

GCSE 2004

June Series



Mark Scheme

Law

(Subject Code 3161/F)

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

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GCSE Law Foundation Tier (3161/F)

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 which area of **civil** law may be involved and the likely outcome of the situation.

- (a) Ali was driving down a quiet country road in his new sports car, well over the speed limit. Ben pulled out of his drive, without looking properly, straight into the path of Ali's car. Ali braked, skidded and crashed into Ben's car.

Potential ContentThe tort of negligence (**1 mark**)

Duty breach and damage

Contributory negligence

Application + conclusion

Authority in support

Insurance position (**max 2** if on its own)*Answers based on criminal law only - max 1 mark***[AO1:4]**

- (b) Cleo, an Afro-Caribbean, is employed by Duchess plc, a large company. She works in the Accounts Department. She has worked there for about five years and has acquired higher level accountancy qualifications in her time at Duchess. Cleo applied for a promotion, but the post was given to Eddie who has only been with the company for about two years and is less well qualified.

Potential ContentThe contract/employment nature of the situation (**1 mark**)

Sex discrimination

Discrimination on the grounds of race

Application + conclusion (either way)

Authority in support

[AO1:4]

- (c) Faisal entered into an agreement with Gyms Ltd (G) for the supply of gymnastic equipment at a total cost of £10 000. Shortly before delivery, a fire at G's premises destroyed both the production line and nearly all of the stock. G can no longer deliver any of the equipment.

Potential ContentContract law (**1 mark**)

Non-performance of the contract = breach?

Potential frustration

Application and conclusion

Authority in support

Insurance position (**max 2** if on its own)**[AO1:4]**

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

In **each** of the following situations, **identify** which court or other body would hear the case and **briefly explain** why.

- (a) Henry broke into Igor's house in the middle of the night and stole £10 000 worth of Igor's property. At an initial hearing, the magistrates have refused to try the case.

Potential ContentCrown Court *shopping list rule applies* (1 mark)

Either-way offence/too serious for magistrates (1 mark)

[AO1:2]

- (b) Javed, aged 17, approached Kieran in the street, grabbed his mobile phone and ran away. Javed has since been charged with theft. (2 marks)

Potential ContentYouth Court *shopping list rule applies* (1 mark)

Javed is under 18/not a grave crime, therefore must be Youth Court (1 mark)

[AO1:2]

- (c) Linus, an Irishman, applied for a job in a woodyard but was told the job had already gone. Linus, who has previous experience as a wood worker, saw the same job advertised in the local paper the following week. (2 marks)

Potential ContentEmployment (Industrial) Tribunal *shopping list rule applies* (1 mark)

Race discrimination in employment context (1 mark)

[AO1:2]

- (d) Martin was involved in a serious road traffic accident, as a result of Nathan's negligent driving. Martin expected to receive over £200 000 in damages, but the High Court only awarded half that sum. Martin is keen to pursue the matter further. (2 marks)

Potential ContentCourt of Appeal (Civil Division) *shopping list rule applies* (1 mark)

Appeal or civil context (1 mark)

[AO1:2]

SECTION B**3****Total for this question: 30 marks**

| | |
|--|------------------|
| (a) (i) Name the two different types of magistrate. | <i>(2 marks)</i> |
|--|------------------|

Potential ContentLay magistrates (Justices of the Peace) **(1 mark)**District judges (Magistrates' Court). Allow stipendiary magistrates **(1 mark)***Shopping list rule applies***[AO1:2]**

| | |
|--|------------------|
| (ii) Explain the important differences between them. | <i>(3 marks)</i> |
|--|------------------|

| | | |
|--------|--|----------------|
| 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

Legally qualified v not

Full time v part time

Paid v expenses only

Sit alone v sit in threes, etc

*Any two properly explained for Band 3***[AO1:3, AO2:0]**

| | |
|--|--|
| (b) As indicated in the extract, magistrates' clerks undertake an important training role for Justices of the Peace. | |
|--|--|

| | |
|---|------------------|
| Identify two other roles undertaken by a magistrates' clerk. | <i>(2 marks)</i> |
|---|------------------|

