



# **General Certificate of Secondary Education**

## **Law 3161**

**3161/F      Foundation Tier**

## **Mark Scheme**

*2008 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.

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**Foundation Tier (3161/F)**

Suggested answers are neither prescriptive nor exhaustive.

Within Question 1 there are three 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 three parts of Question 1 are to be marked according to the following banded marking scheme.

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

**SECTION A**

**1**

**Total for this question: 12 marks**

In **each** of the following situations, explain whether the situation involves the **tort of trespass only**, a **crime only**, or both a **tort and a crime**, and explain **why**.

(a) Andrew broke into Brenda's house in the middle of the night and started searching for something to steal. He opened various cupboards and drawers, looking for cash or small valuable items such as jewellery. He then left, taking with him £500 which he had found. (4 marks)

**Potential Content**

Both tort and crime **1 mark**  
 The tort of trespass to land  
 The tort of trespass to goods + conversion  
 The crime of S.9(1)(a) burglary  
 The crime of S.9(1)(b) burglary  
 For all the above – Application + conclusion  
 Authority in support  
*Answers based on tort or crime only – max 3 marks* **[AO1:3, AO2:1]**

(b) Christine, a frail and elderly widow, started receiving phone calls from David. In these calls, he made various threats. He said that he was going to kill her dog and also that he was going to break into her house and attack her. Christine became very frightened for her own safety, and eventually had to be taken into hospital with a nervous breakdown. (4 marks)

**Potential Content**

Both tort and crime **1 mark**  
 The tort of trespass to the person based on an assault  
 The crime of common assault based on an assault  
 The crime of assault occasioning actual bodily harm  
 The crime of gbh (which version?)  
 For all the above – Application + conclusion  
 Authority in support  
*Crime only – max 3*  
*Tort only – max 2* **[AO1:3, AO2:1]**  
*Credit the crime of harassment*

(c) Ellie is a member of a gang which hangs around the town centre and generally causes trouble. On one occasion, Ellie faced up to Fiona and grabbed her handbag. There was a struggle, during which Fiona was knocked to the ground, before Ellie ran off with Fiona's bag. (4 marks)

**Potential Content**

Both tort and crime **1 mark**  
 The tort of conversion  
 The tort of trespass to the person based on a battery  
 The crime of theft  
 The crime of robbery  
 The crime of common assault/abh  
 For all the above – Application and conclusion  
 Authority in support  
*Crime only – max 3. Theft only – max 2*  
*Tort only – max 2* **[AO1:3, AO2:1]**

2

**Total for this question: 8 marks**

In **each** of the following situations, state whether the marriage would be **valid**, **void** or **voidable**, briefly giving a **reason** for your answer.

- (a) Grant and Heather went through a ceremony of marriage in June 2008. Grant was recently divorced from Iris, having received his *decree nisi* of divorce in April 2008.

(2 marks)

**Potential Content**

Recognition of significance of *decree nisi* only

1 mark

Recognition of requirement for *decree absolute* + conclusion (either valid or void, depending on whether or not *decree absolute* has been granted)

1 mark  
[AO1:2]

- (b) When John and Katrina recently got married, Katrina was four months pregnant. At the time of the wedding, John believed that the baby was his, though he was mistaken.

(2 marks)

**Potential Content**

Marriage voidable

1 mark

Reason based on wife pregnant by another man, not known by husband

1 mark  
[AO1:2]

- (c) Laksha, aged 18, and Madhur, his cousin, aged 17, went through a ceremony of marriage. Madhur had not told her family about the wedding because she knew that her family did not approve.

(2 marks)

**Potential Content**

Marriage valid

1 mark

Reason based **either** on legality of marrying cousin **or** on irrelevance of consent on the validity of a marriage for a 17-year-old

1 mark  
[AO1:2]

- (d) Nicola and Owen got married one evening at the local private golf club where Nicola is a member.

(2 marks)

**Potential Content**

Recognition of significance of **either** venue (registered?) **or** time (before 6 pm?)

