

## Support Materials

### Criminal Law (G143)

These materials should be read alongside the approved specimen question paper and mark schemes and specification.

#### Section A Question 1:

'Strict liability offences are an exception to the general rule that the prosecution has the burden of proving that a person accused of a crime possesses the relevant guilty mind.'

Discuss, in the light of the above statement, whether you agree that the creation of strict liability offences can ever be justified.

[50]

#### Example Grade A Answer

In order therefore to answer whether these type of offences are ever justified it is necessary to examine the nature of strict liability and its use before discussing the justification for imposing such liability.

**Comment:** A sound introductory paragraph setting the tone.

Normally the prosecution has the burden of proving that an accused possesses the two traditional ingredients of criminal liability, the actus reus (prohibited conduct) and the mens rea (guilty mind). Strict liability offences are the exception to this rule since a defendant can be found guilty upon proof that the prohibited conduct alone has taken place. The mind of the accused may be guilty or entirely innocent but that is irrelevant in establishing liability (although it may affect the sentence). This goes against the notion that a person is punished because they deserve to be in terms of their guilty mind.

**Comment:** In this paragraph the candidate addresses the initial thrust of the statement contained in the quotation in the Question.

**Comment:** This sentence is evaluative and attracts AO2 credit.

The vast majority of strict liability offences are created by Parliament in the form of legislation, both Acts and statutory instruments. Traditionally the courts have always presumed that an element of mens rea is required as a key ingredient in criminal liability, (*Sweet v Parsley*). However, where words, or sometimes the deliberate omission of words, in an Act of Parliament clearly indicate Parliament's intention to make an offence one of strict liability then the courts have reluctantly recognised that strict liability may be imposed, (*Cundy v Le Cocq*).

**Comment:** Reference to the statutory nature of strict liability offences

**Comment:** Underlining cases is not essential but can help to highlight sound citation. **BUT NOT IN RED!**

**Comment:** Even a small remark may have evaluative worth and attract AO2

This reluctance has been confirmed in recent times in the area of sexual offences where the courts have relaxed the rule concerning the belief of an accused as to the age of consent of a potential victim / partner. Formerly belief as to a victim's age was deemed to be irrelevant as seen in the nineteenth century case of *Prince* where an accused's honest and, indeed, reasonable belief that a girl was over the age of 16 when he took her out of her parent's possession provided no defence since liability in this regard was considered to be strict. This reflected the concern to protect potentially vulnerable victim's in this context. More recently,

**Comment:** All too common, a misplaced apostrophe!

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however, the House of Lords have confirmed their traditional opposition to strict liability in *B v DPP* 2000 where D was accused of inciting a girl under the age of 14 to commit an act of indecency with him on the upper deck of a London bus by giving him a 'shiner'. He claimed that he honestly believed she was at least 14 and had no mens rea. The House of Lords decided that the offence required proof of knowledge of her age and quashed his conviction despite the absence of words like 'knowingly' in the Sexual Offences Act 1956.

**Comment:** A neat turn of phrase showing both AO1 understanding and AO2 evaluation.

The courts have put forward a number of reasons to justify their acceptance of strict liability at different times but the most comprehensive list of justifications was advanced by the Privy Council in the case of *Gammon (HK) Ltd. v A-G for Hong Kong* in 1985. *Ld. Scarman* emphasised that the presumption of mens rea can be displaced if it is clearly the intention of Parliament that this should happen, particularly where the statute is dealing with an issue of social concern. He went on to explain that the imposition of strict liability can be justified where the intention of the Act is to promote higher standards or greater vigilance in an area of social concern. He also drew a distinction between 'truly criminal offences', such as offences against the person, and 'quasi crimes'. Quasi crimes have been described as being 'regulatory' in nature and not attracting the same degree of stigma that accompanies a 'true crime' such as murder or robbery. We are all of us prone to commit a road traffic offence such as speeding or parking on double yellow lines but it is generally only where we commit a serious offence of this nature such as 'drink driving' that we are regarded as having done something 'really wrong', even though this too is a strict liability offence.