Potential Content

Eg legal adviser to lay magistrates

Court administrator

Uncontested decisions, bail, warrants, eg legal representation, adjournments, Pre-Trial Review (PTR)

(1 mark each)**[AO1:2, AO2:0]**

(c) In court, magistrates undertake a range of duties, as the extract indicates. Explain what is meant by

(i) granting bail;

(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

Definition of bail/reference to authority

Situations where need arises – police station & court

Presumption in favour of unconditional bail

Grounds for objection

Bail conditions/remand in custody

[AO1:2, AO2:1]

(ii) issuing warrants;

(2 marks)

Potential Content

Types of warrants, eg arrest, search, further detention

Any sensible development, eg application process, when granted, etc. **(2 marks)**

Look for any reasonably sound understanding for the 2 marks

[AO1:2]

(iii) the sentencing process.

(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

Understanding of the way sentences are arrived at

Limitations for lay magistrates

Aggravating and mitigating factors

Relevance of plea + previous convictions

Pre-Sentence Report (PSR)

Statutory framework

[AO1:2, AO2:1]

- (d) Magistrates also have to be aware of procedures which affect how they carry out their role in court. Explain what is meant by
- (i) a summary offence;
 - (ii) an either-way offence.

| | | |
|--------|--|------------------|
| 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) Minor offence/maximum sentence/dealt with by magistrates/example

(ii) Mid-range offence/Magistrates or Crown Court/example

Only one dealt with – max 3 marks for a very good answer

[AO1:3, AO2:1]

- (e) Magistrates also undertake duties on special panels separate from their work in the adult Magistrates' Court. These include the Family Panel and the Youth Court Panel.

Identify **two** areas of work carried out by the Family Panel. *(2 marks)*

Potential Content

Eg judicial separation, maintenance, care orders, permission to marry **(1 mark each)**

Shopping list rule applies

[AO1:2]

- (f) (i) Identify **two** differences in the operation of the adult Magistrates' Court and the Youth Court. *(2 marks)*

Potential Content

Age (18+ / 10-17)

Eg open v closed court

Different sentencing powers

Reporting restrictions in Youth Court

Sentencing aims **(1 mark each)**

[AO1:2]

- (ii) Discuss briefly the reasons for these differences. *(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

Note – candidates must discuss at least two differences for a Band 3 response

Comment may be expressed either way for any difference – credit as appropriate

[AO2:3]

(g) In the past, magistrates have been described as “...middle-aged, middle-class and middle-minded”. Comment on the advantages **and** disadvantages of the use of lay magistrates within the English legal system. *(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

Local justice, range of values/opinions on Bench

Cheaper than professionals

Disadvantages

Local bias, case-hardened, inconsistencies, etc

Unbalanced answer – max 3 marks

[AO2:4]

4

Total for this question: 30 marks

(a) **Not including training**, describe **two** of the differences between solicitors and barristers.

| | | |
|--------|--|------------------|
| 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

Eg work alone v in partnerships

Non-contractual v contractual relationship

Fee position

Duty position etc

*Note – could be a notional 2:2 split (check band at end)**Only one described – max 3 marks for an excellent response***[AO1:2, AO2:2]**

(b) Describe the “specialist training” required to be completed by a person who intends to become
 (i) a solicitor;
 (ii) a barrister.

| | | |
|--------|--|------------------|
| 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**(i)** Common Professional Examination (CPE)

Legal Practice Course

(2 year) Training contract/Professional Skills

Enrolment/Certificate to Practise

(ii) Common Professional Examination (CPE)

Join an Inn of Court/Training weekends

Bar Vocational Course

(1 year) pupillage

Called to the Bar

*Note – only one dealt with – max 3 marks for a good answer***[AO1:5]**

- (c) With reference to barristers, outline what is meant by
- (i) a QC;
 - (ii) the ‘cab rank’ rule.
- (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) Identification**

Senior barrister/10 years’ standing

Application to Lord Chancellor/Taking silk

Implications

(ii) Professional duty to act once marked brief has been accepted by clerk

Implications for client/barrister

*Note – only one dealt with – max 3 marks for a very good answer***[AO1:4]**

- (d) Briefly comment on whether or not the public would be better served by a single legal profession.
- (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 cost + communications/trust v specialisation + independence, etc

*Credit any reasonably sensible argument**Note – at least two separate points to be made for a Band 3 response – unbalanced answer can still achieve Band 3***[AO2:3]**

- (e) With respect to the provision of legal advice, explain what is meant by
- (i) Legal Help;
 - (ii) Duty Solicitors;
 - (iii) Citizens Advice Bureaux.

