

# **L3 Lead Examiner Report 1901**

January 2019

**L3 Qualification in BTEC Applied  
Law – 20107K Applying the Law**

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### What is a grade boundary?

A grade boundary is where we set the level of achievement required to obtain a certain grade for the externally assessed unit. We set grade boundaries for each grade, at Distinction, Merit and Pass.

### Setting grade boundaries

When we set grade boundaries, we look at the performance of every learner who took the external assessment. When we can see the full picture of performance, our experts are then able to decide where best to place the grade boundaries – this means that they decide what the lowest possible mark is for a particular grade.

When our experts set the grade boundaries, they make sure that learners receive grades which reflect their ability. Awarding grade boundaries is conducted to ensure learners achieve the grade they deserve to achieve, irrespective of variation in the external assessment.

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Each external assessment we set asks different questions and may assess different parts of the unit content outlined in the specification. It would be unfair to learners if we set the same grade boundaries for each assessment, because then it would not take accessibility into account.

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### Unit 3: Applying the Law 20107K.

Grade	Unclassified	Level 3			
		N	P	M	D
Boundary Mark	0	16	26	36	47

## Introduction

This was the second external assessment for Unit 3 of the new BTEC Level 3 Extended Certificate in Applied Law and the first January series of the qualification. The Extended Certificate comprises of four units, three of which are mandatory and one optional. Unit 3 forms one of the two mandatory externally assessed units on the qualification.

Unit 3 is assessed twice yearly, in January and May/June. In this series, as with the previous series and the Sample Assessment Materials (SAMs) and Additional Sample Assessment Materials (AddSAMs), the assessment continues to be based on two key points; a Part A pre-release followed a week or so later by Part B which is the assessment itself, consisting of a 2-hour session consisting of two tasks, each worth 36 marks. The Part A pre-release follows the previous format of two news reports, one on homicide and one on property offences, upon which learners are to base their research ahead of the Part B assessment. In Part B, learners are provided with additional material for the relevant homicide and property offences, as well as information on police powers and general defences. It should be emphasised here that in the Part B assessment, police powers will always be tied to Activity 1 (homicide) and general defences will always be tied to Activity 2 (property offences). In this series, the focus of Activity 1 was loss of control, accompanied by the police power of stop and search, and for Activity 2 it was burglary with the general defence of insanity or automatism.

This unit is synoptic to the Extended Certificate in Applied Law, meaning that learners are required to draw on skills, knowledge and understanding acquired from the three other units they have studied within the specification when completing both of the set tasks. For example, in unit 1 learners have studied the concept of precedent and will therefore understand that the caselaw they are referring to when determining the criminal liability of the defendants in both activities are examples of precedents set by the higher courts that lower courts are bound to follow in future, similar cases. In addition to this, the fact that learners are required to apply their learning to realistic contexts in all units is a skill that they are able to draw on when completing the tasks for this unit.

The assessment of both tasks in the unit is based around five assessment *foci* which are distributed across the 36 marks as follows:

- **AF1:** Selection and understanding of legal principles relevant to context (8 marks)
- **AF2:** Application of legal principles and research to information provided (8 marks)
- **AF3:** Analysis of legal authorities, principles and concepts (8 marks)

- **AF4:** Evaluation and justification of decisions (8 marks)
- **AF5:** Presentation and structure (5 marks)

During the Part B controlled assessment, learners are required to produce their work using a computer. The two tasks, along with a candidate declaration of authenticity are then submitted along with a learner record and centre record. The majority of centres submitted hard copies of the learner work, with a few choosing to submit their work electronically. There were some centres who submitted their work without including the signed authentication sheets and/or learner record sheets. In addition to this, a small minority of centres chose to submit handwritten learner work. Centres are advised to review the Administrative Support Guide which can be found on the course materials section of the BTEC Nationals Applied Law (2017) page, under the external assessments tab, in order to ensure that all administrative requirements are met.

