

General Certificate of Secondary Education  
June 2004



**LAW**  
**Foundation Tier**

**3161/F**

Friday 25 June 2004 1.30 pm to 3.30 pm

**F**

**In addition to this paper you will require:**  
a 12-page answer book.

Time allowed: 2 hours

**Instructions**

- Use blue or black ink or ball-point pen.
- Write the information required on the front of your answer book. The *Examining Body* for this paper is AQA. The *Paper Reference* is 3161/F.
- The paper is divided in **three** sections. In **Section A**, answer **both** questions. In **Section B**, answer **one** question. In **Section C**, answer **one** question.
- Do all rough work in the answer book. Cross through any work you do not want marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

**Information**

- The maximum mark for this paper is 84.
- Mark allocations are shown in brackets.
- You will be awarded up to 4 marks for the quality of your written communication, including spelling, punctuation and grammar.

**Advice**

- You are advised to spend no more than 30 minutes on **Section A**, 45 minutes on **Section B** and 45 minutes on **Section C**, and to read through **all** parts of a question before you start your answer.

**NO QUESTIONS APPEAR ON THIS PAGE**

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**SECTION A**

Answer **both** questions from this Section.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

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**1****Total for this question: 12 marks**

**Civil** cases can arise in many situations. These could include an employment matter arising at work, a claim in tort or contract, or a family matter such as divorce.

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. (4 marks)
- (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. (4 marks)
- (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. (4 marks)

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

Cases within the English legal system can be heard before different courts and by other bodies. These include the Magistrates', Youth and Crown Courts, the County and High Courts, both Divisions of the Court of Appeal, the House of Lords and a range of specialist tribunals.

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. (2 marks)
- (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)
- (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)
- (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)

**Turn over ►**

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**SECTION B**

Answer **either** Question 3 **or** Question 4.

Carefully read **both** questions before you make your choice.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

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3

**Total for this question: 30 marks**

Study this extract from a magazine article and then answer **all** parts of the question which follows.

<b>HOW TO BECOME A MAGISTRATE</b> by Trevor Grove	
<p>Someone who wants to be a magistrate must complete a long application form which makes applicants answer questions on a wide range of issues, including personality, politics and hobbies.</p> <p>The applicant is also asked to explain why he or she wishes to become a Justice of the Peace with regard to six key qualities. These include “good character, understanding and communication, social awareness, sound judgement and reliability”.</p> <p>Applicants must also take part in a two-stage interview process, the second of which is formal and very difficult. This interview is carried out by a panel of people questioning the applicant on a number of case studies, designed to test attitudes and the ability to arrive at reasoned and sensible conclusions.</p> <p>Assuming the Committee recommend the appointment, the applicant’s name is then passed to the Lord Chancellor’s Department (Department for Constitutional Affairs).</p>	<p>The Department will then carry out various checks before confirming, or not, the appointment some time later.</p> <p>New magistrates must then take part in a long period of initial training, mainly carried out by magistrates’ clerks who are legally qualified. Training covers such matters as procedure and the sentencing process, as well as how to take decisions such as granting bail and issuing warrants.</p> <p>Sitting watching court proceedings and visits to local prisons and probation offices are also part of this training process, which carries on throughout a magistrate’s career.</p> <p>Finally, magistrates are sworn in by taking two oaths; the Oath of Allegiance to the Crown and the Judicial Oath, following which the new Justices of the Peace will be ready to sit in their local court.</p>

*Source:* reproduced from "The Magistrate's Tale" by Trevor Grove, Bloomsbury Publishing Plc

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- (a) (i) Name the **two** different types of magistrate. *(2 marks)*
- (ii) Explain the important differences between them. *(3 marks)*
- (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. *(2 marks)*
- (c) In court, magistrates undertake a range of duties, as the extract indicates. Explain what is meant by
- (i) granting bail; *(3 marks)*
- (ii) issuing warrants; *(2 marks)*
- (iii) the sentencing process. *(3 marks)*
- (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. *(4 marks)*
- (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)*
- (f) (i) Identify **two** differences in the operation of the adult Magistrates' Court and the Youth Court. *(2 marks)*
- (ii) Briefly discuss the reasons for these differences. *(3 marks)*
- (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)*

**TURN OVER FOR THE NEXT QUESTION**

**Turn over ►**

4

**Total for this question: 30 marks**

Study the extract below and then answer **all** parts of the question which follows.

Permission to publish this extract on the Web has been denied.