(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)** Government funded legal advice system/Access to Justice Act 1999

Means test

Excluded areas

Link to CAB/Law Centres

(ii) Available in police stations on arrest/24 hour cover

Available in Magistrates' Courts/first appearance

(iii) National network

Free advice/social + welfare mainly

Voluntary advisers/possible professional help available/link to Legal Help

*Note – only 1 issue dealt with – max 3 marks for a very good answer**Only 2 areas dealt with – max 5 marks for 2 good answers***[AO1:5, AO2:1]**

- (f) Outline how a client may qualify for Legal Representation both in **civil** and **criminal** cases.

(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 ContentUnderstanding that this is to do with appearances in court (**1 mark**)**Civil** – Means test (disposable income and capital)

Funding Code criteria, eg cost benefit, likely success etc

Excluded areas

Criminal – Interest of Justice Test, eg danger of prison, issues of law etc

Available before any criminal court

Cost/means only relevant at the end of the case

Criminal Defence Service/demand led

*Note – only one aspect – max 3 marks for a very good response***[AO1:3, AO2:1]**

(g) Comment on how well the public is served by these various systems of advice **and/or** representation. *(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 – opens up the law/covers the ‘unmet need’

Justice demands equal access to the law

Disadvantages – proliferation of claims especially in personal injury cases

Inequalities of the means test etc

Credit any reasonably sensible points

Unbalanced answer – max 3 marks

[AO2:4]

SECTION C

5

Total for this question: 30 marks

- (a) In relation to the relevant law on offer and acceptance in a contract, briefly explain and illustrate what is meant by the following terms:
- (i) an offer;
 - (ii) an invitation to treat;
 - (iii) the postal rule;
 - (iv) rejection of an offer;
 - (v) revocation of an offer.
- (10 marks)*

| | | |
|--------|--|-------------------|
| Band 0 | Inappropriate answer showing no understanding | 0 marks |
| Band 1 | Basic awareness | 1-3 marks |
| Band 2 | Answer based upon limited understanding | 4-7 marks |
| Band 3 | Appropriate answer showing sound understanding | 8-10 marks |

Potential Content

For each sub-question

Outline explanation, eg an invitation to 'do business' **(1 mark)**Illustration by case or example e.g. Fisher v Bell **(1 mark)***Up to 3 marks per sub-question for an excellent response**Only 2 dealt with – max 5 marks**Only 3 dealt with – max 8 marks**A notional 2:2:2:2 split may help initially – check band at end***[AO1:7, AO2:3]**

- (b) Discuss whether or not Pravin would be able to sue OVS for breach of contract, following the withdrawal of the Triumph from the sale. *(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

Recognition of the advert as almost certainly an invitation to treat

Implications re going to the sale

Application + conclusion

Authority in support

[AO1:4]

(c) Discuss whether or not Ray is legally obliged to pay for the BSA.

| | | |
|--------|--|------------------|
| 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

Recognition of an offer/revocation of the offer

Rules of revocation i.e. communicated before acceptance

Application + conclusion

Authority in support

[AO1:4]

(d) Discuss whether or not Steve has any legal rights in respect of the Harley Davidson. (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

Recognition of the requirement of **communication** of acceptance/offer

Instantaneous means of communication

Application + conclusion

Authority in support

[AO1:4]

(e) Thierry has been advised that he may have a case against OVS in respect of the Harley Davidson, under the Sale of Goods Act 1979 as amended.