1 mark

Appropriate conclusion based on above (either valid or void)

1 mark  
[AO1:2]

**SECTION B**

**3**

**Total for this question: 30 marks**

(a)	In relation to the process of passing an Act of Parliament, describe the role undertaken by the following:	
	(i) the House of Commons;	
	(ii) the House of Lords;	
	(iii) the Queen.	<i>(6 marks)</i>

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

**Potential Content**

- (i) House of Commons – introduction of the Bill, Readings, Committee, final say
- (ii) House of Lords – revising role, amendments and delays, changes to constitution
- (iii) Royal Assent – formal stage, Bill signed by/on behalf of Queen, Bill becomes an Act.

*Notional division of marks 3:3:2 (check Band at end)*

**[AO1:6]**

(b)	The cases set out in the article above are both examples of what is known as a precedent. In the context of the doctrine of judicial precedent, explain and illustrate the importance of the following:	
	(i) the hierarchy of the courts;	
	(ii) binding and persuasive precedents.	<i>(6 marks)</i>

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

**Potential Content**

- (i) Hierarchy – higher binds lower, implications for courts/judges of the same standing, examples of the hierarchy, *ratio decidendi*
- (ii) Binding and persuasive – significance in terms of what must or may be followed. *Ratio decidendi*  
Examples of persuasive precedents eg JCPC, dissenting judgements, *obiter dicta* etc

*Notional division of marks 4:4 (check Band at end)*

**[AO1:6]**

(c) Discuss, in outline, the **advantages** of the doctrine of precedent. (3 marks)

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

**Potential Content**

Advantages eg certainty, real life situations, continuous growth, flexible enough to allow for development etc

Conclusion

*Credit other valid points*

**[AO2:3]**

(d) Article 5 of the 1998 Act sets out the **Right to Personal Freedom**. Briefly describe **two** different ways in which this right can **lawfully** be restricted (3 marks)

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

**Potential Content**

Eg arrest, remand, sentencing, tort of trespass etc

*Only one restriction dealt with – max 2 marks*

*Only one restriction needs to be developed for max marks*

**[AO1:3]**

(e) Article 6 sets out the **Right to a Fair Trial**. Briefly describe **two** different ways in which this right is supported by English law. (3 marks)

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

**Potential Content**

Eg rules of natural justice – *nemo iudex in causa sua*  
– *audi alteram partem*

Lay involvement in the (criminal) trial process

Youth Court rules to protect young offenders

Government funded Legal Help & Representation etc

*Only one aspect dealt with – max 2 marks*

**[AO1:3]**

(f) Article 12 contains the **Right to Marry**. Identify **two** restrictions on the right to marry, recognised by English law. (2 marks)

**Potential Content**

Eg restrictions related to age, gender, marital status, prohibited degrees, failure to meet the statutory requirements

**1 mark each (max 2 marks)**

*Shopping List rule applies*

**[AO1:2]**

- (g) (i) Article 10 supports **Freedom of Expression** (speech). Identify **one** way in which this freedom can **lawfully** be restricted. (1 mark)
- (ii) Briefly explain why a judge may find it difficult to apply both Article 8 and Article 10 in an individual case. (2 marks)

**Potential Content**

- (i) Eg defamation **1 mark**  
*Shopping List rule applies* **[AO1:1]**

- (ii) Recognition that privacy and freedom of speech may be mutually exclusive in some situations **1 mark**

Example – press ‘hounding’ of the rich and famous

Possible case eg Douglas v Hello! Magazine or making use of the Naomi Campbell case from the extract

*Look for reasonably sound understanding for the second mark* **[AO1:1, AO2:1]**

- (h) Comment on whether or not you think the ‘right’ decision was reached in the case involving **either** Naomi Campbell **or** Diane Pretty. (4 marks)

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

**Potential Content**

Recognition of the legal issues involved in the case

Human Rights issues can be raised in any case in a UK court where relevant and/or resolved by the ECHR

Understanding of the outcome in the individual case + the implications of the judgement

Possible reference to wider implications eg euthanasia/privacy laws by the ‘back door’

An assessment of ‘fairness’ in terms of the outcome (either way)

*Credit any reasonably sensible responses*

*Unbalanced answer – can still achieve full marks* **[AO2:4]**



4

Total for this question: 30 marks

(a) Criminal offences can be **summary only, triable either way or triable only on indictment**.

