



General Certificate of Education

Law 3161

Higher Tier 3161/H

Mark Scheme

2007 examination - June series

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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
marks**

Total for this question: 18

In **each** of the following situations, identify whether it involves **civil** law, **criminal** law or **both** civil and criminal law. Identify also the **specific** area of law involved, **and** discuss the key issues which are likely to be raised in court.

- (a) Amanda had just bought and renovated a large house which was converted into student flats. Because she was running short of money during the conversion, Amanda decided to buy some second-hand gas heaters which she serviced and installed herself, despite not being qualified to do so. Unfortunately, one of the heaters malfunctioned, allowing poisonous fumes into one of the flats. One of the students, Boyd, was killed. His girlfriend, Celia, was made seriously ill and had to spend weeks in hospital. (6 marks)

Potential Content

- Recognition of both crime and tort **1 mark**
 Recognition of the crime of manslaughter and/or gbh **1 mark**
 Recognition of the tort of negligence **1 mark**
 Development of crime based on gross negligence/“so bad” test/case, and/or reckless rather than intentional gbh/S.20
 Development of negligence based on duty, breach, damage/case
 Application and conclusion(s)
Recognition of crime only – max 4 marks
Recognition of tort only – max 3 marks **[AO1:5, AO2:1]**

- (b) Dee saw an advert in her local newspaper from Enterprize Ltd (E), who were selling off a large quantity of surplus stock porcelain figures at £20 each, or three for £50. Dee knew that this was a real bargain and chose three of the figures. She then rang the telephone hotline to place her order and was told to allow 28 days for delivery. Later that day, Dee was shopping in town and saw a display cabinet in the window of Furnimart plc (F), a top-of-the-range furniture store. The cabinet was, in error, priced at £50 when it should have been £500. Dee insisted on having it for £50, but the manager refused to sell at that price. Two months later, Dee has still not received her three porcelain figures. (6 marks)

Potential Content

- Recognition of civil law only **1 mark**
 Recognition of contract law **1 mark**
 Development based on discussion of offer/invitation to treat/acceptance/potential breach of contract/remedy
 Case or example in support
 Application and conclusions
Best conclusion? – valid contract for porcelain figures, no contract for cabinet **[AO1:5, AO2:1]**

- (c) Graham is an experienced and well-respected law lecturer at Eastlands Further Education College where he teaches GCSE and A Level Law. One day, while reading *The Eastlands Times*, his local newspaper, he saw a report of a speech made by Hector, the headteacher of a local grammar school. In his speech, Hector attacked the teaching of law at A Level, saying that it was a subject which could not be taught well at that level and should only be taught “properly” at university. The newspaper article then linked Hector’s speech to the local FE college and to Graham, under the headline “Grammar School Head attacks teaching of law at Eastlands”. (6 marks)

Potential Content

Recognition of civil law only

1 mark

Recognition of the tort of defamation

1 mark

Potential for slander (speech): *was there a reference to the claimant?*

Potential for libel (newspaper article)

Proof of defamation

Possible defences

Application and conclusions

[AO1:5, AO2:1]

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) Ike wrote his will on the back page of his stamp album because he did not have any other paper to write on. He signed it on the opposite page because he had run out of space and then asked Jon and Kelly, his nephew and niece, to sign as witnesses. In his will, Ike left his stamp album to Jon, his wedding ring to his ex-wife, Naomi, with the rest of his estate going to his daughter, Leah. Ike left nothing in his will to his son, Mal, who left home 15 years ago and who had not been in touch with his father for the last 10 years. Ike has since died. (6 marks)

Potential Content**Matters affecting validity**

What the will was written on

Position of testator's signature

Apparently two valid witnesses, both present at the same time

Possible reference to authority

Matters affecting distribution

Jon both witness and beneficiary. Bequest lost.

Claim by Mal under 1975 Act – circumstances?

Possible claim by Naomi under the 1975 Act – insufficient provision? Remarried?