- (i) Briefly explain the relevant law under this Act and whether an action brought by Thierry would be likely to succeed. (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

Recognition of the implied terms in respect of description/quality/fitness

Implications re a sale in the course of a business

Application + conclusion/remedy

Authority in support

[AO1:3, AO2:1]

(ii) Comment on how well consumers are protected by the law.

| | | |
|--------|--|------------------|
| 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

Eg need to protect consumers against more powerful retailers

Additional protection under the 1994 Act

Role of the media (Watchdog) and advice agencies/Trading Standards

Problems of enforcement

Lack of knowledge by the general public etc

Credit any reasonably sensible points

Unbalanced answer - max 3 marks

[AO2:4]

6

Total for this question: 30 marks

(a) There are two types of defamation, libel and slander. Explain the differences between them.

(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

Permanent v transitory (or examples to illustrate)

Crime/tort v tort only

Actionable *per se*/damage must be proved (exceptions)*At least two differences for a top band answer***[AO1:4]**

(b) Victor is considering suing Yvonne and the Zodiac News for defamation.

(i) Explain to him the importance of the following terms:

- that the statement was **defamatory**;
- that the statement **referred to the claimant**;
- that the statement was **published**.

(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

Defamatory – explanation based on right thinking members of society

Reference to the claimant – explanation based on whether the claimant would be associated with the statement

Publication – explanation based on making the statement known to a third party

Application or authority in support

*Only one dealt with – max 3 marks for an excellent answer**Only two dealt with – max 5 marks for two very good responses***[AO1:4, AO2:2]**

(ii) Briefly explain why Victor would be more likely to sue the newspaper rather than suing Yvonne, and why the newspaper would be liable for Yvonne's story.

Potential ContentRecognition of vicarious liability **(1 mark)**Recognition that the employer is more likely to have the financial resources to pay/insurance **(1 mark)***Credit any other sensible point/development***[AO1:2]**

(c) Ursula believes she may have been defamed by **innuendo**. Explain what this term means, and why Ursula thinks she may have been defamed in this way. *(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

Explanation of the term innuendo – implication rather than clear statement

Application + conclusion

Authority in support

[AO1:4]

(d) (i) Name the **two** remedies most likely to be applied for in a defamation case.

Potential Content

Damages + injunction (**1 mark each**)

Shopping list rule applies

[AO1:2]

(ii) Briefly discuss which of these remedies Ursula and Victor would be most likely to seek and why. *(2 marks)*

Potential Content

Damages if the aim is to secure financial compensation

Injunction if the aim is to prevent further publications

Both if both aims are desired (**2 marks**)

Credit as appropriate. Look for reasonably sound understanding for 2 marks

[AO1:2]

(e) Identify and explain any of the special defences to defamation that the Zodiac News may wish to plead.

| | | |
|--------|--|------------------|
| 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

Candidate may focus on one defence or across a range – fully credit either approach

Eg justification, based on the substantial truth of the allegations

Fair comment based on non-malicious comments on people in the ‘public eye’

Apology, accompanied by a payment of compensation

Possible authority in support

[AO1:2, AO2:2]

(f) If a defamation case comes to court, it is likely to be heard by both judge and jury. Identifying **at least one** advantage and **at least one** disadvantage, comment on the use of juries in defamation cases.

| | | |
|--------|--|------------------|
| 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

Advantage, eg public involvement (**1 mark**)

Disadvantage, eg lack of understanding of law/role (**1 mark**)

Commentary based on above – credit according to the level of understanding shown

Eg juries' inability to award damages at sensible levels (case to illustrate)/effect of S.8 CLSA 1990

Juries identify with famous people/use award to 'punish' the defendant etc

Unbalanced answer – max 5 marks

Answer based on criminal aspect of jury only – max 3 marks (2 for AO1, 1 for AO2) [AO1:2, AO2:4]

7

Total for this question: 30 marks

- (a) Discuss Anna's criminal liability for the burglary of Barbara's house:
 (i) as she entered;
 (ii) as she left.

| | | |
|--------|--|------------------|
| 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

S.9(1)(a) burglary – entry as a trespasser with intent to steal/gbh?

