



General Certificate of Secondary Education

Law 3161

3161/F Foundation Tier

Mark Scheme

2005 examination – June series

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.

Foundation Tier (3161/F)

Suggested answers are neither prescriptive nor exhaustive.

Within Question 1 there are 3 sub-questions, each of which is to be marked out of 4 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 3 parts of Question 1 are to be marked according to the following banded marking scheme.

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

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

In **each** of the following situations, explain whether the situation involves a **tort**, a **crime** or both a **tort and a crime**, and discuss the likely outcome of the situation.

- (a) Alf, a gas fitter, was installing a new boiler in Bridget's house. It was nearly lunchtime and Alf decided to go for lunch leaving a partly-sealed gas pipe which was slowly leaking gas. Alf thought it would be safe because Bridget had gone shopping. Shortly after Alf had left the house, Bridget returned, switched on the hall light and was killed in the gas explosion which followed. (4 marks)

Potential Content

The tort of negligence

Duty breach and damage

Application + conclusion

Authority in support

Gross negligence manslaughter

Application + conclusion

Authority in support

Both tort and crime **1 mark***Credit reference to prosecution under Health and Safety at Work Act 1974**Answers based on tort or crime only – max 3 marks* **[AO1:4]**

- (b) Catherine and Della worked in the same office. Catherine knew that Della had been going out with Finlay, the managing director's son, and she was jealous because she also fancied Finlay. Catherine spoke to Finlay and told him that she thought Della had been stealing from the cash box. She then sent an internal e-mail to Finlay in which she accused Della of theft. Catherine's allegations about Della were not true. (4 marks)

Potential ContentRecognition of tort only **1 mark**

Defamation + definition

Libel and Slander (actionable *per se*)

Vicarious liability – potential credit for raising the issue

Application + conclusion (either way)

Authority in support **[AO1:4]**

- (c) Gavin illegally entered Howard's house at night, took some cash and jewellery and then went to leave. Howard heard a noise, came running downstairs with a shotgun and fired at Gavin as he was running across the lawn. Gavin was hit in the back of the leg and injured. (4 marks)

Potential Content

The crime of burglary (theft)

Application and conclusion

The crime of GBH/wounding (with intent)

Credit discussion of self-defence, defence of property

Application and conclusion

The tort of trespass to goods/person/land

Application and conclusion

Relevant authority

Both tort and crime **1 mark***Crime only (max 3); tort only (max 2)* **[AO1:4]**

2

Total for this question: 8 marks

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

(a) Imogen, aged 17, has been charged with theft and is due in court next week.	(2 marks)
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Potential Content

(Youth Court) Magistrates

1 mark*Shopping list rule applies*

Under 18/not a grave crime – must go to Youth Court

1 mark
[AO1:2]

(b) James, a teacher, has been accused of a serious assault on one of his pupils. At an initial hearing, the magistrates refused to hear the case.	(2 marks)
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Potential Content

District judge, Circuit Judge or High Court Judge or jury

1 mark*Shopping list rule applies*

Case must be tried at the Crown Court

1 mark
[AO1:2]

(c) Kelly, despite being very well qualified, has been sacked from her job. A male employee, Larry, has kept his job in the same department, even though he is less well qualified.	(2 marks)
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Potential Content

(Employment) Tribunal members

1 mark*Shopping list rule applies*

Potential case of (sex) discrimination

1 mark
[AO1: 2]

(d) Muna was seriously injured in a road accident caused by the negligence of Neil. Muna has been awarded £100 000 damages by the High Court, which is much less than she was expecting. Muna is now planning to appeal.	(2 marks)
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Potential Content

Lords Justices of Appeal

1 mark*Shopping list rule applies*

Case must go to the Court of Appeal (Civil Division)

1 mark
[AO1: 2]

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

(a) In the context of the legislative process, explain what is meant by the following:

- (i) First and Second Readings;
- (ii) The Committee Stage;
- (iii) The Royal Assent.

(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) First Reading – Formal stage, MPs get a copy to read, no debate or division
Second Reading – Debate on broad provisions of Bill, Division follows
- (ii) Committee Stage – detailed discussion of Bill, amendments, types of Committee
- (iii) Royal Assent – Formal stage, Bill signed by/on behalf of Queen, Bill becomes an Act.