**Comment:** Inclusion of another leading case. AO1

**Comment:** More excellent AO2 critical content building on excellent AO1 in this paragraph.

In fact, there is often said to be a further justification for making an offence such as driving with excess alcohol in the blood. It would be only too easy for someone accused of an offence of this nature to claim that their drink had been spiked and very difficult for the prosecution to show that the accused was aware that they were over the limit so it is accepted that the forensic proof alone is enough to convict. This also reflects the advantage to prosecuting authorities of so-called 'administrative convenience' and helps to reduce spurious not guilty pleas speeding up the criminal justice process in areas such as road traffic.

**Comment:** Good, creative AO2 critique.

A classic example where the courts have accepted the statutory right of Parliament to legislate imposing strict liability include S5 Road Traffic Act 1988 which makes it an offence to 'drive a vehicle with excess alcohol in their breath, blood or urine'. No mens rea is referred to in the Act and the courts have accepted the imposition of strict liability in the interests of roads safety. The leading cases reflect the various areas of social concern where it has been felt necessary to accept Parliament's intention to create strict liability offences. These include not only road traffic offences, referred to above, but also, food safety, pollution, the sale of alcohol, tobacco and lottery tickets and dangerous drugs.

**Comment:** Sound AO1 knowledge of the key areas of conduct regulated by strict liability.

In *Callow v Tillstone* a butcher was convicted of selling food unfit for human consumption despite his reliance on the advice of a qualified vet that the carcass in question was sound. In *Smedleys v Breed* producers of tinned peas were convicted of a similar offence when a caterpillar was found in one tin despite demonstrating that their quality control systems meant that they had produced over 3 million perfect tins of peas that year. Clearly the insistence on the highest standards of food production is absolutely essential and these seemingly harsh prosecutions reinforce this message to food producers and the public alike.

**Comment:** More good AO2 evaluation building on strong AO1.

In *Alphacell v Woodward* a company was convicted of 'causing polluted matter to enter a river' contrary to the Rivers (Prevention of Pollution) Act 1951 even though they had taken expensive measures to avoid this happening and had clearly not intended to pollute again reflecting social concern for the environment.

On the other hand there are arguments against strict liability: It is unfair to blame someone who may be genuinely innocent. It goes against the fundamental requirement of proof of *mens rea*. Some companies are prepared to 'profit from risk', in other words they are prepared to chance being caught and pay fines because it would be even more costly to take expensive preventative measures.

**Comment:**  
Sophisticated comment – AO2

In conclusion strict liability offences may be seen as a necessary control on conduct in a modern society and can therefore be justified subject to careful regulation.

**Comment:** Brief but apposite conclusion.

### Examiner's commentary

n.b. Normally scripts are not as fully annotated although examiners on criminal law papers have adopted a policy of indicating AO2 content where appropriate.

This is clearly a Level 5 script. The candidate has produced a well structured answer focusing on the quotation and command in the question. There is no gratuitous content or evidence that the candidate has chosen to write what they thought the question should be rather than the question set.

The AO1 knowledge and understanding is founded upon 8 cases all well explained and used in context. Given the limited amount of time available in the examination context there seems very little reason to award anything other than the maximum marks available. The maximum mark is arrived at without having to exhaustively list every point in the mark scheme which is an indicative and not a prescriptive document and is designed to reward candidates on a consistent basis. There could be an argument that the citation of cases could be wider ranging, and sometimes is, but within the context of the understanding demonstrated this would be a spurious criticism. The leading illustrative cases are there.

AO1 25 marks

The accompanying AO2 evaluative commentary illuminates the relevant knowledge which underpins it. Clearly this candidate understands the discussion points being made at almost every opportunity.

AO2 20 marks

With clear structure, an introduction and conclusion, almost no grammatical or spelling errors (misplaced apostrophe) then it is at the top Level 4 for AO3.