Application and conclusion(s)

[AO1:5, AO2:1]

- (b) Otto, an old man who lived alone, wrote and then signed his will leaving everything to Patsy, his home help. Otto then went next door to Rosy's house, where Rosy and her 15-year-old step-daughter, Sandra, and her 18-year-old blind daughter, Terri, also signed as witnesses. Otto died shortly afterwards. Amongst his possessions were found his new will and also an old will made in favour of his first wife, Ulrica, whom Otto had since divorced. (6 marks)

Potential Content**Matters affecting validity**

In writing/signed

Position of blind witness

Position of minor witness

Possible reference to sound mind

Possible reference to undue influence

Possible reference to authority

Matters affecting distribution

Proof as to which will is the most recent? Date? Circumstances? Witnesses?

If Otto not of sound mind or was being influenced = potential intestacy

Position of ex-wife under 1975 Act – remarried?

Application and conclusion(s)

[AO1:5, AO2:1]

SECTION B

3

Total for this question: 40 marks

(a) Explain, in outline, what is meant by the following:

- common law actions
- probate
- family-based cases.

(5 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 marks

Potential Content

- (i) An action in contract or tort
- (ii) Connection to wills (succession). Proving the will/authorising the executor to act.
- (iii) Examples to include eg divorce, maintenance, orders under the Children Act etc

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

[AO1:4, AO2:1]

(b) (i) Name the Act of Parliament which created the three-track procedure for civil actions. <div style="text-align: right;"><i>(1 mark)</i></div>
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Civil Procedure Act 1997 (*date not necessary*)

1 mark
[AO1:1, AO2:0]

(ii) Describe the key features of the Fast Track procedure.

(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

Case heard in local County Court
 Claims between £5000 and £15 000
 Max 6 months from issue of Claim Form
 Trial within one day
 Costs must be reasonable
 Case Management by judge

[AO1:4, AO2:0]

	(iii) Briefly comment on the advantages of this procedure.	(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

Effective guarantee that the case will be heard reasonably quickly
 Costs controlled by the judge
 Local hearing – convenient to the parties
 Significant improvement on civil procedure pre 1999

[AO1:0, AO2:3]

	(c) Not including training, outline two of the traditional differences between solicitors and barristers.	(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

Identification of two relevant differences + some sensible development eg areas of work, organisation of profession, responsibility to client, contractual position etc
Note – only one dealt with: max 3 marks for a good answer

[AO1:3, AO2:1]

	(d) Describe the ‘specialist training’ which must be undertaken by a would-be	
	(i) solicitor;	
	(ii) barrister.	(6 marks)

(i) and (ii)

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) Solicitor – law degree, LPC, 2 year training contract, professional skills course, enrolment
- (ii) Barrister – law degree, join an Inn, residential training (dining), BVC, 1 year pupillage, called to the Bar

Note – only one dealt with: max Band 2

[AO1:6, AO2:0]

(e)	With reference to the legal professions, explain what is meant by QC , and how such an appointment is made.	(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

Translation of QC = Queen's Counsel = senior advocate (generally a barrister)

Appointment process by independent panel/post can now be revoked **[AO1:3, AO2:0]**

(f)	Discuss whether the public would be better served by a single (fused) legal profession or by a divided profession, as it is now.	(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

Arguments for fusion, eg cost, easier communication, more specialists available 'in-house', etc

Arguments against fusion, eg loss of national specialist advocates, loss of second opinion, etc

Discussion based on above (*credit other points*), + a *reasoned conclusion*

Unbalanced argument – max 3 marks

[AO1:0, AO2:4]

(g)	With respect to the provision of legal advice, explain what is meant by the following:	
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(i)	Legal Help;	
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(ii)	Citizens Advice Bureau (CAB).	
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(5 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 marks

Potential Content

(i) Legal Help – official government-funded legal advice scheme, solicitor or other contracted body, means test, excluded areas

(ii) CAB – local authority + government funding, free advice, volunteer service (some 'professional' help available), tends to specialise in social welfare issues

Note – only one dealt with: max 3 marks for a good answer

[AO1:5, AO2:0]

(h) Outline how a client may qualify for Legal Representation in a civil case. (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

Government funded assistance with a court case

Means test/disposable income + capital/contributions

Funding Code criteria

Excluded areas

[AO1: 3, AO2:0]

(i) Briefly explain what is meant by a 'conditional fee arrangement'. (2 marks)

Recognition of no-win, no-fee arrangement **1 mark**

Any sensible development showing reasonably sound understanding, eg what exactly is covered in terms of costs, the insurance position, solicitors uplift etc

1 mark

[AO1:2, AO2:0]

4

Total for this question: 40 marks

(a) There are two different types of magistrate who sit in the Magistrates' Court. These are lay magistrates and District Judges (Magistrates' Court).