## Introduction to the Overall Performance of the Unit

There are some limitations on the comments that can be made on the performance of the paper in comparison to previous series as this was the first January series for the unit and the previous June sitting had quite a small entry, thus making any meaningful comparisons difficult. For this series, there was quite a large entry of just over 1000 candidates, all of which were year 13 students. A range of marks were awarded, with learners achieving between 0 and 65 out of 72. The work was, however, on the whole, quite strong, with a good portion of learners achieving over 37 marks out of 72. It was evident that centres had taken on board advice from the previous Lead Examiner's report – for example, it was common place for many learners to include a “likely outcomes” section, in which they drew together their explanation and application of the law to aid in reaching a justified conclusion.

In this series, there was clear evidence of:

- Effective research into the areas of law alluded to in the Part A pre-release materials.
- Accurate citation of appropriate and relevant legal authorities.
- Thoughtful and accurate selection of the key facts from the case study in their application.

There were relatively few timing issues reported, with the vast majority of learners being able to complete both tasks within the allotted time and in a generally professional format and structure. In addition to this, it was pleasing to note that learners were able to distribute their time effectively between both tasks, producing an even amount of work for both activities.

Areas requiring improvement include:

- Encouraging learners to be more selective in the use of their notes during the assessment. Many learners felt it necessary to describe all of the areas of law covered within the specification, rather than focusing simply of the areas arising in Part B, this was particularly true in relation to defences and police powers.
- Discouraging learners from restating the case facts at the start of their discussion. This does not attract any marks and simply wastes time that could be spend more valuably in applying and analysing the information presented in Part B.
- Making even more selective use of the information presented in Part B and reading it more carefully. In this series, many learners explained all elements of the actus reus and mens rea of murder, including causation, when the main focus of the facts was the partial defence of diminished responsibility. Similarly, many learners had stated within Activity 2 that there was criminal damage, despite no mention being made of anything being destroyed or damaged.

- Developing the skill of learners to reach a fully justified conclusion which includes evaluative commentary as many learners scored lower marks on the evaluation and justification of assessment decisions in both activity 1 and 2.
- Encouraging learners to make more effective preparatory notes during the Part A element of the assessment, so that learners are able to explain and apply police powers and general defences more thoroughly.

There was a common error that was made by many centres which should be addressed. It was common for many learners to explain the offence of grievous bodily harm in activity 2, which does not appear in unit 3, but does appear in unit 2,. In addition to this, many learners referred to the offence of attempts which does not appear in the specification. Learners should only include information that appear within the Unit 3 essential content as information from other aspects of the specification, or outside of the specification will not attract marks. Whilst Unit 3 is a synoptic unit, this is only in so far as it requires learners to draw on the skills gleaned from the other units and not the content.

## Individual Questions

The following section will consider both activities within the paper and provide examples of where learners have scored well, or where improvements could have been made. It should be noted that there is no cross-credit between the two assessment tasks. Creditworthy material included in the wrong task is not credited to the other task. This was particularly relevant in relation to police powers and general defences. Police powers will always be attached to Activity 1 and general defences will always be attached to Activity 2. Where learners have explained general defences in Activity 1 and police powers in Activity 2, they will not receive marks for this.

### Activity 1 (Homicide and Police Powers)

#### Assessment Focus 1: Selection and understanding of legal principles relevant to the context

Marks gained within this assessment focus required learners to correctly identify the potential homicide offence that had been committed by the defendant and explain each of its key elements, with accurate supporting authority. The relevant homicide offence in this series was murder, with a special focus on the partial defence of diminished responsibility. In a series where the partial defences of voluntary manslaughter are the main focus of the activity, it should be noted that an in-depth treatment of murder will not be required. The additional information presented for Part B in the current series involved a relatively straightforward murder in which the

defendant (Anne) had beaten her wife to death with a cricket bat. As such, learners could explain murder simply by stating its definition, with a relevant legal authority. It was not necessary for learners to provide a detailed explanation of the issue of causation as there were no issues of causation in the form of intervening acts within the present series.