Briefly explain what is meant by each of these **three** terms (3 marks)

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

**Potential Content**

Summary only – triable only by Magistrates, max sentence, possible example

Triable either way – triable by Magistrates/Crown, possible example

Triable only on indictment – triable by Crown only, possible example

*Accurate examples only – limited rather than sound* **[AO1:3]**

(b) (i) Name an arrestable offence. (1 mark)

(ii) Describe a situation where **only a police officer** would have a power of arrest. (2 marks)

(iii) Identify **two** rules which a private citizen would have to follow either **during** or **following** a citizen’s arrest. (2 marks)

**Potential Content**

(i) Any relevant example eg theft, abh etc (correct for citizen’s arrest), or any crime where arrest is seen being necessary (correct for police). **1 mark**  
**[AO1:1]**

(ii) Eg where D is suspected of having committed what is suspected to be an arrestable offence  
where D is suspected of being about to commit an arrestable offence  
where the arrest is ‘necessary’ eg for identification purposes etc. Arrest under a warrant. **2 marks**  
*Look for reasonably sound understanding for second mark* **[AO1:2]**

(iii) Eg use of reasonable force only, suspect must be told why he is being arrested, police must be contacted within a reasonable time etc. Grounds for arrest must be met. **1 mark each**  
**[AO1:2]**

(c) (i) State **two** reasons why an accused person may be refused bail. (2 marks)

(ii) Identify **two** conditions which can be imposed on bail. (2 marks)

**Potential Content**

(i) Eg that the accused may commit further offences, fail to surrender, interfere with witnesses, accused’s or public’s protection etc. **1 mark each (max 2 marks)**  
*Shopping List rule applies* **[AO1:2]**

(ii) Eg residence, restraining order, curfew, reporting to a police station, removal of passport etc **1 mark each (max 2 marks)**  
*Shopping List rule applies* **[AO1:2]**

(d)	Briefly explain why the Crown Prosecution Service needs to “review” the police file before the case is dealt with in court.	(2 marks)
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**Potential Content**

Pre-trial decision on whether there is enough evidence/public interest to prosecute  
 Review of the charge laid by the police  
 Preparation of case for hearing/preparation of brief for Crown Court **[AO1:1, AO2:1]**  
*Look for reasonably sound understanding for 2 marks*

(e) (i)	Briefly explain the tests which are applied in order for an accused person to qualify for Criminal Legal Representation.	(3 marks)
(ii)	Comment on how well Criminal Legal Representation meets the needs of an accused person.	(3 marks)

(i)

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

**Potential Content**

Interests of justice test eg risk of losing liberty, reputation, job etc  
 Means test **[AO1:3]**

(ii)

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

**Potential Content**

Criminal Legal Representation ensures representation for those of limited means  
 Interests of justice test may be applied inconsistently between different courts  
 Means test takes into account family, not just accused’s income  
 Means test may exclude those with real need for representation etc  
*Credit any other reasonably sensible points* **[AO2:3]**  
*Answers based on the Duty Solicitor Scheme – max 2 in (e)(i), max 3 in (e)(ii)*

(f)	Outline <b>two</b> differences between trial in the Magistrates’ Court and trial in the Crown Court.	(3 marks)
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Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1 mark</b>
Band 2	Answer based upon limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3 marks</b>

**Potential Content**

Differences relating to types of offences on trial, trial by magistrates/judge and jury, sentencing powers, representation etc  
*Only one difference dealt with – max 2 marks* **[AO1:3]**

(g) In relation to sentencing, explain the significance of the following:

(i) the accused's **age**;

(ii) the accused deciding to plead **guilty**. *(3 marks)*

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

**Potential Content**

- (i) Primary aim to rehabilitate young offenders “just deserts” + welfare  
 Adults sentenced on the basis of “just deserts” only  
 Criminal Justice Act 1991  
 Different sentences  
 Parental responsibility
- (ii) Evidence of remorse, saves costs and trauma of a trial  
 Discount for guilty plea, especially for early plea **[AO1:3]**  
*Max 2 marks on any one aspect*

(h) Comment on whether or not you think the two factors in 4(g) above should be taken into account before sentence is passed. *(4 marks)*

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

**Potential Content**

- Eg should rehabilitation be the primary objective, do young offenders ‘get away with it’?  
 Do adult offenders deserve the same consideration?  
 Is a guilty plea evidence of remorse or evidence of having been caught?  
 Should discounts be so large - up to one-third?  
*Unbalanced answer – max 3 marks*  
*Only one aspect dealt with – max 3 marks* **[AO2:4]**

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

(a) Outline what is meant, in contract law, by the following:

(i) an invitation to treat;

(ii) the communication of an offer.