AO3 5 marks

Total marks 50

## Example Grade E Answer

Criminal law is about mens rea and actus reus being proved at the same time. Sometimes someone could of committed an act without being aware of it. These are cases of strict liability. There was a case about a man who took a girl away from her parents but he was found guilty even though he believed the girl was over 16. This doesn't seem fair because he no intention to do the crime but he was still guilty.

**Comment:** Intrusive error of discrete terminology

**Comment:** Presumably *Prince*

**Comment:** A hint of AO2 evaluation

The courts don't like strict liability and will presume against it. In another case a lady rented her flat to students who smoked dope there. Even though she didn't know what was going on she was still guilty and lost her job. In another case a French woman was brought to England from Ireland in a boat and was arrested under the Illegal Aliens Act. She was guilty even though there was no way she could of prevented it from happening. In *Callow v Tilstone* a butcher was charged with selling unfit meat even though he was told by a vet that it was healthy. This doesn't seem fair as the butcher had no way of knowing the meat was rotten and it wasn't his fault.

**Comment:** A hint of AO2 evaluation.

**Comment:** AO2 but repetitive in nature.

It is vital to society to have these offence because if we didn't it would be too easy for people to say I didn't know I was doing anything wrong. This makes it easier for the police to catch people in important areas like road traffic. Most of these offences are strict liability so if you are speeding or parked on double yellow lines it is no good saying you didn't know about it because it's more important that the public are made safe.

**Comment:** Hint of AO2. It could have been better expressed.

**Comment:** AO2

Sometimes the words used in an Act are important so if there is nothing to say that you have to have mens rea then you are not guilty. This was proved in a case called *Warner* where a drug dealer tried to claim that he thought that he was selling perfume in a closed box. He was actually selling drugs but because he was in possession of the box he was guilty.

If it is about food safety or pollution then it is much more likely to be held to be strict liability. In *Smedleys* some caterpillars were found in a tin of peas. The company said they tried their best to have good check on the peas they sold, but they were still guilty under strict liability. So it is a good idea to have strict liability because it helps to keep us all safer.

**Comment:** At least some attempt to conclude.

## Examiner's commentary

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The AO1 content in this script is clearly limited but does show general understanding of the relevant concepts and principles. There is limited citation. Level 2.

AO1 10 marks

The AO2 content meets the levels of assessment descriptor for Level 2. Some of the more obvious points are discussed although the quality of the argument is limited and tends to be repetitive.

AO2 8 marks

There are some errors of spelling and grammar but the material does have a structure and the candidate has at least structured the answer in paragraphs with an introduction and brief conclusion.

AO3 3 marks

Total marks 21

Section B Question 4:

Victoria is the wife and assistant of a knife throwing expert, Carl, who both work for a circus. Carl is renowned for his hot temper and has recently been off work suffering from depression. Their act consists of Victoria being strapped to a board whilst Carl throws twenty knives all around her from a distance of five metres to within as little as ten centimetres of her body. They have been doing this for many years without a single mishap and Carl regards his technique as perfect. One evening, just before their act begins, Victoria tells Carl that she is having an affair with the lion tamer, Wayne. Carl is shocked and enraged but immediately the fanfare strikes up for the start of their act and Carl and Victoria enter the ring to start their performance. The third knife Carl throws goes straight into Victoria's heart, killing her instantly.

Discuss Carl's liability for Victoria's death.

[50]

Example Grade A Answer

In order to answer this question we must first consider whether Carl is liable for murder or manslaughter and then consider any defences he may have available. The definition of murder comes from Lord Coke, the unlawful killing of a human being under the Queen's Peace with malice aforethought. Malice aforethought means an intention to kill or an intention to do serious harm.

**Comment:** A sound introduction identifying the potential liability which was not given in the question and providing a definition of murder and attracting both AO1 and AO2 credit.