Therefore, in the following example, it can be said that the learner has fully explained the law of murder relevant to the question:

### Candidate Example

Murder is defined by Sir Edward Coke as the 'unlawful killing of a reasonable creature in being under the queen's peace with malice aforethought express or implied'. The actus reus of this offence is to unlawfully kill a human being under the queen's peace; the word unlawful means mercy killing, omissions but does not mean a soldier killing an enemy in war (not under queen's peace) and does not mean self-defence (RE:A).

A reasonable being is another way of saying human being but does not take into account a foetus as it is not 'in being' until it is born (AG Ref No.3).

D actions must have caused the death in fact (but for test-Pagget) and in law (significant and operative test- Smith).

The mens rea is about malice aforethought- which can be expressed (to have the intention to kill) or implied (to have the intention to cause GBH).

**Comment: It can be seen here that the learner has fully explained the offence of murder, referring to several authorities, such as Sir Edward Coke. Whilst causation is mentioned, it is only briefly explained with reference to factual and legal causation. This is a sufficient explanation relevant to the**

Unfortunately, many learners spent an inordinate amount of time explaining all of the elements of murder in depth when they should have focused on diminished responsibility.

Pleasingly, the majority of learners had no trouble identifying that voluntary manslaughter was the relevant issue to be explained within this activity, however many wasted time by explaining both loss of control and diminished responsibility. In this series, due to the fact that learners are told that Anne had been suffering from severe depression and had been seeing a psychiatrist, the most relevant form of



voluntary manslaughter was diminished responsibility. Where loss of control was explained, it did not attract any marks. Learners should be encouraged to read the information in Part B more carefully. Where recognised medical conditions such as depression are referred to, this will be an indicator that this will be diminished responsibility and not loss of control.

In addition to this, other common issues include:

- Referring to s2 Homicide Act 1957 without referring to s52 Coroners and Justice Act 2009.
- Using terminology from the old law of diminished responsibility, such as “abnormality of mind” as opposed to “abnormality of mental functioning”.
- Not fully laying out all of the elements of diminished responsibility. For example, it was common for learners to miss out the issue of “substantial impairment” or that the abnormality of mental functioning should provide an explanation for the defendant’s acts or omission in committing the killing.
- Confusing the elements of diminished responsibility with the defence of insanity. For example, many learners stated that the abnormality of mental functioning must come from a disease of the mind.
- Including reference to the defence of insanity in addition to loss of control and diminished responsibility, thus wasting time. As stated earlier, the general defences will never be attached to Activity 1 and therefore no credit will be given for its explanation.
- Not correctly using the terminology from the Act:

### Candidate Example

Section 52 of the Coroners and Justice Act 2009 substituted the definition of diminished responsibility. The defendant must now be able to show an abnormality of mental functioning which came from a familiar medical condition and substantially impaired the defendant's ability to understand the nature of their conduct, form a rational judge and exercise self-control. Looking at the case Anne's is eligible because her medical condition of depression is recognised. She did not understand the nature of her conduct and she was not able to form a rational judgement because her behaviour has become increasingly irrational leading to many augments.

The abnormality of mental functioning must give a clarification for the defendant's acts and omissions in doing or being a party to the killing. So in this case the actions of Anne are under stable due to her medical condition which has caused to be like this.

**Comment: Here, despite the fact that the candidate has correctly stated abnormality of mental functioning and what must be substantially impaired, as they have not correctly stated that this must come from a "recognised medical condition", instead stating that it is a "familiar medical condition".**

Learners who attracted band 4 responses on this assessment focus were able to lay out the key elements of diminished responsibility (abnormality of mental functioning, recognised medical condition, substantially impairs the defendant's ability to do one of three things, and provides a reason for the killing) and provide supporting authority. In terms of supporting authority, in addition to case law, such as **R v Byrne** for abnormality of mental functioning and statutory authority such as **s52 (1A) and (1B) Coroners and Justice Act 2009** for substantial impairment and providing a reason for the killing, references to **The World Health Organisation** was accepted when discussing recognised medical conditions. It should be noted, however, that the supporting authority should be accurately attached to the relevant element of the partial defence. For example, learners who referred to **R v Byrne** were required to do so in the context of abnormality of mental functioning. The case would be accepted in the context of recognised medical condition were the medical condition suffered by the defendant also included.