S.9(1)(b) burglary – having entered as a trespasser, then steals/attempted gbh?

Application + conclusion (either way for both possible offences)

Authority in support

*One aspect only – max 4 marks***[AO1:5, AO2:1]**

- (b) Briefly consider Anna's criminal liability for aggravated burglary on the same occasion.

*(2 marks)***Potential Content**

Recognition of any burglary + weapon of offence

Any sensible development, eg authority, application etc **(2 marks)***Look for reasonably sound understanding for 2 marks***[AO1:2]**

- (c) Taking into account what she said to the police, discuss Barbara's liability for the theft of Anna's hedge trimmer.

(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

Definition of theft

Key issues in relation to both dishonesty + intention

Application + conclusion (either way)

Authority in support

[AO1:3, AO2:1]

- (d) Anna is also likely to be charged with an offence in relation to Clint's injuries.
 (i) Discuss the *actus reus* and *mens rea* of an appropriate offence with which Anna could be charged.

| | | |
|--------|--|------------------|
| 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

Actus reus – definition (**1 mark**)

Application – bad burns = gbh/abh

Mens rea – definition (**1 mark**)

Application – intention or recklessness at appropriate level for offence

Conclusion

Authority in support

[AO1:5]

- (ii) Discuss whether or not Anna could claim by way of defence that she was not intending to harm **Clint**. *(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

Recognition of transferred malice (or an explanation in other words)

Application + conclusion

Authority in support, eg Latimer

[AO1:3]

- (e) Discuss whether Barbara could be prosecuted for robbery for taking Anna's purse.

| | | |
|--------|--|------------------|
| 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

Definition of robbery, effectively force/threat used in order to steal

Application + conclusion (potentially either way if candidate argues lack of dishonesty?)

Authority in support

[AO1:2, AO2:2]

(f) Name the **two** criminal courts before which Anna and Barbara are very likely to appear. (2 marks)

Magistrates + Crown (**1 mark each**)

Shopping list rule applies

[AO1:2]

(g) Comment on whether borrowing something without permission should be a criminal offence. (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

Eg recognition of the current offence of taking without consent applies to conveyances

No application of S.12 offence to other property – why?

Inconvenience that temporary losses can have

Potential problems under S.6 Theft Act

Possible authority in support

Credit any reasonably sensible points

Unbalanced answer can still get 4 marks

[AO2:4]

8

Total for this question: 30 marks

| | |
|--|------------------|
| (a) Discuss the validity of Ashley and Tyrone as witnesses to Gail's will. | <i>(4 marks)</i> |
|--|------------------|

| | | |
|--------|--|------------------|
| 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

Ashley – looks perfectly competent witness, but not in the presence of another witness

Tyrone – in the presence of another witness + probably old enough to understand what is required

*No need for the discussion to go any further than that**Notional 2:2 may help***[AO1:3, AO2:1]**

| |
|--|
| (b) Discuss the validity of Gail's will, taking into account |
|--|

- what Gail wrote her will on;
- where she signed her will;
- the legal position of her witnesses;
- her mental state.

(7 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 | 6-7 marks |

Potential Content

Will can be written on anything

Position of signature no longer fatal in these circumstances

Application of witness issues

Was Gail of sound mind?

Application + conclusion

Reference to authority

*Any 3 issues properly discussed can reach top band***[AO1:6, AO2:1]**

| | |
|--|------------------|
| (c) If Gail's will were to be declared invalid, she would die intestate. Explain how Gail's estate would be distributed under the intestacy rules. | <i>(7 marks)</i> |
|--|------------------|

| | | |
|--------|--|------------------|
| 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 | 6-7 marks |

Potential Content

Husband – first £125 000 + personal chattels + life interest in half remainder

Children – other half divided equally on statutory trusts, balance divided equally on death of father

Nothing for anyone else

[AO1:7]

- (d) If Gail's will were to be declared valid, it would almost certainly be contested.
 (i) Name the act of Parliament under which a will can be contested.

