



ASSESSMENT and
QUALIFICATIONS
ALLIANCE

Mark scheme

June 2003

GCSE

Law

3161

Foundation

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Suggested answers are neither prescriptive nor exhaustive.

All three parts of Question 1 are to be marked according to the following banded marking scheme.

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

SECTION A

1

Total for this question: 12 marks

In **each** of the following situations, explain whether the case would involve a **crime**, a **tort** or **both a crime and a tort**, giving **reasons** for your answers.

- (a) Andrew took a car from a supermarket car-park and drove it around for several hours before abandoning it at the side of the road. As he left the car, he took some CDs which he later sold. (4 marks)

Potential Content

Criminal nature of situation (can get full 4 marks with no civil content if a good answer)

Car - TWOC (not theft - no intention to permanently deprive)

S.12 Theft Act 1968

CDs - Theft S1 Theft Act 1968 Definition + application

Civil - Trespass to Goods/Trespass to Land

Conversion

Torts (Interference with Goods Act) 1977

Note - Civil only - **max 2 marks**

Both criminal and civil (**1 mark**)

[AO1:3, AO2:1]

- (b) Barry owns a pub next door to a house owned by Colin. Colin is a very light sleeper and likes to go to bed early. He is often woken by the noise from the pub next door. Late one evening Colin went round to the pub to complain. An argument took place during which Barry hit Colin with a pool cue. Colin suffered a nasty cut on the side of his head. (4 marks)

Potential Content

Criminal - recognition of injury

ABH or wounding

S.47/20/18 Offences against the Person Act 1861

Definition/application. Possible case

Civil - Private nuisance - definition and application. Trespass to Person

Possible case. Possible reference to extra sensitivity. Possible reference to statutory nuisance

Both civil and criminal (**1 mark**)

Civil or criminal only - **max 3 marks**

[AO1:3, AO2:1]

- (c) Dreena, a well known actress, was being pursued by the press over an alleged affair with a married man. The story is completely untrue. When Dreena refused to give an interview, one of the tabloid newspapers printed a story about Dreena saying that she was a "homewrecker" and that she "didn't have the courage to tell her side of the story". (4 marks)

Potential Content

Civil only (**1 mark**)

Tort of defamation

Permanent form = libel

Definition/proof and application

Possible case

Possible reference to privacy right under Human Rights Act - credit as appropriate.

[AO1:3, AO2:1]

2**Total for this question: 8 marks**

In **each** of the following situations, **identify** who is most likely to be trying the case, and briefly **explain** why.

(a) Ernie, aged 28, has been committed to stand trial for robbery. He has decided to plead not guilty. *(2 marks)*

Potential Content

Focus may be on the jury or the judge (District, Circuit or High Court) - credit any for **1 mark**

Reason - indictable (serious) offence

or

must be tried in Crown Court

(1 mark)

Note – Shopping list rule applies

[AO1:2]

(b) Farouk, aged 17, has been charged with theft. *(2 marks)*

Potential Content

(Youth Court) Magistrates **(1 mark)**

Must be tried in the Youth Court/ not a grave crime/age **(1 mark)**

Note – Shopping list rule applies

[AO1:2]

(c) Gloria, who has worked for the same company for seven years, has been refused a promotion at work. She is claiming that it is either because she is a woman or because she is black. *(2 marks)*

Potential Content

Tribunal members **(1 mark)**

Sex and/or race discrimination/employment Tribunal **(1 mark)**

Note – Shopping list rule applies

[AO1:2]

(d) Hamish was convicted of murder a year ago and has already lost an appeal against his conviction. His solicitor thinks that the case involves an important point of law, and Hamish has been granted leave to appeal further. *(2 marks)*

Potential Content

Law Lords **(1 mark)**

Must go to the House of Lords **(1 mark)**

Note – Shopping list rule applies

[AO1:2]

SECTION B

3

Total for this question: 30 marks

- (a) The article refers to Lord Justice Auld's review of the criminal courts system including limiting the right to choose trial by jury.

Briefly explain **where** and **how** it is decided where an **either way offence** will be tried.

(3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential ContentMagistrates' Court hearing (**1mark**)

Plea before venue

Mode of trial (if needed)

Committals (if needed)

[AO1:3]

- (b) (i) Identify the **three** basic qualifications for jury service. (3 marks)

Electoral Register

18 - 70 (69)

(5 years) residence

(1 mark each)

Note - Shopping list rule applies

[AO1:3]

- (ii) Name the Act of Parliament which sets out those qualifications. (1 mark)

Juries Act 1974 (**1 mark**)**or**Criminal Justice Act 1988 (**1 mark**)

(dates not necessary)

[AO1:1]

- (c) (i) Identify **two** groups of people entitled to be **excused** from jury service **as of right**.