- (a) **Not including training**, describe **two** of the differences between solicitors and barristers. *(4 marks)*
- (b) Describe the “specialist training” required to be completed by a person who intends to become
- (i) a solicitor;
  - (ii) a barrister. *(5 marks)*
- (c) With reference to barristers, outline what is meant by
- (i) a QC;
  - (ii) the ‘cab rank’ rule. *(4 marks)*
- (d) Briefly comment on whether or not the public would be better served by a single legal profession. *(3 marks)*
- (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)*

- (f) Outline how a client may qualify for Legal Representation both in **civil** and **criminal** cases.  
(4 marks)
- (g) Comment on how well the public is served by these various systems of advice **and/or** representation.  
(4 marks)

**TURN OVER FOR THE NEXT SECTION**

**Turn over ►**

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**SECTION C**

Answer **one** question from this Section.

Carefully read **all** questions before you make your choice.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

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5

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

There are established rules in contract law. One rule states that a contract requires an offer by one party and an acceptance of that offer by the other. An offer must also be distinguished from an invitation to treat.

Offers can come to an end in a variety of ways. These include rejection, revocation, lapse of time and death.

**The Problem**

Oxford Vehicle Sales Ltd (OVS) advertised an auction of classic motorbikes to be held at its Cowley auction site at 2 pm on Saturday 22 May 2004. One bike in particular, a 1950s Triumph, was highlighted as being particularly desirable. Various people decided to attend the auction.

Pravin arrived at the auction with the intention of bidding for the Triumph and was very disappointed to find that the bike had been withdrawn from the sale.

Ray was bidding for a 1965 BSA motorbike but got “carried away” and bid more than he could afford. He called out and withdrew his bid, but the auctioneer still sold the bike to him.

Steve was bidding by telephone for a 1950s Harley Davidson motorbike, but, at the precise moment he was entering his final bid, the telephone line went dead. Not realising the situation, the auctioneer then sold the bike to Thierry who had entered a lower bid in the auction room.

Thierry was delighted with his purchase, especially as the Harley Davidson had been described by OVS as being “in excellent order, reliable and with low mileage”. When he got the bike home, he was angry to find that the engine was damaged beyond repair, and that the bike had done 150 000 miles and not 50 000 as he had been led to believe.

- (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)*



- (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)*
- (c) Discuss whether or not Ray is legally obliged to pay for the BSA. *(4 marks)*
- (d) Discuss whether or not Steve has any legal rights in respect of the Harley Davidson. *(4 marks)*
- (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)*
- (ii) Comment on how well consumers are protected by consumer law. *(4 marks)*

**TURN OVER FOR THE NEXT QUESTION**

**Turn over ►**

**Tort**

Defamation is the publication of a statement which tends to lower a person in the estimation of right-thinking members of society. It exists in two forms, libel and slander.

A defendant being sued for defamation may be able to plead one or more of the special defences to defamation. These include justification, fair comment and apology.

**The Problem**

Ursula is a well-liked politician with a high profile position in her party. She is known for being honest and straightforward and has in the past been active in supporting family values. Her husband, Victor, is a solicitor who has been involved in a number of well-publicised cases. Ursula and Victor have three children, the oldest of whom, Will, is 17 years old.

Victor has recently been professionally involved in a property deal to purchase a holiday home abroad. Unfortunately, the client, whom Victor has never met, is a drug dealer. This fact has been found out by Yvonne, a journalist working for a tabloid newspaper, the *Zodiac News*.

Armed with this story, Yvonne decided to do some more digging into the lives of Ursula and her family. She has discovered that Will was arrested by the police for being drunk and disorderly, but was not charged following a visit to the police station by his parents.

In addition, Yvonne has heard rumours that Ursula has been having an affair with a male MP, John, and that they were seen leaving a hotel together late one evening. In fact, the rumours are completely untrue and Ursula and John were leaving the hotel following a perfectly innocent political meeting.

The *Zodiac News* has now published what it promises to be the first of a series of stories about Ursula and her family. The published story directly accuses Victor of being involved with a drug dealer and hints at further revelations concerning Ursula's secret love life.

“Read it in the *Zodiac*! The signs are all there of a close working relationship between a male MP and U know who!!”

The story also pokes fun at Ursula's views on family values, using Will's night out as the basis of the story.

- (a) There are two types of defamation, libel and slander. Explain the differences between them. (4 marks)
- (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)

- (ii) Briefly explain why Victor would be more likely to sue the newspaper rather than sue Yvonne, and why the newspaper would be liable for Yvonne's story. (2 marks)
- (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)
- (d) (i) Name the **two** remedies most likely to be applied for in a defamation case. (2 marks)
- (ii) Briefly discuss which of these remedies Ursula and Victor would be most likely to seek and why. (2 marks)
- (e) Identify and explain any of the special defences to defamation that the *Zodiac News* may wish to plead. (4 marks)
- (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. (6 marks)

**TURN OVER FOR THE NEXT QUESTION**

**Turn over ►**

**Criminal Law**

Theft is defined as the dishonest appropriation of property belonging to another with the intention “of permanently depriving” the other of it.

