



General Certificate of Secondary Education

Law 3161

3161/H Higher 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.

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 whether the situation involves a **tort**, a **crime** or both a **tort and a crime**, and discuss the likely outcome of the situation.

- | | |
|--|------------------|
| <p>(a) Aaron, an electrician, was installing some new wiring in Beth's house. It was nearly lunchtime and Aaron decided to go for lunch, leaving some exposed wiring which was live and extremely dangerous. He thought it would be safe because Beth had gone shopping. Shortly after Aaron had left the house, Beth returned, accidentally touched the live wire, was electrocuted and killed.</p> | <p>(6 marks)</p> |
|--|------------------|

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 4 marks***[AO1:6]**

- | | |
|---|------------------|
| <p>(b) Camille and Di were both employed by Electronics Ltd, a large company. Both worked in the company offices. Camille was aware that Di had been going out with Fabian, the managing director's son, and she was jealous because she also found Fabian very attractive. Camille told Fabian that she thought Di had been stealing from the petty cash. She then decided to send an internal e-mail to Di in which she accused her of theft. However, when she sent the e-mail, she accidentally sent it to everyone in the company. Camille's allegations about Di were not true.</p> | <p>(6 marks)</p> |
|---|------------------|

Potential Content

Recognition 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

[AO1:6]

- (c) Gerry unlawfully entered Hal's house at night, took a quantity of cash and some jewellery and then went to leave. Hal heard a noise, came running downstairs with a shotgun and fired at Gerry as he was running across the lawn. Gerry was hit in the back of the leg and injured. (6 marks)

Potential Content

The crime of burglary (theft)

Application and conclusion

Authority in support

The crime of GBH/wounding (with intent)

Credit discussion of self-defence, defence of property

Application and conclusion

Relevant authority

The tort of trespass to goods/person/land

Application and conclusion

Relevant authority

Both tort and crime

Crime only (max 5 for a good answer). One crime only (max 4 for a good answer).

Tort only (max 4 for a good answer)

1 mark

[AO1:6]

2

Total for this question: 12 marks

In **each** of the following situations, discuss the validity of the will, and briefly discuss how the testator's estate may be distributed.

- (a) Ian wrote out his will on the back page of his diary, because he did not have any other paper available. He signed it on the opposite page because he had run out of space and then asked Jim and Kelly, his next-door neighbours, to sign as witnesses. In his will, Ian left a small gift to Jim, with the rest of his estate going to Ian's son, Lawrence. Ian left nothing in his will to his daughter, Megan. Ian has since died. (6 marks)

Potential Content

Issues affecting the validity of the will:

In writing (nature of the paper)

Signature (where) – leading to potential intestacy

Witnessing

Issues affecting distribution of estate:

Witness/beneficiaries (Jim)

Family Provision (daughter Megan)

Relevant authority

Application + conclusion

[AO1:6]

- (b) Norris, who lived in a nursing home, wrote out and then signed his will leaving everything to Olive, whom he was planning to marry in a month's time. Norris asked Paul, a blind resident of the home, to sign as witness, which he did. Norris then went to Queenie's room, where Queenie and her 16-year-old granddaughter, Rachel, also signed as witnesses. Norris married Olive, as planned, a month later. Norris died shortly afterwards. Amongst his possessions were found his new will and also an old will made in favour of his first wife, whom Norris had later divorced. (6 marks)

Potential Content

Issues affecting validity:

Possible reference to age of Norris (sound mind? undue influence?) – leading to potential intestacy

Position of blind witnesses

Position of minor witnesses

Issues affecting distribution:

Will made in contemplation of marriage

Revocation of old will by new

Removal of ex-spouse as beneficiary on divorce

Relevant authority

Application + conclusion

[AO1:6]

SECTION B**3****Total for this question: 40 marks**

(a)	In the context of the legislative process, explain what is meant by the following:	
(i)	Green and White Papers;	
(ii)	First and Second Readings;	
(iii)	The Committee Stage;	
(iv)	The Royal Assent.	<i>(10 marks)</i>

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

- (i) Green Paper – government discussion document, invites comment/criticism
White Paper – statement of firm government intent, basis for draft Bill
- (ii) First Reading – Formal stage, MPs get a copy to read, no debate or division
Second Reading – Debate on broad provisions of Bill, Division follows
- (iii) Committee Stage – detailed discussion of Bill, amendments, types of Committee
- (iv) Royal Assent – Formal stage, Bill signed by/on behalf of Queen, Bill becomes an Act.