(2 marks)

Eg Doctors, MPs, Armed Forces, previous service within 2 years, aged 65-69, physical disability, religious objection (**1 mark each**)

Note - Shopping list rule applies

- (ii) Identify **two** groups of people who are **exempt** from jury service. (2 marks)

Eg police, legal profession, Judges, Magistrates, priests etc, mentally ill (**1 mark each**)

Note - Shopping list rule applies

(iii) Identify two groups of people who are disqualified from jury service.	<i>(2 marks)</i>
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Eg 5+ years imprisonment (life ban)
 prison, suspended sentence, CPO (10 year ban)
 CRO (5 year ban)
 On bail
(1 mark each)
 Reference to previous record **(1 mark only)**

Note - Shopping list rule applies

[AO1:5, AO2:1]

(d) In the context of jury selection , comment on whether jury service should be “a compulsory, universal civic duty”, i.e. a duty that everyone should perform.	<i>(3 marks)</i>
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Issues drawn from article, ie

Middle class frequently ‘avoid’ jury service - statistics in support

Jury should reflect the whole population, etc.

Problems with police, judges, etc, sitting on a jury?

A reasoned conclusion (either way)

[AO1:3]

(e) Jury verdicts can either be unanimous or by majority . Explain what is meant by these two terms in the context of a jury verdict.	<i>(4 marks)</i>
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Unanimous - **all** (twelve) jurors agree/guilty or not guilty

Majority - Time limits

Numbers of jurors to agree

Foreman to state in open court

Criminal Justice Act 1967/Juries Act 1974

[AO1:4]

(f) Juries are occasionally used in **civil** cases where they decide liability and award damages to a successful claimant.

(i) Identify a **civil** case where juries are commonly used. (1 mark)

Defamation/malicious prosecution/false imprisonment (1 mark)

[AO1:1]

(ii) Explain and illustrate the difficulties juries have in awarding damages fairly. (3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Juries have no background/experience in awarding damages

Unaware of 'league table' in personal injury cases

Prominent personalities involved

Case(s), eg Pressdram v Sutcliffe

Effect of Courts and Legal Services Act 1990

[AO1:3]

(g) Identifying **at least one advantage** and **at least one disadvantage**, comment on how well the system of trial by jury works. (6 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based upon limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

Identification of an appropriate advantage and disadvantage (1 mark each)

Commentary based on appropriate advantages/disadvantages

Authority where appropriate

Possible reference to alternatives/improvements

One-sided answer - **max 4 marks**

[AO1:1, AO2:5]

4**Total for this question: 30 marks**

(a) In the context of European Union law,

- (i) briefly explain the functions of the European Commission and the Council of Ministers;
(3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Commission - Membership/role of Commissioners
Proposals for community legislation
Enforcement role

Council of Ministers - Membership
Legislative role

One aspect only - **max 2 marks** **[AO1:3]**

- (ii) briefly explain the most important difference(s) between a Regulation and a Directive.
(3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Regulation - General application
Self executing

Directive - Binding on States to which addressed
Need to legislate domestically - time limit

Possible examples for either

One aspect only - **max 2 marks** **[AO1:3]**

- (b) In the context of the legislative process in Parliament,
 (i) identify **four** stages in the passing of an Act of Parliament; *(4 marks)*

Any four relevant stages from a Green Paper to Royal Assent
(1 mark each)

[AO1:4]

- (ii) briefly explain what is meant by a Private Member's Bill. *(2 marks)*

Introduced by an MP rather than by Government **(1 mark)**

Any sensible development, eg - ballot

Example **(1 mark)**

[AO1:2]

- (c) In the context of delegated legislation,
 (i) explain **two** different forms of delegated legislation; *(3 marks)*

Band 0 Inappropriate answer showing no understanding **0 marks**

Band 1 Basic awareness **1 mark**

Band 2 Answer based upon limited understanding **2 marks**

Band 3 Appropriate answer showing sound understanding **3 marks**

Potential Content

Eg Statutory Instruments/Orders in Council/By-Laws

For each one **1 mark** for identification and credit for sensible development

One form of delegated legislation - **max 2 marks**

More than two forms discussed - credit best two

[AO1:3]

