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Law 41602

(Specification 4160)

Unit 2: Law in Action

Report on the Examination

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Unit 2 (41602) Law in Action

General

This was the first year that this particular version of the AQA GCSE Law Specification has been examined in full, with the first candidates certificating this summer. We are pleased to report that nearly 3000 candidates entered for 41601 with about 2300 candidates for 41602, which represents a significant increase on previous years. We hope that this is as a result of the reduction in specification content (a direct response to what teachers were telling AQA) and a more candidate-friendly examination format.

Below are a few general issues, many of which have been raised before, but still remain important for teachers to note.

1 Specification Coverage

There were a number of areas that seemed not to have been covered by teachers. Some examples of these are as follows:

- **Nuisance** (Question 1(b))
  This question, answerable entirely in the context of private nuisance, produced a mean mark of only 2.3 out of 7, significantly lower than the other answers to Question 1. This was something of a surprise, as in the past private nuisance questions have been answered quite well.

- **Compare and contrast Nuisance and trespass to land** (Question 1(e))
  This question may have come as a 'surprise' to many candidates, but it is a standard textbook topic, and a useful way of setting a critical analysis question other than the standard advantages/disadvantages format. Less than 25% of candidates achieved half marks or better, which would suggest, both in terms of content and technique, that candidates were not well prepared for this question.

- **Burglary** (Question 2(b))
  With a mean mark of less than 2.6 out of 8, it was evident that candidates really struggled with this more detailed application of *s.9 / s.10 Theft Act 1968*. This was in spite of the help given in the stem, and also the useful 'steer' given in the question. This would appear to be an area where more practice at **application** would be of benefit to future candidates.

- **The Intestacy Rules** (Question 3(c))
  The mean mark for this 'standard' intestacy rules application was only a little over 2.6 out of 8, a poor outcome for what should have been a straightforward question. Again, teachers may be advised to encourage their candidates to practice this type of question.

- **The Act of Parliament governing family provision** (Question 3(e)(i))
  This was only a one-mark question, but less than 10% of candidates were able accurately to identify the relevant Act!

- ***The Health and Safety at Work Act 1974*** (Question 4(d))
  Most candidates picked up 1 or 2 marks, but, on the whole, answers showed a distinct lack of preparation.

- **Vicarious Liability** (Question 4(e)(i))
  This should have been a straightforward application of the rules on vicarious liability, but with a mean mark of only 1 out of 5, candidates were clearly floundering.

2 Answering the Question

Without doubt, this is the most basic of examination instructions and, whilst examiners have a reasonable amount of leeway to credit alternative, but still creditworthy, responses, only limited credit will be awarded if candidates fail to answer the basic requirement of the question. Inevitably, some candidates in this years' examination fell foul of this most basic instruction.

Question 1(a) required an application of the law on **public** nuisance. Therefore, discussions of private nuisance were only likely to be only marginally relevant. Candidates were also steered towards the dual liability aspect of this area of law, but many concentrated on one rather than the other.

Question 2(c) required a discussion/application of the law of theft. Too many candidates treated this as an extension of the previous answer, and answered (often incorrectly) in relation to burglary.

Question 3(b) was a 'standard' question relating to the validity of a will, with four issues for the candidates to address, all identified in the question. Most candidates attempted all four aspects, but a significant minority failed to address all the required issues.

Question 4(e)(i) required candidates to explain **why** Vengers supermarket may be (vicariously) liable for the actions of its employees. Explaining **how** Vengers may be liable in negligence was not required by the question and was not creditworthy.

3 Relating the Answer to the Number of Marks Available

This issue has been raised in successive reports on the legacy examination, and it is pleasing to note that the majority of the candidates now seem to have got the message. The basic rule is simple: one or two mark questions can generally be answered quite briefly and the examiner will be looking for a specific word/phrase, Act of Parliament, etc. Questions which carry more marks require more depth/discussion/comment, depending on the 'trigger' word used (see below). Candidates who do follow this rule will inevitably score better than those who do not.

As indicated last year, inevitably some candidates did themselves no favours by ignoring this basic instruction. For example, descriptive/discussion/explanation or commentary questions carrying five or six marks do require more than 2/3 sentences.

By contrast, questions prefaced with 'trigger' words, "Name", "State" or "Identify" will frequently carry only a limited number of marks with only an (accurate) minimum response required.

4 Trigger Words

Great care is exercised during the setting process to ensure that the question is prefaced by the appropriate 'trigger' word - name; state; identify; describe; discuss; comment on, etc. This same care needs to be matched by the candidates when answering the question!