Notional division of marks 2:2:2 (check Band at end)

Only 2 dealt with – max 5 for a good answer

Only 1 dealt with – max 3 for a good answer

[AO1:5, AO2:1]

(b) Explain and illustrate what is meant by **Private Members' Bills** and **Government Sponsored Bills**.

(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

Private Members' – Bills originate with individual MPs, annual ballot, government support needed if Bill to become law. Example.

Government Sponsored – Bills originate with a political decision in Cabinet, have backing of government, likely to be supported by majority party. Example.

Only 1 dealt with – max 2 for a good answer

[AO1:3]

(c) As the extract indicates, Article 5 sets out the Right to Liberty. This right can be restricted in a number of ways. In this context, explain what is meant by the following:

(i) arrest, with and without a warrant; (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

With a warrant – police only, application for warrant to magistrate, backed for bail/not

Without a warrant – police/citizens' powers of arrest. Some indication of grounds.

Arrestable offences

Police and Criminal Evidence Act 1984 [AO1:3]

(ii) the remand decision (bail or custody); (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

Presumption in favour of unconditional bail

Grounds/reasons for objection

Bail Conditions

Custody

Relevant authority [AO1:3]

(iii) imprisonment. (2 marks)

Potential Content

Basic statement which describes imprisonment – probably worth 1 mark

Offender must be 21+, offence must be 'so serious' etc **2 marks**

Look for reasonably sound understanding for second mark [AO1: 2]

(d) Article 11 allows for Freedom of Assembly and Association. Identify and briefly describe **two** different ways in which this freedom can lawfully be restricted. (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

For each restriction, **1 mark** for identification, **1 mark** for brief description/development (*up to max of 3 marks for the question in total*)

Eg Restrictions under the Public Order Act 1986 (route, banners etc)

Restrictions under Criminal Justice and Public Order Act 1994 (raves, new age travellers etc)

Unlawful Assembly (Parliament 50+ people) etc

The tort of trespass [AO1:1, AO2:2]

(e) Article 12 contains the Right to Marry. Identify two restrictions on the right to marry, recognised by English law.	(2 marks)
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Eg under 16, already married, not male & female, prohibited degrees
Shopping list rule applies

1 mark each
[AO1:2]

(f) (i) Identify one of the ways in which an individual may be restricted from exercising his right of free speech under Article 10.	(1 mark)
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Eg Defamation etc
Shopping list rule applies

(1 mark)
[AO2:1]

(ii) Briefly comment on why a judge may find it difficult to apply both the right to privacy (contained in Article 8) and freedom of speech (set out in Article 10), when hearing an individual case.	(3 marks)
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Band 0 Inappropriate answer showing no understanding
 Band 1 Basic awareness
 Band 2 Answer based upon limited understanding
 Band 3 Appropriate answer showing sound understanding

0 marks
1 mark
2 marks
3 marks

Potential Content

Recognition that privacy and freedom of speech may be mutually exclusive in some situations
 Example – press ‘hounding’ of the rich and famous
 Possible case, eg Douglas v Hello! magazine

[AO2: 3]

(g) Comment on whether or not the passing of the Human Rights Act 1998 has been of benefit to the general public.	(4 marks)
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Band 0 Inappropriate answer showing no understanding
 Band 1 Basic awareness
 Band 2 Answer based upon limited understanding
 Band 3 Appropriate answer showing sound understanding

0 marks
1 mark
2 marks
3-4 marks

Potential Content

Recognition of the advantage of local enforcement (cost, time etc)
 Human Rights issues can be raised in any case in a UK court where relevant
 Clearer statement of ‘rights’ than ever available under English law
 Possible reference to pre/post Act cases
 Recognition that enforcement of presumed rights may still be difficult eg Diane Pretty case
Credit any reasonably sensible responses
Unbalanced answer – can still achieve 4 marks

[AO2: 4]

4

Total for this question: 30 marks

(a)	Outline the important differences between criminal and civil law.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer based on sound understanding	3-4 marks

Potential Content

Eg public/private, wrong against state/individual, punish/remedy, standard of proof, court systems etc.