- (ii) identifying **at least one advantage** and **at least one disadvantage**, comment on how well the system of delegated legislation works. *(5 marks)*

Band 0 Inappropriate answer showing no understanding **0 marks**

Band 1 Basic awareness **1-2 marks**

Band 2 Answer based upon limited understanding **3-4 marks**

Band 3 Appropriate answer showing sound understanding **5 marks**

Potential Content

Identification of an appropriate advantage and disadvantage **(1 mark each)**

Commentary based upon appropriate advantages/disadvantages,

eg time/expertise/local needs v democracy/sub-delegation, etc.

Examples where appropriate

One-sided answer - **max 4 marks**

[AO2:5]

(d) In the context of case-law and the doctrine of precedent,
 (i) explain, with examples, the principle that higher courts bind lower courts; (3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Accurate description/examples of the hierarchy

Possible reference to courts dealing with their own previous decisions

Possible reference to binding/persuasive

Accurate diagram only - **max 2 marks** [AO1:3]

(ii) briefly explain the terms *ratio decidendi* and *obiter dicta*; (3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Accurate translations (**1 mark each**)

Any sensible development, eg Case examples
 Binding/persuasive

Max marks if appropriate [AO1:3]

(iii) comment on the **advantages** and **disadvantages** of the system of judicial precedent. (4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Advantages, eg certainty, 'real life', continuous development

Disadvantages, eg rigidity, undemocratic, illogical distinctions, etc.

Authority/examples in support

One-sided answer - **max 3 marks** [AO2:4]

SECTION C**5****Total for this question: 30 marks**

(a) When Ian fitted the power shower in his parents' house, he accidentally misconnected one of the hoses. This has caused damage both to the shower and to the hot water system.

(i) Identify the legal basis on which Ian's parents could sue Ian because of the error he made in fitting the shower. *(2 marks)*

Potential Content

Recognition of a contract for services

Supply of Goods and Services Act 1982

Failure to carry out service with reasonable care and skill

Look for sound enough understanding for **2 marks**

(ii) Discuss whether or not the court would enforce the agreement bearing in mind the close family relationship. *(4 marks)*

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Close family relationship - presumption against a contract

Presumption rebuttable

Financial/commercial nature of agreement?

Case, eg *Simkins v Pays*?

Conclusion - credit a reasoned conclusion either way

[AO1:5, AO2:1]

(b) Ian is unhappy about his van's mechanical problems and seeks your advice about whether he can sue Keith in contract.

- (i) Advise him as to his rights as a consumer.
- (ii) What difference, if any, would it make if Ian had bought his van from a motor trader rather than buying the van privately from Keith? *(5 marks)*

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

- (i) Unlikely that sale was 'in the course of a business'
Therefore implied terms re quality/fitness will not apply
Possible S.13 sale by description
Possible breach of express term (or misrepresentation)
If 'sold as seen' unlikely that Ian can sue
- (ii) Sale in the course of a business
Therefore implied terms re quality/fitness will apply
Act/case/example
Remedy

Only one aspect - **max 3 marks**

[AO1:5]

(c) Ian is also upset that Quentin cancelled the order for the new boiler because of the delays caused by the van breaking down.

Explain to Ian whether or not Quentin was entitled to cancel the order, giving legal reasons for your answer. *(4 marks)*

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Possible breach of condition - time specified - entitled to reject
Contract for services - breach of Supply of Goods and Services Act 1982 - not within a reasonable time

Case, eg Charnock v Liverpool Corporation

[AO1:3, AO2:1]

(d) Discuss Ian's legal rights against PSL in respect of the problems he has had with the adjustable wrench. (4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Looks like clear breach of S.13 Sale by description and S.14 relating to both quality and fitness

Act/case/example

Remedy

[AO1:3, AO2:1]

(e) As a result of all Ian's problems, his business is now in serious difficulty and he can no longer afford to repay his uncle Jim.

Discuss Ian's liability for the loan,

(i) assuming he is still 17 years old;

(ii) assuming he is now an adult. (5 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

(i) Loan is unenforceable - definition and application

Minors Contracts Act 1987. Case, eg Coutts v Brown-Lecky

(ii) Loan remains unenforceable unless Ian has ratified the agreement.