*Notional division of marks 3:3:3:3 (check Band at end)***[AO1:8, AO2:2]**

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

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. **[AO1:3, AO2:1]**

(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; (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

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 (PACE) 1984 [AO1:4]

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

Presumption in favour of unconditional bail

Grounds/reasons for objection

Bail Conditions

Custody

Relevant authority [AO1:4]

(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

[AO1:1, AO2:1]

(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. (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

For each restriction, **1 mark** for identification, **1 mark** for brief description/development

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

[AO1:2, AO2:2]

(e)	Article 12 contains the Right to Marry. Identify three restrictions on the right to marry, recognised by English law.	(3 marks)
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Eg Under 16, already married, not male & female, prohibited degrees **1 mark each**
Shopping list rule applies **[AO1:3]**

(f)	(i) Briefly describe one of the ways in which an individual may be restricted from exercising his right of free speech under Article 10.	(2 marks)
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Eg Defamation, etc **(1 mark)**
 Any sensible development **(1 mark)**
Look for reasonably sound understanding for both marks **[AO1:1, AO2:1]**

(ii)	Briefly comment on why a judge may find it difficult to apply both Article 8 and Article 10 in an individual case.	(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 showing sound understanding	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	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 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: 40 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

[AO1:1, AO2:3]

(b)	Describe in outline the major areas of work undertaken by the County 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 on limited understanding	2 marks
Band 3	Appropriate answer based on sound understanding	3-4 marks

Potential Content

Eg Common law actions, divorce/other family actions, probate, land, bankruptcy, companies, equitable matters etc

Note - at least 2 areas for top Band, at least 3 for max

Financial limits are not required

[AO1:4]

(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:	
	(i) the Small Claims Track ;	
	(ii) the Fast Track .	(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 based on sound understanding	3-4 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 3 marks for a very good answer

[AO1:3, AO2:1]

- (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.

(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 based on sound understanding	3-4 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

[AO1:4]

- (ii) Briefly comment on the advantages of individuals using ADR.

(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 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 **three** differences between the operation of the Magistrates' Court and the Crown Court.

(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

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 2:2:2 split – check Band at end

Only one dealt with – max 3 for an excellent answer

Only two dealt with – max 5 for an excellent answer

No shopping list rule to apply

[AO1:4, 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.	(6 marks)
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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

Qualification (3 elements – 1 mark each)

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

Panel of names – random selection

Ballot

Vetting + challenging

Swearing-in

[AO1:6]

(h)	Identifying at least one advantage and one disadvantage, comment on how well either lay magistrates or jurors carry out their role within the criminal justice system.	(6 marks)
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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

Identification of advantage + disadvantage

1 mark each

Comments can include lay involvement, shared decision making, wider range of backgrounds, etc + laymen make mistakes of law, over-impressed by quality of representative, etc

*Unbalanced answer – max 4 marks**Candidate deals with both magistrates and jurors – pick best one***[AO1:1, AO2:5]**

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, necessities/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 an excellent answer

Only 2 dealt with – max 5 marks for an excellent 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)	Alan's liability and rights under the 12-month lease;	(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

Alan liable for months already occupied but can avoid liability for rest of lease

Case, eg *Valentini v Canali*

[AO1:3, AO2:1]

(ii)	Alan's liability for payment for the kitchenware items that he ordered on credit;	(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

Potential for contract for necessities or unenforceable contract

Sale of Goods Act test

Case, eg *Nash v Inman*

Application + conclusion

[AO1:4]

(iii) whether or not Alan's contract of employment with Barts would be considered valid, and whether Barts could force him to work out 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

Contract for the minor's benefit or exploitative, taken as a whole?

Case, eg De Francesco v Barnum

Application + conclusion

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

(c) With regard to the contract for the sale of the painting at Chelsea Antiques (CA), discuss the following:
(i) in relation to the law on consideration, whether CA would have been legally obliged to sell the painting for £100, 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

[AO1:2, AO2:2]*Answer based on offer/invitation to treat only – max 2 for a good answer***[AO1:2, AO2:2]**

(ii) how the law will deal with that contract now the painting 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

(d) Comment on how well the law deals with issues relating to minors' contracts. (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

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 Fred's liability for the tort of trespass with regard to the incident at the local pub. (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

Trespass to the person

Assault + definition

Case, eg R v St George

Application to Gina

Battery + definition

Case, eg Nash v Sheen

Application to Henry

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

*Max 4 if only 1 victim dealt with**Answers in a criminal context but with correctly stated law re assault/battery – max 4 at best***[AO1:5, AO2:1]**

(b) Discuss John's liability for trespass in respect of his behaviour 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 John's entry to retrieve ball

