

GCSE 2004

June Series



Mark Scheme

Law

(Subject Code 3161/H)

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.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

Further copies of this Mark Scheme are available from:

Publications Department, Aldon House, 39, Heald Grove, Rusholme, Manchester, M14 4NA
Tel: 0161 953 1170

or

download from the AQA website: www.aqa.org.uk

Copyright © 2004 AQA and its licensors

COPYRIGHT

AQA retains the copyright on all its publications. However, registered centres for AQA are permitted to copy material from this booklet for their own internal use, with the following important exception: AQA cannot give permission to centres to photocopy any material that is acknowledged to a third party even for internal use within the centre.

Set and published by the Assessment and Qualifications Alliance.

The Assessment and Qualifications Alliance (AQA) is a company limited by guarantee registered in England and Wales 3644723 and a registered charity number 1073334. Registered address AQA, Devas Street, Manchester. M15 6EX.

Dr Michael Cresswell Director General

GCSE Law Higher Tier (3161/H)

Suggested answers are neither prescriptive nor exhaustive.

Within Questions 1 and 2 there are 5 sub-questions, each of which is to be marked out of 6 marks according to the following banded types of response. Marks are to be awarded for identifying the legal issue(s) involved, together with the quality of the explanation, showing the application of knowledge and understanding of the legal issues involved.

All 5 parts of Questions 1 and 2 are to be marked according to the following banded marking scheme.

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

SECTION A

1

Total for this question: 18 marks

In **each** of the following situations, explain which area of **civil** law may be involved and the likely outcome of the situation and name the most likely **venue** for the hearing of the case.

- (a) Alan was driving down a quiet country road in his new sports car, well over the speed limit. Bev pulled out of her drive, without looking properly, straight into the path of Alan's car. Alan braked, skidded and crashed into Bev's car. Neither was badly injured, though the damage to Bev's car has been estimated at £6000.

Potential Content

The tort of negligence (1 mark)

County Court venue *shopping list rule applies* (1 mark)

Duty breach and damage

Contributory negligence

Application + conclusion

Authority in support

Insurance position (max 3 marks on its own)

Answers based on criminal law only – max 2 marks

[AO1:6]

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

Potential Content

The contractual/employment nature of the situation (1 mark)

Employment Tribunal venue *shopping list rule applies* (1 mark)

Sex discrimination

Discrimination on the grounds of race

Applications + conclusion (either way)

Authority in support

[AO1:6]

- (c) Flames Direct plc (FD) and Grates Ltd (G) entered into an agreement for the supply of electric storage heaters at a total cost of £500 000. Shortly before delivery, a fire at FD's premises destroyed both the production line and nearly all of the stock. FD can no longer deliver any of the heaters.

Potential Content

Contract law (1 mark)

High Court venue *shopping list rule applies* (1 mark)

Non-performance of the contract = breach?

Potential frustration

Application and conclusion

Authority in support

Insurance position (max 3 marks on its own)

[AO1:6]

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

In **each** of the following situations, **identify** which forms of trespass may have been committed and discuss the likely outcome of the situation.

- (a) Hari broke into Ian's house in the middle of the night. He then tied Ian up so that he could not raise the alarm. Hari then started stacking various items by the door so he could remove them. He was then disturbed by lights from next door and left empty-handed.

Potential ContentTrespass to land (based on entry) **(1 mark)**Trespass to the person (principally based on false imprisonment) **(1 mark)**Trespass to goods **(1 mark)**

Legal definitions

Application + conclusion

Authority in support

*Any two from three, properly discussed, can reach top band***[AO1:6]**

- (b) Jane approached Kerry in the street and threatened to beat her up unless she handed over her purse. Kerry claimed not to have any money, at which point Jane hit Kerry and knocked her down. She then took Kerry's watch, which she later sold. *(6 marks)*

Potential ContentTrespass to the person (principally based on assault) **(1 mark)** and (battery) **(1 mark)**Conversion **(1 mark)** – *allow trespass to goods*

Legal definitions

Application + conclusion

Authority in support

*Any two from three, properly discussed, can reach the top band***[AO1:6]**

SECTION B**3****Total for this question: 40 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) **(1 mark)** (allow stipendiary magistrate)*Shopping list rule applies***[AO1:2]**

(ii) Explain the major differences between them.	<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

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, AO2:1]**

(b) As indicated in the extract, magistrates' clerks undertake an important training role for Justices of the Peace. Describe the other roles undertaken by a magistrates' clerk.	<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