5 The 'Shopping List' Answer

The mark scheme for GCSE law is written in positive terms, and examiners are required to mark positively, giving credit for those aspects of an answer which are creditworthy, and generally ignoring those aspects which cannot be credited. However, the 'shopping list' or 'scatter-gun' approach to answering law questions will penalise candidates, as the following example, taken from this year's Unit 1, illustrates.

Example Question: (from Unit 1, Question 10(c) (i))

> "Identify **two** groups of people who are disqualified from jury service." *(2 marks)*
>
> *Answer: "mentally ill, those on bail,."*
> Both answers are correct = 2 marks.
>
> *Answer: "those previously sentenced to 5+ years imprisonment, mentally ill, someone who has had a community order in the last 10 years"*
> All three responses are (fortunately) correct = but still only the maximum 2 marks.
>
> *Answer: "those on bail, someone connected to the defendant, a deaf person"*
> Two correct responses and the last one is wrong = 1 mark.

The rule that emerges is simple – there can be no benefit in giving more than the required number of responses demanded by the question, and there can be a penalty where errors creep in. So "STICK TO THE PRESCRIBED NUMBER" is the only and best advice.

6 Citation of Authority

This remains a significant problem, perhaps more so in relation to relevant case law. Examiners reported this year that candidates, similarly to last year, often failed to cite relevant authority, even where the appropriate case could be seen as a 'standard'.

As last year, relevant Acts appeared a little more frequently (often gleaned from the stem, but that is perfectly acceptable), but Section numbers (where significant) and dates (where there is more than one Act with the same name), were more of a rarity. Teachers are reminded of the general instruction to support answers by referring to relevant **statutes**, **cases** or **examples**. The latter opportunity is rarely used and would be credited.

For example, in Question 1, candidates could have usefully cited ***A/G v PYA Quarries***, ***Robinson v Kilvert***, ***Ireland, Harrison v Duke of Rutland***, ***Kirk v Gregory***, ***Bird v Jones*** etc. In Question 2, cases such as ***Collins***, ***Walkington***, ***Morris & Burnside***, ***Woollin, Latimer***, ***Belfon***, and ***Eisenhower*** could all have been used to good effect. Question 3 could have made use of the *Wills Act 1837*, ***Re Gibson***, the *Administration of Justice Act 1982*, and the *Administration of Estates Act 1925* (as amended). Answers to Question 4 would have benefitted from references to ***Fisher v Bell***, *the Sale of Goods Act 1979* (as amended), the *Supply of Goods and Services Act 1982*, the *Consumer Protection Act 1987*, ***Limpus v London General Omnibus Co***, and the *Human Rights Act 1998*. Again, these references were few and far between.

It cannot be stressed how beneficial cases and other authority are in terms of raising candidates' marks.

7 Out-of-date Material

Examiners reported generally less evidence of candidates using seriously out-of-date material this year which, pleasingly, continues a trend noticed from previous years. However, a few instances still occur.

There were fewer examples of out-of date material in Unit 2 than in Unit 1, apart from a common belief that wills **must** be signed at the end of the will (not true since 1982!), and out-of-date intestacy limits in relation to the spouse's initial absolute share of the estate.

The general rule with out-of-date material is that we allow a minimum of a year following a change in the law before we expect candidates to be aware of the change. In practice, that is often stretched to the next examination series. Beyond that, out-of-date material is unlikely to be credited.

8 Quality of Written Communication (QWC)

The general improvement noted in recent years was maintained this year. Misspelling specialist terms remains something of an issue, but better use of the stem material removed some of the more obvious errors that have occurred in previous years. On a less positive note, the rising level of legibility, noted last year, was not maintained this year which is unfortunate. Particularly where scripts are scanned (which they now are), such writing is very difficult to decipher. In the same vein, candidates must use **black** ink/biro as stated on the cover of all exam papers. Blue ink is not acceptable. Examiners did report a little less use of 'slang' expressions than in previous years, but one particular bugbear remains (as it does every year). No matter how bad it may be, defendants are never "done for….". Prosecuted or sued would be infinitely preferable! Equally, offenders do not "go down" for committing an offence. Imprisoned would be a much more appropriate term! Finally, the term burglary should not be spelt anything other than how it appears in the stem/question. Misspelling a word which is given to the candidates in the paper does not impress the examiner.

9 Rubric Infringement

Relatively few candidates made rubric errors this year, with candidates answering on more than two areas of substantive law. Centres need to spell out a clear message to their candidates and that is to stick to the required number of questions. Surely the message from teachers should be that it is better to spend the time more wisely on the required number of responses rather than waste time and energy on additional questions, to no benefit.

10 Commentary Questions

Although the quality varied depending on the particular question, the general improvement in techniques, noted on last year's legacy examinations, was generally maintained. In short, trying to find both positive and negative features (where required) and then drawing a reasoned conclusion is the best way to tackle such questions, and many candidates tried to adopt this approach. One-sided (unless required by the question) and/or responses with no conclusion will tend to attract less credit.