Explain the major 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

Legally qualified/not, full-time/part-time, paid/unpaid, sit alone/sit in threes

Note – at least 2 differences for top Band, at least 3 for max **[AO1:2, AO2:2]**

(b) As indicated in the first extract, a Magistrates' Clerk is present in court to act as Legal Adviser to the magistrates. Briefly describe **one** other role carried out by a Magistrates' Clerk. (2 marks)

Recognition of eg training role, court administrator/paperwork etc	1 mark
Any sensible development showing reasonably sound understanding	1 mark

[AO1:2, AO2:0]

(c) As indicated in the extract, magistrates hear a range of different cases in court.

(i) Explain the **procedural** difference between cases of 'minor theft' and those of the large majority of 'motoring offences'. (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

"Motoring offences" - summary only/triable only by magistrates/max sentence

"Minor theft" - triable either way/Magistrates or Crown

Note – other differences (not necessarily strictly procedural) eg representation/sentencing – Max Band 2 **[AO1:3, AO2:0]**

(ii) Briefly explain the type of work involved in cases concerning the following:

- 'families and children'
- 'young people'.

(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

"Families and children" – work of the Family Proceedings Court/elected + trained panel

Examples of work, eg judicial separation, maintenance, adoption, etc

"Young people" – work of the Youth Court/elected + trained panel

Age limits/other features of the Youth Court, eg press limitations **[AO1:4, AO2:0]**

(d) Explain how magistrates decide on an appropriate 'sentence' following a plea or verdict of guilty. (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

Factors to consider, eg age of defendant, plea, antecedents, aggravating + mitigating factors, etc

Range of sentences available – custodial, community, fines, discharge

Relevant statutory provisions/Magistrates' Association guidelines [AO1:4, AO2:0]

(e) Briefly comment on the advantages of using lay magistrates. (3 marks)

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

Potential Content

Recognition of and comment on appropriate advantages

Eg cheap, local involvement, common sense perspective, shared decision making, etc

Note - at least 2 advantages discussed for top Band [AO1:0, AO2:3]

(f) (i) State the **three** basic qualifications for jury service. (3 marks)

18 -70 (18+), electoral register, (5 year) residence qualification
 Note – shopping list rule applies **1 mark each**
[AO1:3 AO2:0]

(ii) Name **three** groups of people who may be **disqualified** from jury service. (3 marks)

Those sentenced 5+ years imprisonment, imprisonment/community sentence last 10 years, (previous convictions), anyone on bail, mentally ill, those connected to case, unable to try the case fairly

Note – shopping list rule applies **1 mark each**
[AO1:3, AO2:0]

(iii) Briefly describe how a jury is selected in court. (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

Jury ballot, challenging (possible reference to vetting), swearing-in [AO1:3, AO2:0]

(g) (i) Identify **two** types of **civil** case where a jury may be required to sit. (2 marks)

Eg defamation, false imprisonment, malicious prosecution
Note – shopping list rule applies

1 mark each
[AO1:2, AO2:0]

(ii) Briefly describe **one** problem of using juries in civil cases. (2 marks)

Recognition of relevant problem, eg juries awarding damages
 Any sensible development showing reasonably sound understanding, eg case

1 mark
1 mark
[AO1:2, AO2:0]

(h) Outline what is meant by a **majority verdict** in court and when such a verdict would be allowed. (3 marks)

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 not all the jurors agree on a unanimous verdict (G/NG)
 Initial requirement that verdict is unanimous
 Numbers who must agree
 Time limits
 Possible reference to Act

[AO1:3, AO2:0]

(i) Discuss any **disadvantages** of the system of trial by jury. (4 marks)

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

Eg juries make mistakes, individual bias, individual incompetence etc
Note – at least 2 points discussed for top Band, at least 3 for max

[AO1:0, AO2:4]

SECTION C

5

Total for this question: 30 marks

(a) Explain the legal position in respect of an agreement entered into between family members. *(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 need for an intention to create legal relations
 Presumption against a contract in family agreements
 Presumption rebuttable with clear evidence

Case/example

Note – no application required

[AO1:3, AO2:1]

(b) With reference to the engagement ring, discuss the following:

(i) taking into account Alex’s age, whether the purchase of the ring would amount to a valid contract; *(5 marks)*

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

Is the ring necessary or otherwise?