Minors Contracts Act 1987. Application. Possible reference to restitution re van and tools

One aspect only - max 4 marks for a very good answer

Note: Answer based on intention to create legal relations only – **max 2 marks**

[AO1:4, AO2:1]

(f) If any of the above issues were taken to court, the case would be heard in the local County Court because of the relatively small sums of money involved.

(i) Name the procedure (track) which would almost certainly be used. (1 mark)

Small Claims

[AO1:1]

(ii) What is the normal financial limit for this procedure (track)? (1 mark)

£5000

[AO1:1]

(iii) Discuss the advantages of using this procedure (track).	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Advantages - Quick
Relatively cheap
Simple procedure
Informal process
Local availability, etc.

Credit comment as appropriate

[AO2:4]

6

Total for this question: 30 marks

(a) Tamara is intending suing in the tort of negligence.

In the context of this negligence case, explain what is meant by

- (i) a duty of care;
- (ii) breach of the duty;
- (iii) damage.

(8 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based upon limited understanding	3-5 marks
Band 3	Appropriate answer showing sound understanding	6-8 marks

Potential Content

- (i) Duty of care - neighbour test/reasonable foreseeability
Lord Atkin - Donoghue v Stevenson. Application
- (ii) Breach of the duty - reasonable man test. Balancing factors on risk. Relevant case.
Application
- (iii) Damage - Foreseeability test - Relevant case. Application

Two aspects only - **max 6 marks** for good answer

One aspect only - **max 3 marks** for good answer

Notional 3:3:3 split

[AO1:6, AO2:2]

(b) Tamara has been advised by her solicitor that, although she is likely to win her case, her damages may be reduced because of the way she drove on the motorway.

Explain why, in law, her solicitor has given her this advice.

(4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Contributory negligence

Law Reform (Contributory Negligence) Act 1945

Case, eg Sayers v Harlow UDC

Percentage reduction

Application

[AO1:3, AO2:1]

(c) In the context of a negligence case, explain and illustrate the legal significance of *res ipsa loquitur* as far as the claimant and defendant are concerned. (4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Translation - facts speak for themselves. Obvious case of negligence

Reverses burden of proof to defendant to disprove breach

Case, eg *Byrne v Boadle*

[AO1:3, AO2:1]

(d) (i) Ursula is also going to sue for negligence.

Advise her on whether she can sue Southern Transport Ltd (STL) as well as Rashid.

(ii) How would you advise Tamara, if she also wished to sue STL for negligence? (6 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based upon limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

(i) Rashid not acting in the course of his employment/doing his job/on a 'frolic of his own'

Case, eg *Beard v L.G.O.*

Application

Conclusion, ie Ursula cannot sue company, only Rashid

(ii) Rashid was acting in the course of his employment, ie doing his job

Case, eg *Limpus v L.G.O.*

Application

Conclusion, ie Tamara can sue STL

Note - one aspect only - **max 4 marks** for a good answer

[AO1:6]

(e) Identify any **other two** possible legal implications of Rashid's actions in the two incidents described in the Problem. (2 marks)

Potential Content

Eg Employment/contractual issue

Trespass to goods when vehicle off-route

Gross misconduct - could be disciplined/sacked

Prosecution for relevant driving offence

(1 mark each)

[AO1:2]

- (f) Ursula, who has a well paid job, has been advised that her action for negligence will need to be financed by a **conditional fee arrangement**.
- (i) Explain what is meant by this term. *(2 marks)*

Potential Content

'No win - no fee, arrangement **(1 mark)**

Any sensible development, eg Act, uplift limits, insurance **(1 mark)**

[AO1:2]

- (ii) Comment on whether or not such arrangements are beneficial to ordinary people faced with civil action. *(4 marks)*

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Advantages, eg fixed costs. Greater access to justice for middle income group, etc.

Disadvantages - Removal of free Legal Aid. Cost of insurance, etc.

Credit any reasonably sensible arguments

Unbalanced answer - **max 3 marks**

Transferred error rule applies

[AO2:4]

7

Total for this question: 30 marks

- (a) Vinny has been charged with the manslaughter of Zoë.
- (i) Explain which variety of manslaughter he is likely to have been charged with.
- (ii) Explain what the prosecution will have to prove to get a conviction. (4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

- (i) Gross negligence manslaughter (**1 mark**)
Based on lawful act or failure to act under duty
- (ii) Conduct of defendant fell far below the standard required
Case, eg Adomako
Application
Conclusion - could go either way. Credit as appropriate [AO1:3, AO2:1]