*(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**

(i) Recognition of the difference between an offer and an invitation to treat

Definitions + authority in support

Implications re adverts/price tickets etc

(ii) Recognition of the requirement that an offer must be communicated before acceptance

Authority/example

Implications re eg reward cases

*Only one aspect dealt with – max 3 marks for a good answer***[AO1:3, AO2:1]**

(b) Taking into account your answers to 5(a) above,

(i) explain whether Ann was bound to sell the Indian meal to Clive for £2.99;

*(3 marks)*

(ii) discuss whether Ann is obliged to let Dotty use her £5-off voucher for the supermarket shopping she did earlier.

*(3 marks)*

(i)

Band 0 Inappropriate answer showing no understanding

**0 marks**

Band 1 Basic awareness

**1 mark**

Band 2 Answer based upon limited understanding

**2 marks**

Band 3 Appropriate answer showing sound understanding

**3 marks****Potential Content**

Understanding + application of the difference between an offer and an invitation to treat

Authority in support

Conclusion – no liability to sell at the lower price

**[AO1:3]**

(ii)

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

**Potential Content**

Understanding + application of the requirement that an offer must be communicated before acceptance

Alternative explanation based on past consideration equally creditworthy

Authority in support

Conclusion – no obligation to let Doty use her voucher now **[AO1:3]**

(c)	Explain to Ann the <b>statutory</b> liability of Buyright plc to Eddy in respect of the following:	
	(i) the crushed tomatoes;	
	(ii) the crate of wine.	<i>(7 marks)</i>

Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1-2 marks</b>
Band 2	Answer based upon limited understanding	<b>3-4 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>5-7 marks</b>

**Potential Content**

(i) Recognition of either a breach of S.14 SofGAct 1979 ie that the tomatoes are no longer of satisfactory quality or fit for their intended purpose, or that the supermarket is in breach of the SofGandS Act 1982 because the delivery service was not carried out with reasonable care and skill

Either way, authority in support

Application

Conclusion – clear liability to refund Eddy’s money or replace the tomatoes

(ii) Recognition of S.13 SofGAct 1979, sale by description

Possible breach of S.14 SofGAct 1979

Authority in support

Application

Conclusion – clear liability to refund Eddy’s money or replace the wine

*Only one aspect dealt with – max 4 marks* **[AO1:5, AO2:2]**

(d)	Explain to Ann the relevant law involved in the letter from the Health and Safety Executive.	<i>(3 marks)</i>
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Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1 mark</b>
Band 2	Answer based upon limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3 marks</b>

**Potential Content**

Recognition of the implications of the store/staff being prosecuted

Health & Safety at Work Act 1974/possible case

Implications in terms of trial + punishment **[AO1:2, AO2:1]**

(e)	Explain to Ann the relevant law in the letter from Grace.	<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**

Recognition of the potential discrimination case  
 Relevant authority in support  
 Application  
 Implications in terms of a tribunal hearing  
 Conclusion – sacked for incompetence?

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

<p>(f) If each of the complaints of Eddy, Faith and Grace were to end up with a hearing, they would be dealt with differently.</p>
------------------------------------------------------------------------------------------------------------------------------------

- Eddy’s complaint would be dealt with via the **small claims track**
- Faith’s would probably be heard in the **County Court** via the **fast track**
- Grace’s would be heard by a **tribunal**.

Identifying **one advantage** and **one disadvantage** of any **two** of these processes, briefly discuss how well the law deals with these **two** forms of dispute resolution.