When Carl throws the third knife and pierces Victoria's heart there is an argument that he may have directly intended to kill her. His motive, jealousy, may have been a factor but it is not relevant in law. For direct intent to apply he must have the aim, purpose or desire, Mohan. As Carl regards his technique as perfect it seems that he may well have had a direct intent to kill as there appears to be no other explanation for his error. He is not intoxicated. Also the fact that it is the third knife would suggest that he was able to control his throwing of the first two as normal so making it all the more likely he intended to kill with the third.

**Comment:** A good analysis of the intention element in Carl's case in this paragraph again deserving both AO1 and AO2 marks.

If Carl is charged with murder he may have two special and partial defences available to him under the Homicide Act 1957 which would reduce his conviction to voluntary manslaughter and allow the judge discretion on sentencing. These are S.2, diminished responsibility and S.3 provocation.

**Comment:** Identification of these defences in itself earns AO2 marks.

To plead diminished responsibility he would have to bring medical evidence to show that he was suffering from an abnormality of the mind which substantially impaired his responsibility for his actions. According to *Ld. Parker in Byrne* this means so different from the mind of the ordinary person as to be regarded as normal. *Byrne* was a sexual psychopath who killed and mutilated a girl's body because he could not control his sexual urges and was allowed the defence. Depression arises as an internal source. As Carl has been off work with depression he may have this evidence but he must be better now or he wouldn't be back on the job.

**Comment:** AO1 credit for a limited definition of diminished responsibility.

He could be better advised to rely on the defence of provocation. There are three elements to this defence. Firstly there must be evidence of provocation, this can be words or acts such as

**Comment:** Both identification and application are AO2 skills.

**Comment:** AO1

## RECOGNISING ACHIEVEMENT

the discovery of an affair, Davies, or a slap in the face or even a baby's crying, Doughty. Secondly, there must be a sudden and temporary loss of control, this is a subjective question for the jury to answer. Did D suddenly and temporarily lose control or was there evidence that the act was planned, Ibrams? In Thornton and Ahluwalia two battered wives lost their provocation defence because there was evidence that they had waited before killing their husband and fetched a knife and some petrol respectively with which to kill them. According to Duffy there must be no time for the blood to cool and the defendant must be no longer the master of their own mind. This could be a problem for Carl, although there is evidence of provocation when Victoria tells him she is having an affair with Wayne and he is shocked and enraged by this he didn't kill her with the first knife he threw. The fact that he waited until the third knife to kill her might show that his blood had cooled for him to do a calculated act. On the other hand the loss of self control does not have to be immediate but sudden so he might have suddenly 'lost it' seeing her there. This is a question for the jury.

**Comment:** AO1

**Comment:** AO1

**Comment:** Good AO2 analysis and application

Even if they decide there was a sudden loss of self control Carl will also have to satisfy the objective test of provocation. Would a 'reasonable man' have lost control and done what he did in the circumstances? The reasonable man test allows a jury to take into account characteristics that are relevant to the accused. In Camplin 1978 it was said that you can take into account the defendant's age and sex so in that case the defendant was judged by the degree of control that could be expected of the reasonable 15 year old boy after he had been buggered by an older man whom he killed with a chip pan.

**Comment:** Good AO1 in this paragraph although, of course, it was a chapatti pan!

Since Camplin there have been a lot of cases which have looked at the characteristics that can be taken into account. In Humphreys an obsessive and immature personality disorder was taken into account and in Morhall being an addicted glue sniffer was allowed as a characteristic even though it was self-induced. More recently the House of Lords in Smith (Morgan James) appeared to say that almost any characteristic of the accused could be taken into account although they ruled out hot tempered so Carl may not be able to rely on that. However, in the later cases of Rowland and Weller the Court of Appeal suggested that any characteristic could be relevant.

**Comment:** More very good AO1.

In 2005 the Privy Council in Holley said that Smith was wrong. They said you had to separate characteristics which affected to the gravity of the provocation to the accused, which could be anything relevant, from the characteristics that affected an accused's power of self-control. This should not include mental characteristics such as depression which should be proved by medical evidence under the defence of diminished responsibility. Holley has since been approved as persuasive precedent by the Court of Appeal in Karimi and James.