Legal adviser to lay magistrates

Court administrator

Uncontested decisions, bail, warrants, eg Legal Representation, adjournments, Pre-Trial Review (PTR)

*(any two roles, well described, can achieve Band 3)***[AO1:3]**

(c) As the extract indicates, magistrates undertake a range of duties in court. Explain what is meant by (i) granting bail;	<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

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

[AO1:3, AO2:1]

(ii) issuing warrants;	<i>(2 marks)</i>
------------------------	------------------

Potential Content

Types of warrants, eg arrest, search, further detention

Any sensible development e.g. application process, when granted etc. **(2 marks)***Look for any reasonably sound understanding for the 2 marks*

[AO1:2]

(iii) the sentencing process.	<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

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), Specific Sentence Enquiry Report (SSER)

Statutory framework

[AO1:3, 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;
 - (iii) committal/transfer for trial.

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) Minor offence/maximum sentence/dealt with by magistrates/example
- (ii) Mid-range offence/Magistrates or Crown Court/example
- (iii) Process of sending an either-way/indictable-only offence to the Crown Court [AO1:5, AO2:1]
1 aspect only – max 3 for an excellent answer
2 aspects only – max 5 for an excellent answer

- (e) Magistrates also undertake duties on special panels, separate from their work in the adult Magistrates' Court. These include the Family Panel, the Youth Court Panel and the Licensing Committee.
- (i) Identify **two** areas of work undertaken by the Family Panel.

Potential Content

Eg judicial separation, maintenance, care orders, permission to marry (**1 mark each**)
Shopping list rule applies [AO1:2]

- (ii) Identify **two** areas of work undertaken by the Licensing Committee. (2 marks)

Potential Content

E.g. liquor, gambling, cinemas (**1 mark**)
Note – candidates may use 2 examples from the same area, eg granting of extensions, occasional licences. Credit fully
Shopping list rule applies [AO1:2]

(f) (i) Identify **two** differences between the operation of the adult Magistrates' Court and the Youth Court.

Potential Content

E.g. Age (18+/10-17) 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.

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”. Identifying **at least one** advantage and **at least one** disadvantage, comment on the use of lay magistrates within the English legal system.

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

Eg public involvement, shared decision-making (**1 mark**)

Eg mistakes of law, greater possibility of bias (**1 mark**)

Local justice, range of values/opinions on Bench

Cheaper than professionals

+

Local bias, case-hardened, inconsistencies, etc

Unbalanced answer – max 5 marks

[AO2:6]

4

Total for this question: 40 marks

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

(6 marks)

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

Potential Content

E.g. work alone v in partnerships

Non-contractual v contractual relationship

Fee position

Duty position etc

*Note – could be a notional 2:2:2 split (check band at end)**Only two described – max 5 marks for an excellent response***[AO1:4, AO2:2]**

(b) Describe the “specialist training” required to be undertaken 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	5-6 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

*Notional 3:3 split**Note – only one dealt with – max 4 marks for a very good answer***[AO1:6]**

(c) With reference to the legal profession, outline what is meant by (i) a QC; (ii) the ‘cab rank’ rule.	<i>(5 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	3-4 marks
Band 3	Appropriate answer showing sound understanding	5 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 4 marks for a very good answer**Recognition of “something to do with barristers” – 1 mark***[AO1:4, AO2:1]**

(d) Briefly comment on whether or not the public would be better served by a single legal profession.	<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

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**Note – 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.	<i>(8 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	6-8 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 6 marks for 2 good answers

[AO1:6, AO2:2]

(f) Outline how a client may qualify for Legal Representation both in civil and criminal cases.	<i>(6 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	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

Understanding that this is to do with appearances in court (**1 mark**)

Access to Justice Act (**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

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

[AO1:5, AO2:1]

(g) (i) Briefly explain what is meant by a “conditional fee arrangement”.

Potential Content

Understanding of what a CFA is (no win-no fee) **(1 mark)**

Any sensible development e.g. availability, insurance, costs not covered etc **(1 mark)**

Look for reasonably sound understanding for 2 marks

[AO1:1, AO2:1]

(ii) Comment on whether or not these arrangements are in the public interest.