Statutory definition of necessaries

Case/example

Application + conclusion

[AO1:5, AO2:0]

(ii) whether or not Alex could legally recover the ring from Carol. *(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

Ring was given as a gift

Therefore no consideration = no contract

Engagement rings are generally considered a gift unless given under a condition as to return

Case/example

Application + conclusion

[AO1:3, AO2:0]

- (c) Discuss the legal position regarding the loans from Dougal and Financings Ltd to Alex:
- (i) whilst Alex remains a minor;
 - (ii) after Alex's eighteenth birthday. (6 marks)

(i) and (ii)		
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) Loans of money to minors are considered unenforceable against the minor
 Minors Contracts Act 1987
 Case/example
 Application + conclusion

(ii) Contract remains unenforceable unless Alex ratifies the contract
 Minors Contracts Act 1987
 Possible case/example
 Application + conclusion

Note – in either (i) or (ii) credit reference to undue influence/unconscionable bargain re Dougal
Note – only one aspect dealt with: max Band 2 **[AO1:5, AO2:1]**

- (d) With reference to the car bought by Alex from Elton, discuss the following:
- (i) Alex's contractual rights, taking into account the fact that the engine seized only two weeks after the car was bought;
 - (ii) how the legal position might have been different if Alex had bought the same car from a car dealer. (6 marks)

(i) and (ii)		
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) Potential breach of contract depending on what was said at time of sale by Elton. Otherwise caveat emptor.

Sale of Goods Act will only apply if there is a breach of S.13
 Potential remedy
 Authority
 Application + conclusion

(ii) Sale of Goods Act S.14
 Satisfactory quality/fitness for purpose
 Possible case/example
 Application + conclusion

Note – only one aspect dealt with: max Band 2 **[AO1:3, AO2: 3]**

(e) If Alex were to pursue a case in respect of the car, it would almost certainly be heard through the Small Claims Track.

Identifying **at least one** advantage and **at least one** disadvantage, comment on how well the Small Claims Track meets the needs of the general public. (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

Identification of a relevant advantage, eg quick, cheap, convenient, local, DIY etc **1 mark**

Identification of a relevant disadvantage, eg limited appeals, no Legal Representation **1 mark**

Discussion based on the above

Note – unbalanced answer: max Band 2

[AO1:2, AO2:4]

6

Total for this question: 30 marks

- (a) Consider the various forms of **trespass** that may have been committed as a result of the following:
- (i) the illegal hare-coursing on Gerwyn's farm;
 - (ii) the fly-tipping on Gerwyn's farm;
 - (iii) the threats made by Huw to Gerwyn. *(8 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	6-8 marks

Potential Content

(i) Trespass to land based upon unlawful entry/remaining on land

Case/example

Application + conclusion

(ii) Trespass to land based upon placing objects on land

Case/example

Application/conclusion

(iii) Trespass to the person based upon assault (definition)

Case/example

Application + conclusion

Note – only one aspect: max 4 for an excellent answer

Only two aspects: max 6 for good answers

Notional 3:3:3 split may help – check Band at end

[AO1:6, AO2:2]

- (b) Ivor is also considering suing Gerwyn in tort. Consider his chances of success, taking into account any defence(s) which Gerwyn may be able to plead. *(8 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	6-8 marks

Potential Content

Recognition of trespass to the person based upon battery (definition)

Case/example

Application/conclusion

Alternative action based on the tort of negligence

Duty, breach and damage

Case/example

Application/conclusion

Note – candidates may deal with either or both of the above and receive full credit

Possible defences – inevitable accident and/or self-defence/defence of property

Case(s)/example(s)

Application/conclusion

Note – candidates may deal with either or both defences and receive full credit

No defence raised – max 6 marks

Answer based on defence (s)only – max 3 marks

[AO1:6, AO2:2]