**Comment:** Pretty accurate up to date knowledge addressing reasonably well the 'characteristics' debate.

Therefore Carl may not be able to rely on provocation and would be better to plead diminished responsibility if he can get the medical evidence.

**Comment:** A rather rushed conclusion. Possibly too much time had been spent on the first question tackled.

## Examiner's commentary

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Overall this is a Level 5 answer satisfying all three of the Assessment Objectives criteria at this level. The candidate has spent more time on the provocation issue than the diminished responsibility defence but has at least considered the latter and this certainly does not preclude being rewarded at Level 5.

AO1 does present wide ranging and accurate citation with good definitions of the relevant law and there is a confident understanding of the provocation element in particular. There could have been a little more information provided on the diminished responsibility defence but the main ingredients are there. The candidate scores well on provocation.

AO1 22 marks

The AO2 content is excellent. The candidate has engaged with the question fully by not only identifying all the relevant issues but meaningfully analysing and applying the law to the actual facts of the scenario itself. These are neatly incorporated alongside the statements of law. It is a pity the candidate didn't justify the conclusion more fully by saying why Carl may not be able to rely upon provocation but the implication is there that his depression would now be effectively excluded as a characteristic.

AO2 18 marks

The AO3 is clearly in the top Level 4 through evidence of a well structured and organised answer with no grammar or spelling errors.

AO3 5 marks

Total marks 45



## Example Grade E Answer

### Plan – Murder – Section 3

- Murder is the unlawful killing of a reasonable creature under the Queen's Peace / actus reus / mens rea
- Provocation Section 4
- Need to prove words or acts of provocation
- Reasonable man test
- Sudden and temporary loss of control – cases Rositer, Alacott, Ibrams
- However battered wife syndrome cases – Helena Kennedy – remarked women are like the last freyng elastic – Thornton
- Lord Lane – not so much a cooling down – a heating up period – result murder substituted with manslaughter so women do not get licence to kill

Under the Homicide Act 1957 Carl would be liable for murder as he has killed his wife in what would appear to be cold blood. Murder is found under Section 3 of the Homicide Act stating that a person will be guilty of murder if they unlawfully kill a reasonable creature under the Queen's Peace. In order for murder to be proven both the mens rea and actus reus elements have to be proven and as murder is a crime of specific intent intention must be proven but if this is not done a murder conviction will not be obtainable.

In Carl's case he could try to plead provocation as a defence. Provocation is found in Section 4 of the Homicide Act 1957. However for provocation to be a defence three things must be proven. There has to be words or acts of provocation a reasonable man must of acted in the same way that he did and there must be a sudden and temporary loss of self control. This meaning you can not have deliberately planned or set out to kill the victim as illustrated in the case of R v Ibrams where a pact was made against the victim to kill him due to his obsession with an ex girlfriend. However at the time of the trial the defendants tried to claim provocation on the basis that the way the victim was obsessing over his ex girlfriend acted as an act of provocation were the ex girlfriend's new boyfriend was concerned however the court upheld their conviction stating that no such act classes as provocation and that there was no sudden or temporary loss of control as the act had been planned.

Although in Carl's case his wife on the night in question was told by her about her affair this constitutes the words or act requirement of provocation. However the reasonable man test is left to the jury to decide as to a reasonable person in his shoes would of reacted the same way.

The difficulty in proving the sudden and temporary loss of control with provocation in this case is that Carl had a cooling off period in terms of immediacy however when looking at cases such as Alhualia and Humphreys the question is resolved.

In the case of Alhualia the concept of battered women's syndrome began to emerge as she had killed her husband as a result of years of being beaten she had a cooling off period before going upstairs and pouring petrol on her husband's feet which caused him burns which later resulted in his death. She was convicted of murder only for the court of Appeal and the house of Lords to quash her conviction and replace it with manslaughter due to diminished responsibility as she had snapped but just a little later than most people would.