*Note- minimum 2 differences for top Band answer, minimum 3 differences for max marks***[AO1:2, AO2:2]**

(b)	Identify two areas of work undertaken by the County Court.	(2 marks)
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Eg Common law actions, divorce/other family actions, probate, land, bankruptcy, companies, equity cases etc

*Shopping list rule applies***1 mark each****[AO1:2]**

(c)	The Civil Procedure Act 1997 introduced a new system for dealing with civil cases based on each case being allocated to the appropriate track. Explain what is meant by the following:	
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(i) the **Small Claims Track**;(ii) the **Fast Track**.

(3 marks)

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

Potential Content

(i) Under £5000, quick, cheap and informal, District Judge

(ii) £5000 - £15 000, Circuit Judge, 6 months from summons, limited costs, max 1 day hearing

*Note – only one dealt with – max 2 marks for a good answer***[AO1:3]**

(d) (i)	Choose one of the various methods of ADR mentioned in the article above. Explain how, and in what circumstances, this method of dispute resolution might be used.	(3 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer based on sound understanding	3 marks

Potential Content

Eg Negotiation – generally following commencement of civil action

Settlement negotiated by claimant's solicitor or insurance company

95+% of civil actions settled in this way

[AO1:3]

(ii) Briefly comment on the advantages of individuals using ADR.	(3 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer based upon sound understanding	3 marks

Potential Content

Generally speaking both quicker + cheaper, more informal, private hearing/settlement + avoids publicity, lay expertise etc

At least 2 advantages discussed for top Band **[AO2:3]**

(e) Explain two differences between the operation of the Magistrates' Court and the Crown Court.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer based upon sound understanding	3-4 marks

Potential Content

Eg Differences in personnel (magistrates/judge+jury)
 Differences in sentencing powers
 Differences in representation (usually solicitors/barristers)
 Differences in types of offences (summary/indictable)
 Differences in range of jurisdiction (geographical + types of cases), etc

Notional 2:2 split – check Band at end

Only one dealt with – max 3 for an excellent answer

No shopping list rule to apply **[AO1:2, AO2:2]**

(f) Describe in outline how lay magistrates are appointed.	(3 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer based upon sound understanding	3 marks

Potential Content

Application
 Role of Advisory Committee
 Two-stage interview
 Appointment by Lord Chancellor
 Training + swearing-in

[AO1:3]

(g)	Describe how jurors qualify and are selected for jury service.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer based upon sound understanding	3-4 marks

Qualification (max 2 marks)

Excusals, exemptions, disqualifications (old law) or disqualifications, discharges, deferments (Criminal Justice Act 2003)

Panel of names – random selection

Ballot

Vetting + challenging

Swearing-in

[AO1:4]

(h)	Comment on how well either lay magistrates or jurors carry out their role within the criminal justice system.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer based upon sound understanding	3-4 marks

Potential Content

Comments about either juries or magistrates can include:

lay involvement, shared decision making, wider range of backgrounds, etc

+ laymen make mistakes of law, over-impressed by quality of representative, etc

More specific comments could be related to either juries or magistrates – credit as appropriate

Both juries and magistrates dealt with – credit best one

No distinction between juries and magistrates – max 3 marks

Unbalanced answer – max 3 marks

[AO2:4]

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

(a) In relation to the relevant law on minors entering into contracts, briefly explain and illustrate what is meant by the following terms:

(i) a **valid** contract;

(ii) a **voidable** contract;

(iii) an **unenforceable** contract.

(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 based upon sound understanding

5-6 marks**Potential Content**

(i) Minor will be held liable, necessaries/minor's benefit. Possible case.

(ii) Valid initially, may be avoided pre-18/shortly afterwards. Types. Possible case.

(iii) Unenforceable against the minor but enforceable by him eg a loan. Possible authority.

Only 1 dealt with – max 3 marks for a good answer

Only 2 dealt with – max 5 marks for a good answer

A notional 2:2:2 split may help initially – check Band at end

[AO1:6]

(b) Taking into account his age, discuss the following:

(i) whether Omar is legally bound to remain in occupation of the flat for the full 12 months;

(ii) how much money Omar is liable to pay.