On a less positive note, some commentary question responses all too often produced disappointingly limited responses. One example will illustrate. Question 2(g)(i) asked candidates to comment on whether borrowing something without permission should be a criminal offence. This was also a question where quality of written communication was assessed. Answers were occasionally very good, but too many candidates wrote very little.

It was particularly disappointing how few candidates were able to comment on the current offence of taking without consent, and/or why this offence does not apply to other types of property (mobile phones?).

More practice on commentary question technique would appear to be needed. For the new GCSE Law Specification, commentary questions play a significant part in both examinations, so good technique is vital.

11 Answering Problem Questions in Law

For many candidates, this can be a difficult skill to acquire, and therefore it is hoped this section in the report will be of help to candidates and teachers alike.

Examiners frequently comment upon the lack of organisation of the candidates' responses to problem questions and therefore the following mini-guide may be of use.

a) Identify the relevant fact(s) from the problem.
b) Identify the relevant area of law raised.
c) Quote relevant authority from that area of law.
d) Apply that law to the facts of the problem.
e) Draw the appropriate conclusion from that application.

For a trained lawyer, the above would be second nature, but not for a notional 16-year-old. Showing them the above guide and practising on past/specimen papers both individually and in groups should lead to better technique.

General Instructions to Candidates

These remain broadly unchanged from year to year and should be 'drilled' into candidates prior to the examinations.

(a) Candidates must complete personal and other details, including centre and candidate numbers on page 1 of the Answer Booklet.

(b) Candidates should confine their answers to the designated area. Those candidates who write outside these areas risk their responses not being scanned into the computer. This could then affect their marks. If more space is needed, candidates should use a continuation sheet, and insert candidate/centre details at the top.

(c) Candidates should write as neatly as possible, and, if there is time, go back and underline Acts and cases so they stand out.

(d) Candidates should manage their time effectively, acting on advice given on the paper.

(e) Candidates should not use any colour other than **black**. This is particularly important as these answers are going to be scanned and other colours do not show up as well.

(f) Candidates should not use correction fluid.

(g) Candidates should not waste time by writing out the question, nor indeed waste further time by writing out all the relevant law in an area and then picking the right 'bit' for the answer. Candidates should answer the question as directly as possible.

SECTION A - TORT

Question 1

This was a reasonably popular choice, answered by about 40% of the candidates. The mean mark for this question overall was nearly 17 out of 45, very much in line with the other option questions on this Unit.

(a) The mean mark for this question was nearly 3 out of 7. Public nuisance can be a 'tricky' option for GCSE candidates, but the question was helpful in that it pointed them to both the potential civil and criminal implications. Better candidates were able to provide an accurate definition (using the stem material) and then apply that to the various incidents. Relatively few candidates were able to support that with authority. The role of the Attorney-General in such cases was only occasionally identified. Civil and criminal sanctions were identified, with an injunction being the most popular choice on the civil side. Candidates who restricted themselves to a civil or criminal answer only were limited to 5 marks only. The weakest feature for many candidates was a confusion of the private nuisance factors with public nuisance.

(b) The mean mark for this (private) nuisance question was only 2.3 out of 7. This was disappointing, as in the past private nuisance questions have generally been answered quite well. Given that the definition was given in the stem and should have been reproduced and used by the candidates, the mean mark looks even more disappointing. A number of factors were raised by the problem, including locality, continuity and sensitivity, but only the latter was widely recognised – though not always correctly applied. Cases were only rarely seen. Remedies were briefly addressed by a good number of candidates. With only just over 5% of candidates achieving sound understanding (6 or 7 marks), this seems to be an area for some teachers to give greater attention to.

(c) The mean mark for this trespass (to the person) question was only just over 2.8 out of 7 – again a disappointing response to a straightforward assault and battery question. There were a few common failings: firstly a lack of accurate definitions, virtually no authority in support, and occasionally some inappropriate applications. A minority of candidates chose to discuss this question in a criminal context, which is a major error in a tort question! A few candidates raised the potential for trespass to land, depending on where Chay was during the incident, and this was credited.

(d) (i) The mean mark was just under 2.7 out of 7 which suggests another question where candidates found difficulties. The trespass to land based upon entry by Efraim was widely recognised and correctly applied and that was the strongest part of the answer. Very few candidates were able to recognise the potential for trespass to land by the cricket ball (placing objects). Quite a few candidates tried to argue that this could amount to nuisance because of the repetition – which might be true – but was not within the scope of the question. With respect to the smashed sunglasses, most candidates identified this as trespass to goods. Hardly any candidates seemed to be aware of the Torts (Interference with Goods) Act 1977, and just as few correctly identified 'smashed' sunglasses as conversion rather than trespass. Cases were few and far between.