- (b) Vinny has also been charged with the murder of Alfred.
- In the context of a murder charge, explain what is meant by
- (i) malice aforethought, express or implied;
- (ii) an **unlawful** killing. (5 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

- (i) *Mens rea* for murder
(Direct) intention to kill/cause g.b.h.
Case, eg Woollin/example or application
- (ii) Unlawful killing - probable focus on situations where killing would be lawful,
eg wartime, self-defence, accident, suicide, etc.
Credit also issues of causation linked to a 'killing'
One aspect only - **max 3 marks**
[AO1:5]

(c) In the context of this murder case, explain what is meant by	
(i) provocation;	
(ii) diminished responsibility;	
(iii) insanity.	(6 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based upon limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

- (i) S.3 Homicide Act 1957
Definition and application/conclusion
Case
- (ii) S.2(i) Homicide Act 1957
Definition and application/conclusion
Case
- (iii) M'Naghten Rules 1843
Definition and application/conclusion
Possible case

Only two dealt with - **max 5 marks** for good answer

Only one dealt with - **max 3 marks** for a good answer

[AO1:4, AO2:2]

(d) Taking into account your answers to (c), discuss which defence Vinny would be best advised to plead in answer to the charge of the murder of Alfred, and the likely outcome of the case.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Both *actus reus* and *mens rea* for murder appear in place

Provocation - pleadable, but the jury may not be impressed on the facts

Insanity - defence unlikely to pursue this as compulsory hospitalisation is not a welcome prospect

Diminished responsibility looks best on the facts. If accepted = voluntary manslaughter = discretion on sentence

Credit other responses as appropriate

[AO1:4]

(e) (i) Name the court that would try Vinny for the two charges he faces. (1 mark)

Crown Court (1 mark)

(ii) If Vinny were to be convicted, name the court to which he could appeal. (1 mark)

Court of Appeal (Criminal Division) (1 mark)

Note - Shopping list rule applied to both answers

[AO1:2]

(f) A person convicted of murder will be given a **mandatory** life sentence. A person convicted of manslaughter can be sentenced to a **discretionary** life sentence.

Explain the meaning of these **two** terms. (3 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Mandatory - judge has no choice but to impose this sentence (1 mark)

Discretionary - judge can choose to impose up to life, but can impose a lesser sentence (1 mark)

Credit any sensible development for the extra mark, eg case/example, meaning of 'life', etc.

[AO1:2, AO2:1]

(g) (i) Name an offence, other than manslaughter, which carries a discretionary life sentence. (1 mark)

(ii) State **one** reason why a judge may choose to impose a life sentence. (1 mark)

(i) Eg robbery, aggravated burglary, rape (1 mark)

(ii) Eg public protection, deterrence, etc. (1 mark) [AO1:2]

(h) Comment on how appropriate the law is when convicted murderers are given a mandatory life sentence. (4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Allow transferred error from (f)

For, eg protection, deterrence, etc.

Against, eg cost of life sentences, issues of release on licence

Other points may be raised - credit as appropriate

Alternatives may be suggested, eg removing the mandatory requirement, death penalty? etc. - credit as appropriate

Unbalanced answer can still achieve max marks

[AO2:4]

8

Total for this question: 30 marks

(a) A marriage can either be **valid, void** or **voidable**.

Explain the meaning of these terms.

(4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Accurate definitions of all three terms is likely to be worth **3 marks**

Any sensible development, eg Act(s), example(s), etc. will enhance the answer

Only two dealt with - **max 3 marks** for a good answer

Only one dealt with - **max 2 marks** for a good answer

[AO1:3, AO2:1]

(b) Discuss the legal status of Lisa's intended marriage to Ron.

(4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Prohibited degrees - but cousin okay. Act

Times of marriage 8 am - 6 pm. Evening marriage?

Parents' approval irrelevant

Application and conclusion

Only one aspect - **max 3 marks** for a good answer

Any two well explained can get 4 marks

[AO1:3, AO2:1]

(c) Discuss the legal status of Paula's intended marriage, taking into account her earlier 'marriage' to Bill.