#### Assessment Focus 2: Application of legal research and principles to information provided

Learners were awarded marks within this assessment focus for their ability to apply the law as explained in assessment focus 1 to the facts presented in Part B. In order to attract higher marks within each of the bands, learners were required to make

specific reference to the source materials in their application, making effective use of the facts. For example, a comment such as “as Anne has been suffering from depression for several years and had been seeing a psychiatrist would suggest that she had an abnormality of mental functioning as the reasonable man would term this as abnormal, particularly as we know she is increasingly irrational” is making specific use of the source material in their application of the law.

Most learners scored quite well here and it should be noted that learners are still able to attract marks for application of the law even where they have not fully stated that law itself, meaning that many did attract higher AF2 marks in comparison to AF1.

The only real issue in terms of application within this series was that there appeared to be a difficulty with learners applying the issue of substantial impairment. Few were able to explain what had been substantially impaired and why this is the case.

### Candidate Example

This recognised medical condition must substantially impair ones ability to; form a rational judgement, to exercise self control or understand the nature of their conduct (Lloyd). In this case, Annes depression has substantially imparied her ability to form a rational judgement and even exercise self control, as it states her behaviour has been increasingly irrational meaning her judgments are no longer rational. It could also be said that Annes ability to exercise self control is impaired as Lisa ciriticising Annes batting technqie caused her to beat her to death.

**Comment: In this example, the candidate has clearly explained that Anne’s ability to exercise self-control has been impaired due to the fact that she acted as a result of being criticised for her batting technique. The candidate has made effective use of the facts of the scenario, referring explicitly to the wording of the additional information in the Part B materials.**

### Assessment Focus 3: Analysis of legal authorities, principles and contexts

This assessment focus assesses the ability of learners to analyse the additional information presented in Part B relating to the police powers of stop and search, explain the relevant law and apply it to the given facts.

There were three key issues that candidates were required to explain and apply to the facts:

1. Under **s1 Police and Criminal Evidence Act 1984**, the police have the right to stop and search a person or their vehicle in a public place where they have reasonable suspicion that they are carrying stolen or prohibited articles. In the given situation, the police had the right to stop and search Anne as they had been provided with her

description following the incident at the cricket ground and could be searching her to look for the cricket bat.

2. The search is limited to outer clothing, with suspects only having to remove the jacket, coat or gloves. Where they wish to conduct a more thorough search, this must be done in a private place or at the station. Here, Anne was asked to strip down to her underwear, which is prohibited under PACE.
3. Under **s117 PACE 1984**, the police are allowed to use reasonable force on a suspect during a search, such as using handcuffs to detain them for the purposes of the search. In the case facts, Anne was tackled to the ground when she objected to the search.

On the whole, this assessment focus was done very well, with learners recognising that the police would have the right to stop and search Anne, but that the strip search in public was illegal. There were, however, a few common issues:

- Many learners confused the power to stop and search with the power of arrest. Where learners included arrest, they did not receive credit for this.
- Referring to all of the potential police powers such as detention, despite the fact that these were not referred to within the additional information in Part B.
- Missing out the fact it could be argued that the police had not used reasonable force when tackling Anne to the ground.
- Stating that the Code of Practice for stop and search was Code C when it is Code A.
- Providing R v Iqbal as an authority for stop and search, whereas this is authority for arrest.

In order to attract Band 4, learners were required to state each of the relevant elements of stop and search raised by the Part B information, apply these to the facts with either reference to authority, or a conclusion that the treatment was unlawful.