- (c) Consider which form(s) of trespass may have been committed by Gerwyn with respect to the following:
- (i) Gerwyn's forcing Jenkin to drive him to the farmhouse and locking Jenkin in the outhouse;
- (ii) Gerwyn's taking and hiding the Range Rover. (8 marks)

(i) and (ii)

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) Recognition of trespass to the person in the forms of assault, battery and false imprisonment
 Definitions
 Case/example
 Application + conclusion

(ii) Recognition of unlawful interference with goods based on trespass to goods/conversion
 Torts (Interference with Goods) Act 1977
 Definitions
 Case/example
 Application/conclusion

Note – only one aspect dealt with: max Band 2

[AO1:6, AO2:2]

- (d) (i) Identify any **two** remedies which may be appropriate in a trespass case. (2 marks)

Any two from damages, injunction, ejection, specific delivery
Note – shopping list rule applies

1 mark each
[AO1:2, AO2:0]

- (ii) Discuss the effectiveness of the remedies available in a trespass case. (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 that damages may compensate for loss, but can be slow and expensive
 Recognition that an injunction will prevent future trespasses but will not compensate for past + equally slow and expensive
 Recognition that ejection may provide an instant solution, but can be dangerous
 Possible recognition that no remedy is perfect, combination may come closest
Credit any other reasonably sensible points

At least two remedies discussed for top Band

[AO1:1, AO2:3]

7

Total for this question: 30 marks

- (a) Ignoring any potential defence(s), discuss Ken's criminal liability as a result of the following:
- (i) the threats made towards Ogden;
 - (ii) the injury suffered by Rashid;
 - (iii) the injury suffered by Sally. (8 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	6-8 marks

Potential Content

(i) Recognition of common assault based on the crime of assault
S.39 Criminal Justice Act 1988

Definition
Case/example
Application/conclusion

(ii) Recognition of gbh (definition). Recognition of abh (basic only).

Mens rea issue S.18 or S.20
Authority – Act/case/example
Application/conclusion

(iii) Recognition of abh (alternative gbh) (definition(s))

Mens rea
Authority – Act/case/example
Application/conclusion

Note – only one aspect dealt with: max 4 marks for an excellent answer. Only two aspects dealt with: max 6 marks for two good answers **[AO1:6, AO2:2]**

- (b) Identify and discuss any relevant defence(s) that Ken may be able to plead with respect to the above incidents. (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

Re Ogden – no apparent defence
Re Rashid – intoxication/basic + specific = possible defence to S.18 charge. Possible plea of self-defence if Rashid hit Ken first

Re Sally – intoxication (as above) = no defence to a charge under S.47/S.20

Case(s)/example(s)
Application/conclusion

Note – intoxication only can achieve max if well discussed/applied
No application to 'incidents': max 3 marks **[AO1:3, AO2:1]**

(c) Consider Les's criminal liability for offences under the Theft Act 1968 with respect to the packet of crisps. (5 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 marks

Potential Content

Recognition of the crime of theft (definition)

S.1 Theft Act 1968/possible case or example

Application/conclusion

Recognition of the crime of burglary (definition)

S.9 Theft Act 1968/possible case or example

Application/conclusion

Only theft dealt with: max 4 marks

Only burglary (via theft) dealt with: max 5 marks for a good answer

AO1:4, AO2:1]

(d) Consider Mike's criminal liability for the incident with Penny at the cash machine. (5 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 marks

Potential Content

Recognition of theft (definition)/Authority/Application + conclusion

Recognition of robbery (definition)/Authority/Application + conclusion

Recognition of wounding (definition) Authority/Application + conclusion

Note – theft only - max Band 1; robbery only – max Band 2; wounding only – max Band 1

[AO1:3, AO2:2]

(e) Identify the **two** courts before which the four friends are likely to appear, before decisions can be reached in their cases. (2 marks)

Magistrates Court + Crown Court

Note – shopping list rule applies

1 mark each
[AO1:2, AO2:0]

(f) If convicted, all four could be facing lengthy sentences. Identify and discuss the various aggravating factors in the incidents described above. (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 showing sound understanding	5-6 marks

Potential Content

Potential aggravating factors, eg group action, unprovoked, violence with associated offences, use of weapons, use of phone camera (happy slapping), serious injury, possible racial attack.