(4 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Earlier 'marriage' void - Paula below legal age - therefore no need to annul/divorce – Paula free to re-marry

Marriage Act 1994 - Registered building

Application and conclusion

Only one aspect - **max 3 marks** for a good answer

[AO1:3, AO2:1]

(d) Discuss the legal status of Ben's planned marriage to Penny.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Does Ben give true consent? Potential for voidable marriage

Parental consent (16 years old), but marriage valid despite lack of consent. Possible prosecution for fraud

Application and conclusion

Marriage would be valid/perhaps voidable. 3 year rule. Act

Only one aspect - **max 3 marks** for a good answer

[AO1:3, AO2:1]

(e) Maggie has approached you for advice about her marriage to Harry. Advise her as to the differences between divorce and judicial separation.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Irretrievable breakdown to prove/not

Ends the marriage/does not

Free to re-marry/not

One year rule/no time limit after marriage

Not available in Family Proceedings Court/is available, etc.

Any two differences well explained can reach top Band

[AO1:4]

(f) In the context of the divorce process, explain the meaning of the terms <i>decree nisi</i> and <i>decree absolute</i> .	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Decree nisi - provisional divorce - does not end the marriage

Six week rule - purpose

Decree absolute - final divorce - now free to re-marry. Office work, not court hearing

Matrimonial Causes Act 1973

[AO1:4]

(g) (i) Identify the two civil courts where divorce cases can be heard.	<i>(2 marks)</i>
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(Divorce) County Court, High Court (Family Division)

(1 mark each)

Allow Civil Appeal Courts

Note – Shopping list rule applies

[AO1:2]

(ii) If Maggie and Harry were to divorce, they would be almost certain to go through a process of mediation .

Briefly explain what this term means and comment on whether or not mediation is a useful process in the context of divorce.	<i>(4 marks)</i>
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Allows parties to agree their own solutions

Any sensible development, eg expert lay mediator, Family Law Act 1996

Beneficial? May save marriage?
 Less confrontational - preserves relationship for children
 Financial settlement agreed + residence/visitation
 Slower process
 Cost issues/Matrimonial Legal Aid
 Problems with implementation of 1996 Act

Credit sensible arguments as appropriate

[AO2:4]

MARKING CRITERIA FOR QUALITY OF WRITTEN COMMUNICATION**Standard Criteria**

High Performance	Candidates spell, punctuate and use the rules of grammar with almost faultless accuracy, deploying a range of grammatical constructions; they use a wide range of specialist terms adeptly and with precision.	4 marks
Intermediate Performance	Candidates spell, punctuate and use the rules of grammar with considerable accuracy; they use a good range of specialist terms with facility.	2-3 marks
Threshold Performance	Candidates spell, punctuate and use the rules of grammar with reasonable accuracy; they use a limited range of specialist terms appropriately.	1 mark
Below Threshold Performance		0 marks

Having marked the candidate's script for subject content, recording the question totals for each question, you must review the script as a whole and according to the bands of marks defined above, decide on the mark to be awarded to the candidate for their quality of written communication including spelling, punctuation and grammar. This mark should be written in the next available mark box on the front of the answer book, and 'QoWC' written next to it in the corresponding question number box. Then you should add the question total marks together and add the 'QoWC' mark to give the grand total and enter this in the box for the total mark. The grand total for the whole paper (including 'QoWC') is the mark you should write and encode on the Examiner's Mark Sheet.

ASSESSMENT GRID

Assessment Objective	1 Max. No. Marks	2 Max. No. Marks	3 Max. No. Marks	
Question 1				
a)	3	1		
b)	3	1		
c)	3	1		
Question 2				
a)	2	0		
b)	2	0		
c)	2	0		
d)	2	0		
Question 3				
a)	3	0		
b)	4	0		
c)	5	1		
d)	0	3		
e)	4	0		
f)	4	0		
g)	1	5		
Question 4				
a)	6	0		
b)	6	0		
c)	3	5		
d)	6	4		
Question 5				
a)	5	1		
b)	5	0		
c)	3	1		
d)	3	1		
e)	4	1		
f)	2	4		
Question 6				
a)	6	2		
b)	3	1		
c)	3	1		
d)	6	0		
e)	2	0		
f)	2	4		
Question 7				
a)	3	1		
b)	5	0		
c)	4	2		
d)	4	0		
e)	2	0		
f)	2	1		
g)	2	0		
h)	0	4		

Assessment Objective	1 Max. No. Marks	2 Max. No. Marks	3 Max. No. Marks	
Question 8				
a)	3	1		
b)	3	1		
c)	3	1		
d)	3	1		
e)	4	0		
f)	4	0		
g)	2	4		
Total Marks per objective	60	20	4 overall	
Approximate % per objective	71.4	23.8	4.8	
Approximate % target	72.5	22.5	5	