**Candidate Example**

**Comment: On the example above, the candidate has only achieved a band 2 response as they have only identified that the police must have reasonable grounds for the stop and search, applying why they would have such grounds based on the case facts. They have not, however, addressed the issues of the strip search or reasonable force. In addition, they have provided an incorrect authority in the form on R v Iqbal, although they have correctly referred to PACE.**

them to remove outerwear and offer them a report of the stop and search at the end however, none of this happened meaning the stop and search was unlawful.

**Assessment Focus 4: Evaluation and justification of decisions**

In assessment focus 4, learners are required to produce an evaluation of the outcomes of the case, using legal principles and authorities in order to reach a conclusion. It was common for many learners to provide only a partially justified conclusion, applying an element of voluntary manslaughter and stating “therefore

Anne can plead diminished responsibility". Answers such as this could not progress beyond band 2.

**Candidate Example:**Likely Outcome

Anne will be charged with murder. I recommend that she pursues the defence of diminished responsibility as she has a sufficient abnormality of the mind through her depression. The other defences are less likely to be successful and if the defence for diminished responsibility is successful then she will get a lesser sentence. The wrongful stop and search may also be beneficial regarding the court case and Anne's sentence.

**Comment: This is a band 2 response as, whilst the learner has stated that Anne can use diminished responsibility due to her depression, this would amount to only a partially justified conclusion as the learner has not concluded on each of the key elements of diminished responsibility before drawing this together for a final, overall conclusion.**

In order to achieve a band 4 response, learners were required to conclude on all elements of diminished responsibility, reaching an overall conclusion and provided some evaluative commentary and proposals for reform on the problems with diminished responsibility. An example of this would be if a learner had made a comment that the burden of proof will be shifted onto the defendant, which goes against the ECHR and should therefore be shifted back onto the prosecution.

Reference to problems with the law acted as a discriminator within each band. In this series, it was common that many learners did make evaluative commentary on the law, with many either stating problems with the law, or referring to the fact that the new law on diminished responsibility is an improvement on the previous law under the Homicide Act.

### Assessment Focus 5: Presentation and structure

This assessment focus relates to the quality of presentation and structure. It is not a judgment on the quality of the work and focuses on the structure, presentation and appropriateness of the work for a person reading it. The majority of learners achieved a band 4 response on this assessment focus as they had attempted both the voluntary manslaughter and police powers aspects of the activity. Exceptions to the full mark scores were due to:

- Incomplete responses, where learners had not explored both voluntary manslaughter and police powers.

- Responses that included fundamental errors that convey incomplete or inappropriate information to the reader.
- Purely anecdotal answers that do not convey any of the information required by the task.

## Activity 2 (Property Offences and General Defences)

### Assessment Focus 1: Selection and understanding of legal principles relevant to the context

Here, learners were required to correctly identify that the defendant (Michelle) had carried out two potential burglaries; one under s9(1)(a) Theft Act 1968 when she forced entry to the shop wanting to steal the watches and one under s9(1)(b) Theft Act 1968 when she broke George's leg. The learners were required to support their explanation with reference to accurate supporting authority in the form of case law such as **R v Collins** or **R v Walkington** or statute in the form of either of the sections of the Theft Act 1968.

A vast majority of learners were able to identify that the offence of burglary had potentially been committed and included relevant supporting authorities. There were, however, a few issues:

- Many learners spent too much time explaining that the offences of theft and robbery had been committed, despite the fact that as nothing had been taken and consequently there could be no robbery when Michelle broke George's leg.
- Some learners stated that Michelle had committed criminal damage, stating that the fact she had forced entry to the shop suggested that she had damaged the door. Learners should be encouraged to read the additional information in Part B more carefully. Where criminal damage is required to be explained, this will be made explicit.
- Some learners referred to the offence of attempts which are not within the specification.
- Some learners mislabeled the sections of the Theft Act. For example, some stated that a 9(1)(b) burglary occurred when a defendant enters a building or part of a building as a trespasser with intent to steal, cause GBH or commit criminal damage. Where learners did this, they did not receive credit for the supporting authority as it was incorrect.
- Many learners simply stated that there were s9(1)(a) and 9(1)(b) burglaries, without referring to the Theft Act 1968 and, as such, could not be credited for having referred to supporting authority.