**Comment:** This candidate has included a plan. This is usually a good idea although this particular plan is rather sketchy and already foretells of some errors. Limited credit can be awarded for relevant material not later referred to e.g. cases so it is best left rather than being crossed out.

**Comment:** AO2 credit for at least identifying the potential charge

**Comment:** Clearly fails to recognise the common law derivation of murder. This is a surprisingly common mistake.

**Comment:** Fails to describe what the accused must intend, i.e. death or serious harm.

**Comment:** AO2 credit for identifying a potential defence

**Comment:** Although not expressed fluently the three ingredients of the defence are stated and gain limited AO1 reward.

**Comment:** A relevant case but over developed facts and not well described.

**Comment:** Some spelling errors becoming noticeable.

**Comment:** Credit for AO2 application skill.

**Comment:** In this paragraph the candidate gets unnecessarily sidetracked on irrelevant BWS issues and only obtains limited AO1 credit.

**Comment:** A possible alternative defence is mentioned but obviously it doesn't really ring a bell in the candidate's mind as such.

## RECOGNISING ACHIEVEMENT

When applied to this case it would appear that Carl would be able to prove provocation on the grounds of what he has been exposed to by Victoria's affair. Carl should be able to prove or plead provocation have the murder charge replaced by a manslaughter one. There is never an acquittal as the end result is still death. The reasonable man test is left to the jury to decide if somebody else would of reacted in the same way. If they do then the defence of provocation will be available to him.

**Comment:** There is at least a limited attempt to argue to a conclusion in the final paragraph.

## Examiner's commentary

This candidate identifies murder and provocation but fails to consider diminished responsibility. It would appear that the candidate had prepared for a 'battered woman syndrome' scenario and was confused when the 'murder' turned out to be a man. There is some evidence of limited knowledge of provocation as a defence and this places it in Level 2. Citation is present but a great deal of it is muddled and / or irrelevant.

AO1 is limited and error strewn, for example attributing the definition of murder to the Homicide Act. Nor is there a statement about the intention to kill or do serious harm which is required for the offence. Most credit under this Assessment Objective is gained by a limited but basically correct statement of the essential ingredients of provocation but there is no mention whatsoever of the 'characteristics' attributable to the 'reasonable man'.

AO1 10 marks

Marks on problem questions are awarded for identification of issues and for application to the facts of the scenario. This script shows only limited ability to do either and consequently the argument put forward is also limited. Although the offence of murder and potential defence of provocation are recognised there is no identification of the potential diminished responsibility defence and there is only limited reference to or the application of the facts in the scenario itself.

AO2 8 marks

There is some attempt to produce a structured, although limited answer. Some use of legal terminology is evident although there are also some errors of grammar and spelling.

AO3 3 marks

Total marks 21

Section C Question 7:

John enters a supermarket intending to steal some food. He is in the shop when he notices that the door to the manager's office is open. He goes inside hoping to find something of value. There is no-one present but, as he is about to leave, he notices a wallet lying on the manager's desk. John picks the wallet up and takes a £20 note out of it. The manager, Sue, sees him leaving the office and shouts at him. John pushes Sue aside and runs out of the store

Evaluate the accuracy of each of the four statements A, B, C and D individually, as they apply to the facts in the above scenario.

**Statement A: John is guilty of burglary under S.9(1)(a) Theft Act 1968.**

**Statement B: John is guilty of theft under S.1 Theft Act 1968.**

**Statement C: John is guilty of robbery under S.8 Theft Act 1968.**

**Statement D: John is guilty of burglary under S.9(1)(b) Theft Act 1968.**

[20]

Example Grade A Answer

**Statement A: John is guilty of burglary under S.9(1)(a) Theft Act 1968.**

When John goes into the supermarket he has already formed the intention to steal some food. This means that although shoppers are normally allowed into a supermarket he is entering as a trespasser because he is exceeding the permission for which he is allowed to enter. Even if he steals nothing this secret dishonest intention would be enough to convict him of burglary under S.9(1)(a). He also enters the manager's office where he is not authorised to go. This makes him a trespasser in a part of a building under the Theft Act and he commits two further offences of burglary although the taking of the £20 note would be under S.9(1)(b).