*(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**

Small Claims – adv quick + cheap, informal; disadv no Legal Representation  
 Fast Track – adv controlled costs + time limits; disadv may still cost too much/take too long  
 Tribunal hearing – adv expertise of panel, less formal; disadv representation issues, bias

*Credit any other genuine points made*

*Up to 4 marks for identification of relevant advantages + disadvantages, + 2 marks for discussion*

*Unbalanced answer – max 4 marks*

**[AO1:2, AO2: 4]**

**6**

**Total for this question: 30 marks**

(a) The local residents are considering taking action for nuisance against Jones Ltd in respect of the noise and vibrations. Consider what they would need to prove and their chances of success. *(6 marks)*

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

**Potential Content**

Recognition of public nuisance

Definition

Relevant authority in support

Application

Conclusion – potential for both civil claim + criminal prosecution

**[AO1:5, AO2:1]**

*Private nuisance only – max 4 marks for a sound answer*

(b) Kerys is also planning to sue for negligence in respect of her injuries.

(i) Explain what Kerys would need to prove if she were to sue Lloyd for negligence. *(8 marks)*

(ii) Discuss whether Kerys would have a claim against Jones Ltd in these circumstances. *(3 marks)*

(iii) Explain what difference, if any, it would make if Lloyd had been in another part of town visiting his mother when he injured Kerys. *(3 marks)*

(iv) Comment on whether an employer should be held liable for the torts of an employee. *(4 marks)*

- |        |                                                |                  |
|--------|------------------------------------------------|------------------|
| (i)    |                                                |                  |
| Band 0 | Inappropriate answer showing no understanding  | <b>0 marks</b>   |
| Band 1 | Basic awareness                                | <b>1-2 marks</b> |
| Band 2 | Answer based upon limited understanding        | <b>3-5 marks</b> |
| Band 3 | Appropriate answer showing sound understanding | <b>6-8 marks</b> |

**Potential Content**

Duty of care, breach of that duty, damage arising

Definitions/explanations

Relevant authority in support

Application

Conclusion – looks like a good case if Kerys can prove what she alleges

**[AO1:5, AO2:3]**

(ii)

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

**Potential Content**

Recognition of vicarious liability  
 Employee + acting in the course of employment  
 Relevant authority in support eg *Limpus v LGO*  
 Application  
 Conclusion – looks like a good claim against employer **[AO1:3]**

(iii)

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

**Potential Content**

Recognition of vicarious liability  
 Employee but not acting in the course of employment  
 Relevant authority in support eg *Beard v LGO*  
 Application  
 Conclusion – looks like a bad claim against employer, but Lloyd is personally liable **[AO1:3]**

(iv)

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

**Potential Content**

Eg prevents employers hiring an employee to commit a tort  
 Encourages good safety practices  
 Employee may be a 'man of straw'  
 Employer must be insured etc but  
 why should an 'innocent' shareholder/employer 'carry the can'?  
*Credit any other reasonably sensible points*  
*Unbalanced answer can still get 4 marks* **[AO2:4]**



(c) Ivor was very angry when he read Margaret's letter in the local newspaper, and is planning to sue because of the damage to his reputation. Identify **who** he could take action against, and **what** he would need to prove. *(6 marks)*

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

**Potential Content**

Identification of Margaret + newspaper as potential defendants	<b>1 mark each</b>
Recognition of defamation/libel	
Proof requirements	
Authority in support	
Application	
Conclusion	<b>[AO1:5, AO2:1]</b>

7

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

- (a) (i) Identify who would have **investigated** Paul's death and who would have taken the decision **not to prosecute**. (2 marks)
- (ii) Norman and/or Olive could have been prosecuted for the death of Paul. Consider which charge could have been brought against either or both in respect of Paul's death. (4 marks)

**Potential Content**

- (i) The police 1 mark  
 The Crown Prosecution Service 1 mark  
**[AO1:2]**

- (ii)
- |        |                                                |           |
|--------|------------------------------------------------|-----------|
| 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**

- Manslaughter 1 mark  
 Recognition of gross negligence manslaughter based on an omission when under a duty to act  
 Relevant authority eg Adomako  
 Application  
 Conclusion  
*Simplistic answer based upon murder – max 2 marks. Considered answer based upon murder eg Gibbins and Proctor – max 4 marks* **[AO1:3, AO2:1]**