- Some learners were misstating the requirements of s9(1)(b), stating that this offence is committed when the defendant enters the building as a trespasser and then develops the *mens rea* whilst inside the building. They did not receive credit for this as the offence states that the defendant actually commits the offences of either theft or GBH.

### Candidate Example 1:

In Section 9 of the Theft Act 1968, it identifies the two sections of burglary, section 9(1)(a) and section 9(1)(b). The definition of Section 9(1)(a) is, a person is guilty of burglary if they enter any building or part of a building as a trespasser with intent to steal, to inflict GBH or do unlawful damage. The actus reus of section 9(1)(a) is entering the building or part of the building as a trespasser and the mens rea is knowing they are trespassing, intending to steal or inflict GBH or do unlawful damage. In Section 9(1)(b), a person is guilty of burglary if, as a trespasser, having entered any building or part of a building, they steal or attempt to steal, or inflict or attempt to inflict GBH. The actus reus of section 9(1)(b) is entering a building or part of a building as a trespasser, attempt to steal or steal, or attempt to inflict GBH or inflict GBH. The mens rea is know they are trespassing, intend to steal or inflict GBH. In the case of Hatton Garden Heist the burglars stole around 14m worth of loot during a raid in which they committed burglary.

### Candidate Example 2:

However, the third property offence is burglary which is outlined in section 9 of the Theft Act 1968. There are two different offences under the banner of burglary. The first one is the s9(1)(a) offence which is where there is the intention to cause GBH before entry. The s9(1)(b) offence is where the intent to steal/cause GBH is established after entry. The actus reus and mens rea of burglary are the same for both offences. There are three parts to the actus reus of burglary. The first part is the entry which must be substantial enough in order to facilitate the completion of the theft. What amounts to entry is set out in the cases of R v Brown (1985) and R v Ryan (1996). The defendant has entered the premises and therefore amounts to entry and this part of the actus reus is achieved. The second part of the actus reus is whether the entry was into a building. Entering part of a building was considered in R v Walkington (1979) and the definition of building is given in s9(4) Theft Act 1968. It is quite clear that the shop

**Comment: If we compare the candidate examples, we can see that Candidate 1 has fully explained the law and accurately labelled it whereas for Candidate 2, they have not fully examined the requirements of either offence . Candidate 1 achieve a band 4 response and would be top of band if case law to explain the concepts of entry/building/trespasser is included. Candidate 2, however, achieved a band 2 response for recognising that burglary requires entry of a building as a trespasser with a supporting case.**

### Assessment Focus 2: Application of legal research and principles to information provided

Generally, this assessment focus was dealt with very well. Learners did not appear to have a problem with applying the *actus reus* of both forms of burglary, recognising that Michelle had entered the shop as a trespasser. The majority of learners also were able to recognise that she had committed a 9(1)(a) burglary due to the fact that she formed the intention to steal before she went into the shop. Common issues here, however, were the fact that many learners had difficulty in recognising that when Michelle broke George's leg, this would amount to a burglary under s9(1)(b) as she has entered a building as a trespasser and then committed a GBH. The learner in the example below has effectively applied the 9(1)(b) element of well, albeit in a brief

#### Candidate Example

However, Michelle could also be liable under S9(1)(b) due to the fact force was used as she broke George's leg which means she has inflicted GBH of any person therein.

manner:

Instead of dealing with this aspect in the above manner, many learners classified this as GBH isolation, as opposed to tying it to the fact that as she had committed a GBH within the building this was a burglary. As has been stated earlier, candidates should be reminded that they will only be required to explain and apply law that is stated within the essential content of the unit.