(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’
- Nothing to pay solicitor if case is lost
- Availability of insurance, etc

Disadvantages

- Proliferation of claims/delay
- Unethical practices, 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 invitation to treat;
 - (ii) the postal rule;
 - (iii) rejection of an offer;
 - (iv) revocation of an offer;
 - (v) lapse of time.
- (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, eg 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 2:2:2:2:2 split may help initially – check band at end***[AO1:7, AO2:3]**

- (b) Discuss whether or not Moshin would have a case for breach of contract against LCS following the withdrawal of the Jaguar 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 Neil is legally obliged to pay for the Lotus.

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 Oliver has any legal rights in respect of the Rolls Royce. *(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) Lady Penelope has been advised that she may have a case against LCS in respect of the Rolls Royce, under the Sale of Goods Act 1979 as amended.

- (i) Briefly explain the legal basis of this advice and whether an action brought by Lady Penelope 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) Rachel is considering suing Terry and the *Planet* for defamation.

(i) Explain to her what she will need to prove.

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

Statement was defamatory – explanation

Statement referred to the claimant – explanation

Statement was published – explanation

Authority in support

*One aspect only – max 3 marks for an excellent answer**Two aspects only – max 5 marks for two very good answers***[AO1:4, AO2:2]**

(ii) Briefly explain why Rachel would be more likely to sue the newspaper rather than suing Terry, and state the legal basis of the newspaper's liability.

Potential ContentRecognition of vicarious liability/Newspaper liable in own right (**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) Quentin believes he may have been defamed by **innuendo**. Explain what is meant by this term, and why Quentin thinks he 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) Explain, in outline, how the Human Rights Act 1998 could be relevant in this case, especially in relation to the allegation involving Stephen and his parents.

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

Right to privacy contained in Article 8

Right of a free press in Article 10

Exceptions

Application to a minor + conclusion (either way)

[AO1:3, AO2:1]

(e) Identify and explain any of the special defences to defamation that the Planet 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 Winona's criminal liability for the various forms of burglary as she both entered and left Yasmin's house.

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

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?

S.10 aggravated burglary – any burglary + weapon of offence

Application + conclusion (either way for both possible offences)

Authority in support

*Notional 3:3:3 split – check Band at end***[AO1:6, AO2:2]**

(b) Discuss Yasmin's liability for the theft of Winona'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]

(c) Winona is also likely to be charged with an offence in relation to Zak's injuries.

(i) Discuss the *actus reus* and *mens rea* of an appropriate offence with which Winona 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 Winona could claim, by way of defence, that she was not intending to harm Zak.

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]

(d) Discuss Yasmin's potential liability for robbery in respect of the taking of Winona'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]

(e) Identify the **two** criminal courts before which Winona and Yasmin are very likely to appear.

Potential Content

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

Shopping list rule applies

[AO1:2]

(f) 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 Gus and Isla as witnesses to Angus's will.	(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

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

Isla – 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 Angus's will, taking into account all the relevant issues raised in the situation.
--

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 Angus of sound mind?

Application + conclusion

Reference to authority

*Any 3 issues properly discussed can reach top band***[AO1:4, AO2:3]**

(c) If Angus's will were to be declared invalid, he would die intestate. Explain how Angus's estate would be distributed under the intestacy rules.	(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

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

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

Nothing for anyone else

[AO1:7]

- (d) If Angus'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, two-years+ co-habitees (or example) (1 mark for each)

Shopping list rule applies

[AO1:1, AO2:2]

- (iii) In this particular situation, discuss who may choose to contest Angus'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

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

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

Donal can claim. Circumstances?

Eleanor has a good claim, ie child + financially dependent/full time education

No-one else has a claim

[AO1:4]

- (e) Choose your answer to **either** (c) **or** (d)(iii). Comment on how well either the intestacy rules or the rules on family provision have dealt with Angus's estate.

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 under intestacy, absent children do as well as those with needs

Wife may not be able to afford settlement to children etc

Eg under family provision rules, testators' wishes can be overridden

Protects legitimate interests of close family/2+ year cohabitees + dependants

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.	4-5 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 (Higher) 3161/H

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

GCSE LAW (2004)**ASSESSMENT GRID PER COMPONENT (Higher) 3161/H**

Assessment Objective	1 Max. No. Marks	2 Max. No. Marks	3 Max. No. Marks
Question 8			
a)	3	1	
b)	4	3	
c)	7	0	
d)	6	2	
e)	0	4	
Total Marks per objective	77	23	5 overall
Approximate % per objective	73.3	21.9	4.8
Approximate % target	72.5	22.5	5