Identification only: max 3 marks

Discussion based on any of the issues, eg should this factor aggravate? How much should it affect sentence?

Note – credit any other sensible points raised in the context of sentencing/public disorder/lager

louts, etc **[AO1:3, AO2:3]**

8

Total for this question: 30 marks

(a) Identify and briefly discuss the legal issue(s) relating to the intended marriage of Una and Vikram. (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

Marriage Act 1949 as amended

Requirement of 7-day residence before a notice can be issued + 15 days after notice before ceremony

Do Una and Vikram know each other? – possible ‘marriage of convenience’? **[AO1:4, AO2:0]**

(b) Explain to Trudy the legal requirements relating to age and marriage, and the potential consequences for Warren and Yvette if these requirements are not met. (5 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 marks

Potential Content

Recognition that marriage under 16 would be void

Recognition that 16/17-year-olds require parent/court permission

Recognition that marriage valid despite lack of permission, possible prosecution for fraud

Matrimonial Causes Act 1973 **[AO1:4, AO2:1]**

(c) Describe the relevant law on marriage, relating to witnesses, permitted times and legal venues, that you will need to explain to Zoe when you return her call. (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

Witnesses – must be two competent witnesses

Permitted times – normally 8am to 6pm, unless a special licence exists

Venues – Church or other recognised religious building, Register Office, other approved premises

Authority, eg Marriage Acts 1949 + 1994

Note – only one aspect: max 3 marks for an excellent answer

Only two aspects: max 5 marks for two good answers

[AO1:5, AO2:1]

- (d) In relation to the law on divorce, explain to Trudy the legal meaning of the following terms which she has read in her leaflet:
- (i) 'irretrievable breakdown', and how it can be proved;
 - (ii) *decree nisi* and *decree absolute*;
 - (iii) 'maintenance';
 - (iv) 'mediation'.
- (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

(i) Marriage cannot be saved/proved by one of the 'five facts'
Matrimonial Causes Act 1973

(ii) Stages in the divorce process/translations of the two terms
Significance re status of marriage/6-week rule + purpose

(iii) Payment between (ex)-spouses on the break-up of a marriage
Factors which the court will consider
Matrimonial and Family Proceedings Act 1984

(iv) 'Counselling' process related to divorce
Role of Relate/purpose if the marriage cannot be saved
Family Law Act 1996

Note – a notional 3:3:3:3 split may help – check Band at end

[AO1:6, AO2:4]

- (e) Choose **one** of the following legal requirements of a marriage:

- minimum age
- permitted times
- permitted venues
- one man and one woman.

Identify and comment upon the relevant law in relation to the requirement you have chosen.

(5 marks)

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

Identification of relevant legal issues

max 2 marks

Commentary based on the above, showing critical understanding of the current law and possible suggestions for reform.

Eg "At the moment, permitted times of marriage are 8 am to 6 pm, unless special arrangements are put in place. This may have been appropriate in times when the lack of lighting was an issue, but not today. I would suggest either the rules are scrapped or the hours significantly increased to accommodate modern lifestyles. This would improve the law because ..."

[AO1:1, 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	5 5 5	1 1 1	
Question 2 a)6 b)6	5 5	1 1	
Question 3 a)5 b)8 c)4 d)6 e)3 f)4 g)5 h)3 i)2	4 5 3 6 3 0 5 3 2	1 3 1 0 0 4 0 0 0	
Question 4 a)4 b)2 c)7 d)4 e)3 f)9 g)4 h)3 i)4	2 2 7 4 0 9 4 3 0	2 0 0 0 3 0 0 0 4	
Question 5 a)4 b)8 c)6 d)6 e)6	3 8 5 3 2	1 0 1 3 4	
Question 6 a)8 b)8 c)8 d)6	6 6 6 3	2 2 2 3	

Question 7			
a)8	6	2	
b)4	3	1	
c)5	4	1	
d)5	3	2	
e)2	2	0	
f)6	3	3	
Question 8			
a)4	4	0	
b)5	4	1	
c)6	5	1	
d)10	6	4	
e)5	1	4	5 OVERALL
SUB-TOTAL	76	24	5