(4 marks)

Band 0 Inappropriate answer showing no understanding

0 marks

Band 1 Basic awareness

1 mark

Band 2 Answer based on limited understanding

2 marks

Band 3 Appropriate answer showing sound understanding

3-4 marks**Potential Content**

Recognition of voidable contract, therefore:

(i) Omar can avoid liability for rest of lease

(ii) Omar liable for months already occupied ie he owes 2 months rent (reasonable price?)

Case, eg *Valentini v Canali*

[AO1:3, AO2:1]

- (c) Taking into account his age, discuss Omar’s liability for payment for the kitchenware items that he ordered on credit. (4 marks)

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

Potential Content

Potential for contract for necessities or unenforceable contract

Sale of Goods Act test

Case, eg Nash v Inman

Application + conclusion (either reasonable price or not enforceable) [AO1:3, AO2:1]

- (d) Taking into account his age, discuss the following:
- (i) whether or not Omar’s contract of employment with Ponsonby’s would be considered valid;
- (ii) whether Ponsonby’s could legally force him to work his notice period. (4 marks)

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

Potential Content

(i) Contract for the minor’s benefit or exploitative taken as a whole?

Case, eg De Francesco v Barnum

Application + conclusion

(ii) Recognition that specific performance is not available in a contract for personal services [AO1:4]

- (e) In relation to the contract for the sale of the pot at Quentin’s Delights (QD), discuss the following:
- (i) whether QD would have been legally bound to sell the pot for £120, even though it might have been worth considerably more; (4 marks)

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

Potential Content

Recognition of consideration issue ‘need not be adequate’

Case, eg Chappell v Nestle

Application + conclusion

or

Discussion of offer/invitation to treat

Relevant authority

Application + conclusion

Max 3 for alternative answer

[AO1:3, AO2:1]

(ii) how the law will deal with that contract now the pot has been destroyed.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Recognition of probable frustration/possible breach

Case, eg Taylor v Caldwell

Law Reform (Frustrated Contracts) Act 1943

Application + conclusion

*Credit breach if appropriately dealt with***[AO1:3, AO2:1]**

(f) Comment on how well the law deals with issues relating to minors' contracts.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Discussion of the need to protect minors + prevent unjust enrichment

Comment on how the balance is achieved re valid, voidable + unenforceable

Authority

Conclusion

*Unbalanced answer can still get 4 marks***[AO2: 4]**

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

(a) Consider Tony's liability for the **tort of trespass** with regard to the following:

(i) Una;

(ii) Vince.

(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) Trespass to the person

Assault + definition

Case, eg R v St George

Application to Una

(ii) Battery + definition

Case, eg Nash v Sheen

Application to Vince

Possible reference to trespass to land if Tony had been asked to leave

*Answers in a criminal context but with correctly stated law on assault and battery – max 4 marks at best
1 aspect only – max 4 marks for a good answer*

[AO1:5, AO2:1]

(b) Discuss Zack's liability for **trespass** in respect of his actions whilst playing football.

(6 marks)

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

Potential Content

Trespass to land based on entry

Case or example

Application to Zack's entry to retrieve ball

Trespass to goods/conversion

Torts (Interference with Goods) Act 1977

Case or example

Application to broken window + possibly fence

[AO1:5, AO2:1]

(c) The local residents have been advised that the “activities” of the Smith family may amount to a **public nuisance**.

Discuss whether or not the actions of both Wanda and Adam Smith could amount to a public nuisance. Explain the likely outcome if such a case were brought in the civil or criminal courts. (6 marks)

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

Potential Content

Public nuisance definition/explanation

Case, eg A-G v PYA Quarries

Application to loud parties (complaints) + ‘dangerous’ driving

Recognition that public nuisance is both crime + tort/role of A-G

‘Remedies’ could include criminal sanctions/civil injunction

[AO1:5, AO2:1]

(d) Rashid is also considering suing for both **public** and **private nuisance**. Advise him as to his chances of success and identify what remedy he may wish to apply for in court. (6 marks)