Comment: AO2

Comment: AO2

Comment: AO2

Comment: This will depend upon his intention at the time of entry.

**Statement B: John is guilty of theft under S.1 Theft Act 1968.**

Although John does not steal the wallet he may be appropriating it. He certainly commits theft when he takes out the £20 note as he is dishonestly appropriating property belonging to another and when he runs off he is intending to permanently deprive the owner of it.

Comment: This is not asked for here. It is answering Statement D but could still be credited if properly explained.

Comment: Some AO2 credit

**Statement C: John is guilty of robbery under S.8 Theft Act 1968.**

When he pushes Sue aside John is using force. The use of force or the threat of force in order to steal amounts to robbery under the S.8 Theft Act. Theft can be a continuing offence and John still has the £20 note so he is using the force at the time of the theft and is guilty of robbery.

Comment: AO2

Comment: AO2

Comment: AO2

**Statement D: John is guilty of burglary under S.9(1)(b) Theft Act 1968.**

As I said before John is guilty of burglary under S.9(1)(b) because although he may not have intended to steal anything when he went in he has still entered a part of a building as a trespasser and he then goes on to steal the money so he is guilty under S.9(1)(b) as well.

Comment: AO2

## Examiner's commentary

n.b.

Section C is new as a part of the A2 option papers. All the marks are awarded under the AO2 Assessment Objective since the candidates are being asked to purely identify relevant issues and apply their knowledge to each scenario in the context of each statement or proposition rather than display it. As a consequence citation of cases is not required in order to obtain maximum marks. In addition, marks are awarded holistically at the end of the complete answer.

This candidate has chosen to organise their answer by looking at the statements in turn. This is a sensible approach in that it reduces the possibility of overlooking any particular issue raised by the scenario and each proposition. Indeed they have addressed the S.9(1)(b) issue twice over although this is not detrimental in any way as it shows an awareness of a central element of the offence of burglary.

The candidate has tackled all of the statements in a coherent way arguing to a logical conclusion in each case.

Total marks 20

## Example Grade E Answer

When John enters the supermarket he is not yet committing an offence cos he is like all shoppers allowed in there. When he goes into the manager's office he could be guilty of a S.9(1)(a) burglary if he was intending to steal something or cause criminal damage. When he takes the £20 note out of the wallet he is committing a theft cos it belongs to somebody else. Robbery is under the Theft Act 1968 S.8 and is when someone uses force. Because John has used force he could be guilty of robbery. It will depend how much force he used and if he only used a bit of force it could be an assault and battery instead. When he goes into the manager's office he could of committed an offence cos it says in S.9(1)(b) that if you have entered as a trespasser and then go on to steal then you are guilty.

**Comment:** No.

**Comment:** AO2

**Comment:** AO2 but the logical reasoning has not been completed.

**Comment:** AO2

**Comment:** This is incorrect.

**Comment:** AO2. This paragraph is basically correct but fails to refer to the complete logic that the manager's office is a part of a building.

## Examiner's commentary

This is a good example of how not to tackle these Section C questions. Although some of the issues have been referred to in this answer they are not separately considered which makes it less likely that they will be individually argued to a logical conclusion.

Some issues, such as the analysis of the initial entry into the supermarket with the intention to steal food, have not been recognised and others, such as the analysis of robbery at the end, are clearly incorrect. Nevertheless, at least three issues have been correctly identified and therefore the candidate would just about attain a grade E or Level 2 on this section. This demonstrates that it is possible to gain marks here for accurate identification of offences, a skill, rather than for including a lot of citation since that is an AO1 requirement and is fully assessed in Sections A and B.

Total marks 7