- (b) (i) Consider the potential charge(s) which Norman could have faced in respect of the injuries he caused. (4 marks)
- (ii) Identify and briefly discuss the defence that he might have been able to plead. (3 marks)

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

**Potential Content**

- Bruises – potential for common assault (battery)/abh  
 Cuts – potential for abh/wounding  
 Broken bones – potential for gbh/abh  
 Relevant authority  
 Application  
 Conclusion  
*Only 1 dealt with – max 2 marks for a good answer*  
*Only 2 dealt with – max 3 marks for a good answer* **[AO1:2, AO2:2]**

(ii)		
Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1 mark</b>
Band 2	Answer based upon limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3 marks</b>

**Potential Content**

Recognition of intoxication	<b>1 mark</b>
Recognition of voluntary nature – generally a poor defence	<b>1 mark</b>
An attempt at relevant authority/explanation/basic + specific intent etc + conclusion	<b>[AO1:2, AO2:1]</b>

(c)	Discuss the most likely charge which Olive will face in respect of Norman’s death, giving reasons for your answer.	<b>(3 marks)</b>
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Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1 mark</b>
Band 2	Answer based upon limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3 marks</b>

**Potential Content**

Recognition of murder	<b>1 mark</b>
Definition	
Relevant authority	
Application	
Conclusion	
	<b>[AO1:2, AO2:1]</b>

(d)	Consider the effect on the outcome of her trial on the following:	
	(i) Norman’s actions against Olive;	
	(ii) Olive’s depression.	<b>(6 marks)</b>

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

**Potential Content**

(i) Recognition of provocation	<b>1 mark</b>
Definition	
Relevant authority	
Application	
Conclusion – ‘defence’ unlikely to succeed because of ‘cooling off period’	
(ii) Recognition of diminished responsibility (possible insanity)	<b>1 mark</b>
Definition	
Relevant authority	
Application	
Conclusion – ‘defence’ based on battered wives syndrome likely to succeed = voluntary manslaughter	
<i>Only one aspect dealt with – max 4 marks</i>	<b>[AO1:6]</b>

(e) Identify the **two** courts before which Olive will appear. (2 marks)

**Potential Content**

Magistrates + Crown Court  
*Shopping List rule applies*

**1 mark each**  
**[AO1:2]**

(f) State what is meant by a **mandatory** and a **discretionary** sentence. (2 marks)

**Potential Content**

Mandatory – sentence must be imposed  
 Discretionary – sentence is up to the judge up to the maximum for the offence

**1 mark**  
**1 mark**  
**[AO1:2]**

(g) Comment on how well the law deals with issues of domestic violence. (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 recognition of problems related to the ‘cooling off period’  
 Cases such as Thornton + Aluwahlia  
 Developments in provocation such as recognition of ‘the straw that breaks the camel’s back’  
 Recognition the provocation defence is better suited to a typical male reaction  
 Recognition of better police/cps/court attitudes to domestic violence etc  
*Credit any other sensible points raised*  
*Unbalanced answer can still achieve max 4 marks*

**[AO2:4]**

**8**

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

(a) (i) Name the Act which governs the making of a valid will.	(1 mark)
(ii) Identify the <b>three</b> basic requirements of a valid will.	(3 marks)
(iii) Explain <b>how</b> and <b>why</b> those requirements may not have applied to Ron's informal will made 32 years ago when he was in the army.	(4 marks)

**Potential Content**

- (i) Wills Act 1837 or Administration of Justice Act 1982 (*date not necessary*) **1 mark**  
[AO1:1]
- (ii) In writing, signed, witnessed **1 mark each**  
*Credit also – sound mind, full age* [AO1:3]
- (iii)
- |        |                                                |                  |
|--------|------------------------------------------------|------------------|
| Band 0 | Inappropriate answer showing no understanding  | <b>0 marks</b>   |
| Band 1 | Basic awareness                                | <b>1 mark</b>    |
| Band 2 | Answer based upon limited understanding        | <b>2 marks</b>   |
| Band 3 | Appropriate answer showing sound understanding | <b>3-4 marks</b> |