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

Potential Content

Public nuisance/particular damage

Case/example

Application to incidents from (c), especially the loud music

Private nuisance

Definition/explanation

Factors, eg locality, sensitivity, continuity, malice

Case

Application to incidents from (c), especially loud parties

Remedies, eg damages/injunction

1 aspect only – max 4 marks

[AO1:5, AO2:1]

(e) Comment on how well the law of tort deals with the sort of incidents set out above. In your answer, consider **two** alternative ways in which the law can deal with such problems. (6 marks)

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

Potential Content

Recognition of reasonable alternatives, eg **2 marks**
Police powers to abate a nuisance
Local Council/Environmental Health
Criminal prosecution for nuisance/harassment etc
Anti-Social Behaviour Orders
Conciliation
Discussion of pros + cons of civil action (time, cost, financial remedy) v allowing the ‘State’ to intervene to protect against ‘neighbours from hell’ (no cost to individual but difficult to persuade authorities to act)
Credit any reasonably sensible points **[AO1:2, AO2:4]**

7

Total for this question: 30 marks

(a) Discuss Bernard's possible liability for the following:	
(i) GBH, in respect of Carrie's HIV infection;	
(ii) ABH, in respect of Carrie's physical injuries.	<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

(i) HIV (assuming Bernard is responsible) – probable charge GBH (credit explained alternative, eg ABH)
 Definition. Varieties under S.20 + S.18.
 Application + conclusion (either way)
 Authority in support (OATP Act 1861 + Dica (2003))

(ii) Bruising/split lip – probable charge under S. 47 ABH (credit explained alternative, eg ABH)
 Threat = assault s.39 Criminal Justice Act 1988 max 2 marks
 Possible case
 Application + conclusion
1 aspect only – max 4 marks

[AO1:5, AO2:1]

(b) Bernard has been told by his solicitor that he may be able to plead successfully the defence of consent in respect of Carrie contracting the HIV virus. Discuss whether or not this is true.	<i>(4 marks)</i>
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

General principle governing consent/non-fatal offences + possible case
 Public policy + exceptions
 Consent induced by fraud + Dica (2003)
 Best view – that solicitor's advice is incorrect

Be prepared to credit the quality of the discussion even if the conclusion is wrong

[AO1:4]

(c) Discuss what charges Bernard may face in respect of the following:

(i) Sergeant Dixon's broken wrist;

(ii) the injury to WPC Entwistle's face.

(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) Broken wrist = serious injury = GBH (credit explained alternative, eg ABH)

S.18 or S.20 – *mens rea* issues

Application + conclusion

Authority in support

(ii) Cut = wound (definition) (credit explained alternative, eg ABH)

S.18 or S.20 – *mens rea* issues

Application + conclusion

Authority in support

Only 1 dealt with – max 4 marks

[AO1:4, AO2:2]

(d) Bernard has been advised that he may be able to plead one or more defences in respect of the charges relating to the injured police officers. Taking into account the following factors:

(i) Bernard's mental state and the effect of his tablets;

(ii) Bernard's drunkenness and use of illegal drugs;

identify which **defence(s)** he may be able to plead, and discuss the likely success of that defence/those defences.

(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) Possible plea of insanity

Possible plea of automatism linked to insanity or otherwise

Possible plea of (involuntary) intoxication

For any of the above, relevant authority

Definition, application + conclusion

Only 1 defence needs to be dealt with for full credit

(ii) Plea of voluntary intoxication

Relevant authority eg Majewski/Lipman

Definition, application to drink + drugs + conclusion (basic or specific intent)

Only 1 aspect dealt with – max 4 marks

[AO1:5, AO2:1]

(e) (i) Name the two courts before which Bernard is likely to appear.	(2 marks)
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(i) Magistrates + Crown <i>Shopping list rule applies</i>	1 mark each [AO1:2]
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(ii) Briefly explain who is likely to be representing Bernard in these two courts.	(2 marks)
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(ii) Probable answer: solicitor in the Magistrates' Court, barrister in the Crown Court <i>Credit any alternative possible correct answer if explained</i> <i>Look for reasonably sound understanding for second mark</i>	(2 marks) [AO1:2]
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(f) Choose one of the defences you have identified above. Comment on how well the law deals with the issues relating to that defence.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Eg insanity issues could include:

Outdated common law definition; medical knowledge has outstripped a 160-year-old law; the stigma of the word "insanity"; problem of the standard of proof required of the defendant; narrow legal definition, etc

Authority in support

Credit any reasonably sensible points made as critical commentary

Unbalanced answer can still get 4 marks

[AO2:4]

8

Total for this question: 30 marks

(a)	Discuss the legal issues surrounding Frank's planned marriage to Katherine.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Frank's marriage, if celebrated in the UK, under English law would be:

1. Void – meaning + implications under the law of marriage - Matrimonial Causes Act 1973
2. Bigamous – meaning + implications under the criminal law – S.57 Offences against the Person Act 1861.

If the marriage was celebrated lawfully in a foreign country which permits polygamous marriages, then English law would recognise it.

Only 1. or 2. dealt with – max 3 marks for a good answer

[AO1:3, AO2:1]

(b)	Assuming the marriage of Hilda and Liam were to go ahead against Liam's wishes, explain what his legal rights would be.	(4 marks)
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based upon limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Matrimonial Causes Act 1973

Marriage potentially voidable if marriage entered into without consent

Meaning of voidable

Implications for what Liam would have to do to avoid his marriage

[AO1:3, AO2:1]

(c)	Discuss the legal implications of the following:	
	(i) Ian's planned marriage to Mary;	
	(ii) Jane's planned marriage to Ned.	(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) Ian, at 17, would require parental permission to marry

Alternatively he can apply to the Magistrates' Court

If he marries without permission, the marriage would be valid, but he could face a prosecution for fraud

(ii) Jane, aged 15, cannot marry under English law

Marriage would be void (meaning)

Matrimonial Causes Act 1973

Only 1 aspect – max 4 for an excellent answer

[AO1:5, AO2:1]

(d) Grace has spoken to a volunteer at the local Citizens Advice Bureau about a possible divorce, but is confused about some of the terms that the volunteer tried to explain to her. Explain the following to Grace:

(i) which court would almost certainly deal with her divorce; (1 mark)

(Divorce) County Court **1 mark**
Shopping list rule applies **[AO1: 1]**

(ii) the meaning of the term “irretrievable breakdown” and how she might prove it; (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

Meaning of ‘irretrievable breakdown’ – marriage cannot be saved

Proof based on adultery or unreasonable behaviour

Matrimonial Causes Act 1973

[AO1:3]

(iii) the meaning of the terms **decree nisi** and **decree absolute**; (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 two terms

Implications re the process of divorce

6 week rule + purpose

Matrimonial Causes Act 1973

[AO1:3, AO2:1]

(iv) the meaning of the term “maintenance”, and the issues a court would have to consider before maintenance was granted. (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

Financial arrangement following divorce/separation

Lump sum or ongoing payments

Factors, eg children, clean break, etc

Variations

Matrimonial Causes Act 1973, Matrimonial and Family Proceedings Act 1984

[AO1:4]

(e) Choose **two** of the legal requirements of a valid marriage. Briefly comment on how appropriate the law is in respect of these requirements. *(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

Identification of a relevant issue, eg age (too young or old), gender (homosexual relationships)

Commentary based upon either the need for reform or the need to keep the law as it is

Credit any other reasonably sensible points

1 aspect only – max 3 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 'QoWC' written next to it in the corresponding question number box. Then you should add the question total marks together and add the 'QoWC' mark to give the grand total and enter this in the box for the total mark. The grand total for the whole paper (including 'QoWC') is the mark you should write and encode on the Examiner's Mark Sheet.

GCSE LAW Paper

ASSESSMENT GRID PER COMPONENT (Foundation)

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

Question 7			
(a) 6	5	1	
(b) 4	4	0	
(c) 6	4	2	
(d) 6	5	1	
(e) 4	4	0	
(f) 4	0	4	
Question 8			
(a) 4	3	1	
(b) 4	3	1	
(c) 6	5	1	
(d) 12	11	1	
(e) 4	0	4	4 OVERALL
SUB-TOTAL	61	19	4