Trespass to goods/conversion

Torts (Interference with Goods) Act 1977

Case or example

Application to broken glass + possibly fence

[AO1:4, AO2:2]

(c) The local residents have been advised that the "activities" of the Elliot family may amount to a public nuisance. Discuss whether or not the residents have been well advised, based on the relevant incidents set out above. 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 music (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)	Dameer is also considering suing for nuisance. Advise him as to his prospects of success and identify any remedy that he may wish to apply for in court.	(6 marks)
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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 music

Remedies

*Public only (max 4), private only (max 5)***[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 alternative ways in which the law can deal with such problems.	(6 marks)
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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

Recognition of reasonable alternatives, eg

Police powers to abate a nuisance

Local Council/Environmental Health

Criminal prosecution for nuisance/harassment etc

Anti-Social Behaviour Orders

Conciliation

2 marks

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) (i) Discuss the potential charges that Len may be facing in respect of his ex-girlfriend, Maggie. (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

HIV (assuming Len is responsible) – probable charge GBH

Definition. Varieties under S.20 + S.18.

Application + conclusion (either way)

Authority in support (OATP Act 1861 + Dica (2003))

Bruising/split lip – probable charge under S.47 ABH (credit explained alternatives)

Possible case

Application + conclusion

Verbal aggression – assault (S.39 Criminal Justice Act 1988)

*HIV or physical injury only (max 4)***[AO1:4, AO2:2]**

(ii) Len's solicitor has suggested that Len may be able to plead the defence of consent in respect of Maggie contracting the HIV virus. Discuss whether or not the solicitor is correct in that view. (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

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]**

(b)	Discuss what charges Len may face in respect of the following:	
	(i) DS Nixon's broken wrist;	
	(ii) the injury to WPC Ogden'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]

(c)	With reference to your answers to (b) above, and taking into account the following factors:	
	(i) Len's mental state and the effect of his medication;	
	(ii) Len's drunkenness and use of illegal drugs;	
	identify which defence(s) may be appropriate and discuss the likely outcome.	(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]

(d) Name the **two** courts before which Len is likely to appear. (2 marks)

Magistrates + Crown

Shopping list rule applies

1 mark each

[AO1:2]

(e) Choose **one** of the defences you have identified above. Identifying at least **two** relevant issues, comment on how well the law deals with the issues relating to that defence.

(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

For each relevant issue identified -

1 mark

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 Paul's planned marriage to Winnie.	(5 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	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Paul'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, AO2:2]

(b)	Assuming the marriage of Sarah and Adam were to go ahead against Adam's wishes, explain what his legal rights would be.	(5 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	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Matrimonial Causes Act 1973

Marriage potentially voidable if marriage entered into without consent

Meaning of voidable

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

[AO1:4, AO2:1]

(c)	Discuss the legal implications of the following:	
	(i) Thomas's planned marriage to Bonnie;	
	(ii) Vincent's planned marriage to Cara.	(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) Thomas, 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) Vincent, 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) Ruth 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 Ruth:

(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]**

(e) Choose **two** of the legal requirements of a valid marriage. Identifying at least **one** issue on each, comment on how appropriate the law is in respect of each requirement. (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

Identification of a relevant issue, eg age (too young or old), gender (homosexual relationships) **1 mark each**

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 4 mark
Balanced argument not required **[AO1:2, 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 '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 (Higher)**

Assessment Objective	1 Max. No. Marks	2 Max. No. Marks	3 Max. No. Marks
Question 1 (a) 6 (b) 6 (c) 6	6 6 6	0 0 0	
Question 2 (a) 6 (b) 6	6 6	0 0	
Question 3 (a) 10 (b) 4 (c) 10 (d) 4 (e) 3 (f) 5 (g) 4	8 3 9 2 3 1 0	2 1 1 2 0 4 4	
Question 4 (a) 4 (b) 4 (c) 4 (d) 7 (e) 6 (f) 3 (g) 6 (h) 6	1 4 3 4 4 3 6 1	3 0 1 3 2 0 0 5	
Question 5 (a) 6 (b) 12 (c) 8 (d) 4	6 11 4 0	0 1 4 4	
Question 6 (a) 6 (b) 6 (c) 6 (d) 6 (e) 6	5 4 5 5 2	1 2 1 1 4	

Question 7			
(a) 10	8	2	
(b) 6	4	2	
(c) 6	5	1	
(d) 2	2	0	
(e) 6	2	4	
Question 8			
(a) 5	3	2	
(b) 5	4	1	
(c) 6	5	1	
(d) 8	7	1	
(e) 6	2	4	5 OVERALL
SUB-TOTAL	77	23	5