Robbery is defined as a theft brought about by the use or threat of force.

There are several different ways of committing burglary, all under Section 9 of the Theft Act 1968. The crime of aggravated burglary is covered by Section 10 of the same Act.

**The Problem**

Anna and Barbara are next-door neighbours. They are always arguing over a number of matters, including excessive noise and the height of a hedge between their houses which Anna claims is blocking her light. Anna was convinced that Barbara had taken some items from Anna’s garden shed, including some handtools and an electric hedge-trimmer, and she was sure that she would find them in Barbara’s house.

One evening when Barbara was out, Anna entered Barbara’s house through a rear window and started looking for her property. She had a baseball bat with her, in case she was disturbed. She found a hedge-trimmer which she thought was her own, but there was no sign of the handtools.

Furious at what she thought was evidence of Barbara’s dishonesty, Anna decided to “fix” the electrics on the hedge-trimmer, so that it would become very dangerous to use. Anna then left the house, taking some money which she had found, “to cover the cost of the handtools”.

A week later, Clint, Barbara’s son, was using the hedge-trimmer on the other side of the garden and was badly burned as a result of Anna’s action in “fixing” the electrics.

Barbara was convinced that Anna must have had something to do with Clint’s injury. She attacked Anna with a hammer and then took her purse, “as compensation for Clint”.

In a statement to the police, Barbara admitted to having “borrowed” the hedge-trimmer, but claimed that Anna had offered to lend it to her. Barbara denied all knowledge of the handtools and refused to comment when questioned about the attack with the hammer.

- (a) Discuss Anna’s criminal liability for the burglary of Barbara’s house:
- (i) as she entered;
  - (ii) as she left. *(6 marks)*
- (b) Briefly consider Anna’s criminal liability for aggravated burglary on the same occasion. *(2 marks)*
- (c) Taking into account what she said to the police, discuss Barbara’s liability for the theft of Anna’s hedge-trimmer. *(4 marks)*

- (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. (5 marks)
  - (ii) Discuss whether or not Anna could claim by way of defence that she was not intending to harm **Clint**. (3 marks)
- (e) Discuss whether Barbara could be prosecuted for robbery for taking Anna's purse. (4 marks)
- (f) Name the **two** criminal courts before which Anna and Barbara are very likely to appear. (2 marks)
- (g) Comment on whether borrowing something without permission should be a criminal offence. (4 marks)

**TURN OVER FOR THE NEXT QUESTION**

**Turn over ►**

**Family Law**

A valid will must be in writing, signed by the testator and properly witnessed by two competent witnesses. The testator must be over 18 years of age and of sound mind.

Even if the testator's will meets the above requirements, it can still be contested by certain family and dependants under the provisions of an Act passed in 1975.

The estate of a person who dies, not having made a valid will, is distributed under the intestacy rules.

**The Problem**

Gail made a will 18 months ago leaving her entire estate to a children's charity. She left nothing in her will for her husband, Richard, or her three children, Nick, Sarah-Louise and Bethany, now aged 24, 18 and 15 respectively. Nick has not been seen by the rest of his family for the last six years, having left home to go abroad when he was 18. Gail has also not made any provision for her life-long friend, Sally, to whom she had promised a valuable diamond ring.

Gail drafted her will at the end of her 2002 diary but, because of a lack of space, had to sign it at the top of the next page.

Having drafted her will, Gail got her next-door neighbour, Ashley, to sign as witness. Gail then went round to Sally's house to ask her to be a witness as well. Sally, thinking she might be a beneficiary, refused to sign. Gail then went to see another friend, Vera, and both Vera and her lodger, Tyrone, aged 16, signed as witnesses.

Gail died suddenly last week, leaving an estate worth £215 000. There is a suspicion that she may have committed suicide. Gail's doctor has indicated that he had been treating Gail for severe depression for the last three years.

- (a) Discuss the validity of Ashley and Tyrone as witnesses to Gail's will. (4 marks)
- (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)
- (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. (7 marks)

- (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. *(1 mark)*
  - (ii) Identify **three** groups of people who are entitled to contest a will under this Act. *(3 marks)*
  - (iii) In this particular situation, discuss who may choose to contest Gail's will and who may have the best chances of success. *(4 marks)*
- (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. *(4 marks)*

**END OF QUESTIONS**

**THERE ARE NO QUESTIONS PRINTED ON THIS PAGE**