Potential Content

Inheritance (Provision for Family and Dependants) Act 1975 (date not necessary) **(1 mark)**

[AO1:1]

- (ii) Identify **three** groups of people who are entitled to contest a will under this Act.

Potential Content

Any 3 from wife, ex-wife not remarried, child, someone treated as a child, someone who is financially dependent (or example) **(1 mark for each)**

Credit two-year+ co-habitees (even though not under the 1975 Act)

Shopping list rule applies

[AO1:1, AO2:2]

- (iii) In this particular situation, discuss who may choose to contest Gail's will and who may have the best chances of success.

| | | |
|--------|--|------------------|
| 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

Richard has a good claim assuming they were living as man and wife

Nick has a poor claim in the circumstances, but could still do so

Sarah-Louise can claim. Circumstances?

Bethany has a good claim i.e. child + financially dependent/full time education

No-one else has a claim

[AO1:4]

- (e) Clearly, this situation involving Gail has left a lot of problems for her family to sort out.
 Comment on the advantages of making a will, as opposed to dying intestate.

| | | |
|--------|--|------------------|
| 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

Eg freedom of choice as to who gets what

Ability to 'cut out' close family from any inheritance

Provision can be made for other bequests to friends etc

Intestacy rules may apply arbitrarily and can change

Simpler for personal representative etc

Credit any other reasonably sensible points

Unbalanced answer can still get 4 marks

[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 'QWC' written next to it in the corresponding question number box. Then you should add the question total marks together and add the 'QWC' mark to give the grand total and enter this in the box for the total mark. The grand total for the whole paper (including 'QWC') is the mark you should write and encode on the Examiner's Mark Sheet.

GCSE LAW (2004)

ASSESSMENT GRID PER COMPONENT (Foundation) 3161/F

| Assessment Objective | 1 Max. No. Marks | 2 Max. No. Marks | 3 Max. No. Marks |
|----------------------|------------------------|------------------------|------------------------|
| Question 1 | | | |
| a) | 4 | | |
| b) | 4 | | |
| c) | 4 | | |
| Question 2 | | | |
| a) | 2 | | |
| b) | 2 | | |
| c) | 2 | | |
| d) | 2 | | |
| Question 3 | | | |
| a) | 5 | 0 | |
| b) | 2 | 0 | |
| c) | 6 | 2 | |
| d) | 3 | 1 | |
| e) | 2 | 0 | |
| f) | 2 | 3 | |
| g) | 0 | 4 | |
| Question 4 | | | |
| a) | 2 | 2 | |
| b) | 5 | 0 | |
| c) | 4 | 0 | |
| d) | 0 | 3 | |
| e) | 5 | 1 | |
| f) | 3 | 1 | |
| g) | 0 | 4 | |
| Question 5 | | | |
| a) | 7 | 3 | |
| b) | 4 | 0 | |
| c) | 4 | 0 | |
| d) | 4 | 0 | |
| e) | 3 | 5 | |
| Question 6 | | | |
| a) | 4 | 0 | |
| b) | 6 | 2 | |
| c) | 4 | 0 | |
| d) | 4 | 0 | |
| e) | 2 | 2 | |
| f) | 2 | 4 | |
| Question 7 | | | |
| a) | 5 | 1 | |
| b) | 2 | 0 | |
| c) | 3 | 1 | |
| d) | 8 | 0 | |
| e) | 2 | 2 | |
| f) | 2 | 0 | |
| g) | 0 | 4 | |

GCSE LAW (2004)**ASSESSMENT GRID PER COMPONENT (Foundation) 3161/F**

| Assessment Objective | 1 Max. No. Marks | 2 Max. No. Marks | 3 Max. No. Marks |
|-----------------------------|---------------------------------|---------------------------------|---------------------------------|
| Question 8 | | | |
| a) | 3 | 1 | |
| b) | 6 | 1 | |
| c) | 7 | 0 | |
| d) | 6 | 2 | |
| e) | 0 | 4 | |
| Total Marks per objective | 61 | 19 | 4 overall |
| Approximate % per objective | 71.4 | 23.8 | 4.8 |
| Approximate % target | 72.5 | 22.5 | 5 |