### Assessment Focus 3: Analysis of legal authorities, principles and contexts

As Michelle had been challenged by George and this had led to an epileptic fit during which she broke his leg, this had the potential to raise the issue of either the defence of insanity or automatism. In order to attract marks, learners were required to explain either of the defences and apply to the facts of the additional information provided in Part B. Those who were able to do this and provide supporting authority and a conclusion as to the success of the defence would attract the top of band 4.

Learners performed rather variably on this assessment focus, with many not scoring beyond bands 2 or 3. Common issues were:

- Whilst many learners did recognise that the epileptic fit would have some bearing on Michelle's criminal liability, there were some who were unable to explain the essential elements of either the defences of insanity or automatism. Therefore, whilst they were able to explain that Michelle was acting involuntarily, they were unable to place this within the context of any particular defence.
- There were other learners who confused the defence of insanity with that of



diminished responsibility.

- Some learners were explaining all of the general defences, including self-defence and duress when these were not relevant on the basis of the facts of the scenario.

Those who did raise the defence of either insanity did explain it extremely well, referring to their key elements and supporting authority. As regards automatism, learners either explained that Michelle was acting involuntarily or that this was due to the external factor of George, but very rarely stated that both were required to successfully plead the defence of automatism.

### Candidate Example

Michelle may be able to rely on the defence of automatism. Michelle had a history of epilepsy. This means that during an epileptic fit, she has no control over the movements of her body, it is automatic. When George challenged her in the shop, it triggered her to have an epileptic fit meaning she had no idea what she was doing and kicking George was not intentional as it was an automatic movement whilst having a fit. This means that she may not be liable for the grievous bodily harm of George.

**Comment: This candidate had only achieved a band 2 response as, whilst they have identified that the defence of automatism is the relevant defence, they have not covered it in detail. They have explained that Michelle had no idea what she was doing when she had her epileptic fit, but this was not in the depth required.**

### Assessment Focus 4: Evaluation and justification of decisions

As on Activity 1, learners are required to produce an evaluation of the outcomes of the case, using legal principles and authorities in order to reach a conclusion on the property offence. Once again, it was common for learners to produce only a partially justified conclusion, stating, for example that as Michelle has formed her intention before she entered the shop she would be guilty of a 9(1)(a) burglary.

Learners should be reminded that they need to conclude on liability as they go along, drawing each of these conclusions together at the end. In order for the conclusion to be fully justified, they would have needed to have recognised that there were two forms of burglary and, with reference to their application, conclude that Michelle could be liable for both of these.

Once again, the ability to raise some evaluative commentary was a discriminator within the bands. Learners should be encouraged to discuss any potential problems with the relevant law throughout their explanation. It was interesting to note, that

some students did provide some evaluative commentary on burglary however, as they had provided only a partially justified conclusion, they could not progress beyond band 2.

### Assessment Focus 5: Presentation and structure

As was the case in activity 1, this assessment focus was awarded marks on the basis of the quality of presentation and structure and was not a judgment on the quality of the work. Again, the majority of learners achieved a band 4 response on this assessment focus as they had attempted both the property offences and defences aspects of the activity. Exceptions to the full mark scores were due to the same reasons are identified in Activity 1.

## Summary

**Based on the performance of learners during this series, Centres should consider the following when preparing for the June 2019 series:**

- Learners should ensure that they are only including offences that are covered within the Unit 3 Essential Content. They will not attract marks for information outside of the unit content.
- Remind learners that the police powers will always be attached to Activity 1 and defences to Activity 2. There will be no cross credit for information mentioned in each activity.
- Where Part B raises a relevant police power or defence, learners only need to explain those specific police powers or defences, they do not need to explain all of them.
- Practice responses to Part B materials so that learners are able to practice their evaluation – learners should be encouraged to apply and conclude throughout their work. They should also be encouraged to make evaluative comments throughout their work as they will be given credit for this in assessment focus 4.
- Where the offence of voluntary manslaughter is raised, learners should be reminded that a detailed explanation of murder is not required, stating the *actus reus* and *mens rea* of the offence with a supporting authority will attract the marks as murder is not the main focus of the question, the partial defence is.

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