**Potential Content**

- Recognition of a privileged will  
 Definition + circumstances  
 Relevant authority  
 Application to Ron + conclusion **[AO1:2, AO2:2]**

(b) (i) Explain the legal effect on Ron's army will when he made a new will two years later.	
(ii) Explain the legal effect of Ron's marriage on his new will when he married shortly afterwards.	
(iii) State whether, as result, Ron has died testate or intestate.	(6 marks)

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

**Potential Content**

- (i) Recognition that a new will revokes a previous will insofar as it is inconsistent with the old will  
 Application – new will must revoke old will as everything left to Sally
- (ii) Recognition of a will (almost certainly) made in contemplation of marriage  
 Named person + 6 month rule  
 Application
- (iii) Conclusion – that Ron has (almost certainly) died testate leaving everything to his wife  
**[AO1:4, AO2:2]**

(c)	Both Terry and Ursula have died intestate.	
	Explain how the law will deal with the distribution of their estates.	<i>(6 marks)</i>

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

**Potential Content**

Terry – Terry’s civil partner should be treated as a ‘spouse’ for the purposes of the intestacy rules

William should receive personal chattels, first £200,000 + half residue (£20,000) absolutely  
 Ron + Sally should receive the balance (£20,000)

Ursula – married with children. Husband should receive personal chattels, first £125,000 + life interest in half the residue (£35,000). Children will receive the balance equally shared on the statutory trusts

Relevant authority

*Only one deceased dealt with – max 4 marks for a complete answer*

**[AO1:6]**

(d)	Ron’s elderly mother, Yvonne, lives in a nursing home and part of the fees were paid by Ron whilst he was alive.	
	Explain whether Yvonne may be able to claim against Ron’s estate in these circumstances.	<i>(4 marks)</i>

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

**Potential Content**

Recognition of a family provision situation

Relevant authority

Application

Conclusion – that Yvonne (as a dependant) has a strong claim

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

(e)	Identifying <b>at least two</b> different advantages, comment upon the advantages of making a will as opposed to dying intestate.	<i>(6 marks)</i>
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Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1-2 marks</b>
Band 2	Answer based upon limited understanding	<b>3-4 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>5-6 marks</b>

**Potential Content**

Advantages can include: freedom of choice, provision for dependant children, creation of trusts beyond the age of 18, tax advantages, appointment of trusted executors, funeral instructions etc

*Credit any other reasonably sensible points*

**[AO1:2, AO2:4]**

*Max 3 marks for identification only*

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**MARKING CRITERIA FOR QUALITY OF WRITTEN COMMUNICATION****Standard Criteria**

<b>High Performance</b>	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.	<b>4 marks</b>
<b>Intermediate Performance</b>	Candidates spell, punctuate and use the rules of grammar with considerable accuracy; they use a good range of specialist terms with facility.	<b>2-3 marks</b>
<b>Threshold Performance</b>	Candidates spell, punctuate and use the rules of grammar with reasonable accuracy; they use a limited range of specialist terms appropriately.	<b>1 mark</b>
<b>Below Threshold Performance</b>		<b>0 marks</b>

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 Mark Form.

**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	3 3 3	1 1 1	
Question 2 a)2 b)2 c)2 d)2	2 2 2 2	0 0 0 0	
Question 3 a)6 b)6 c)3 d)3 e)3 f)2 g)3 h)4	6 6 0 3 3 2 2 0	0 0 3 0 0 0 1 4	
Question 4 a)3 b)5 c)4 d)2 e)6 f)3 g)3 h)4	3 5 4 1 3 3 3 0	0 0 0 1 3 0 0 4	
Question 5 a)4 b)6 c)7 d)3 e)4 f)6	3 6 5 2 3 2	1 0 2 1 1 4	
Question 6 a)6 b)18 c)6	5 11 5	1 7 1	



Question 7			
a)6	5	1	
b)7	4	3	
c)3	2	1	
d)6	6	0	
e)2	2	0	
f)2	2	0	
g)4	0	4	
Question 8			
a)8	6	2	
b)6	4	2	
c)6	6	0	
d)4	3	1	
e)6	2	4	4 OVERALL
SUB-TOTAL	60.0	20.0	4