of absolute privilege in Parliament; possible defences; other remedies; statutes and case law examples.	(25)

Question Number	Indicative content	Mark
19	Stop and search; rules on lawful arrest; reasonable suspicion; grounds	(25)

	for arrest; situation where suspects are unable to speak good English; relevance of ages of suspects and their rights in police custody; Police and Criminal Evidence Act and codes of practice; rules relating to football matches; conduct at police stations; Human Rights issues; remedies to include Police Complaints Procedures; torts and possible criminal law remedies; relevant statutes and case law.	
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Question Number	Indicative content	Mark
20	Public and private nuisance distinction; discussion of the legal rules; relevance of number of vehicles on private land to criminal trespass; civil law of trespass; criminal damage; highway offences; rules relating to animals on the highway ; negligence; remedies; relevant statutes and case law.	(25)

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