(d) (ii) The mean mark for this question was marginally better at 3.1 out of 7. In contrast to the previous question, an identification of trespass to goods was this time correct (goods moved rather than destroyed). There was, however, a lack of development/authority. The second aspect, false imprisonment, was also widely recognised, though answers suffered from the same lack of development/authority.

(e) A mean mark of just under 1.7 out of 5 suggests that this 'compare and contrast' question was not expected by the candidates, and caused some obvious difficulties. A lack of appreciation of the 'land' connection between nuisance and trespass to land was generally apparent and would have been the obvious comparison point to make. In terms of contrast, candidates could have raised any of the following points: indirect versus direct; no entry versus entry; repetitive versus single incident; damage versus actionable *per se*; tort/crime (public) versus tort only. In practice, candidates were not that knowledgeable. One other point of technique was an issue. It is far better to deal with differences **directly** rather than listing points about one aspect followed by points about the other. This makes it easier to make the contrast effectively.

(f) Candidates generally were stronger with respect to the alternatives (ASBOs and police intervention being the popular answers). The question also presented an opportunity to consider the pros and cons of civil action, eg time, cost and remedies, but candidates were less inclined to address this aspect of the question.

SECTION B – CRIMINAL LAW

Question 2

This was the most popular of the optional questional in Unit 2, answered by nearly 80% of the candidates. The mean mark for this question overall was nearly 18 out of 45, very much in line with the other option questions on this Unit.

(a) The mean mark was nearly 1.8 out of 4. 'Entry as a trespasser' was better answered in terms of 'trespasser' and often less well answered in terms of entry (whole/partial, effective). The notion of a 'building' was generally understood in the context of an example(s), but not often addressed in terms of permanence, though there were some appropriate references to outdoor freezers! Virtually no candidates referred to *s.9(3) Theft Act 1968*, or indeed relevant case law.

(b) A mean mark of 2.57 out of 8 suggests that candidates found this burglary application question quite difficult. This was especially disappointing, given that the relevant statutory provisions were given in the question stem and were often not used by the candidates. The *s.9(1)(a)* version of burglary was generally recognised, but was not well applied to Freddie's intention to search for the 'presents'. Virtually no candidates addressed the potential dishonesty issue which could have been raised here. The *s.9(1)(b)* version of burglary was also recognised in general terms, but frequently misapplied to the watch, or actions related to the lawnmower. Those candidates who discussed aggravated burglary under *s.10* often scored well, because the application to the cricket bat was relatively easy. Very few candidates referred to case law. Overall, the level of response to this question was disappointing compared with similar questions in previous years on the legacy syllabus.

(c) The mean mark of a little under 1.6 out of 5 was again disappointing to examiners. With the definition of theft given in the stem, this should have been a straightforward application, with no particular difficulties in terms of the conclusion. Frustratingly, many candidates chose to treat this as another burglary question which was not only wrong on the facts, but also not what was asked by the question. This was poor technique, and not just poorly applied law.

(d) (i) The mean mark of 1.77 out of 5 was lower than examiners might have expected. Full credit would have been given for an application of either murder or unlawful act manslaughter. In terms of murder, a conviction based on implied malice aforethought does not look too difficult to arrive at. The alternative based on manslaughter looks even easier. One main failing was a lack of accuracy when it comes to the *mens rea* and/or recognising the relevant *mens rea*, but then applying it to the wrong offence. Very few candidates were able to cite relevant authority.

(d) (ii) Transfered malice was known and well answered by over half the candidates who scored 2 or 3 marks. Unfortunately, more than a quarter of the candidates did not recognise the issue and failed to achieve any credit. The better candidates knew the cases of ***Mitchell*** or ***Latimer*** and both were creditworthy.

(d) (iii) A mean mark of 1.43 out of 4 was below what examiners might have expected for what should have been a straightforward *s.18 gbh*. The injuries were identified in the problem as being serious burns, and Freddie appears to be acting with full intent. *s.20 gbh* was arguable and fully credited, but wounding was not as creditworthy on the facts, and neither was *abh*.

(e) A mean mark of 1.3 out of 4 was again a disappointing result. The question was written as a fairly obvious wound ("deep cut on the side of his head") and both *s.20* or *s.18* would have been acceptable, if argued correctly. A case for *gbh* (permanent scarring?) could also have been justified. Again, *abh* would have been less justifiable on the facts. Hardly any candidates were able to justify wounding with the 'standard' case of ***Eisenhower***.

(f) A mean mark of nearly 1.7 out of 2 was what we expected, ie that candidates should be able to identify the Magistrates and Crown Courts as the likely venues for court appearances for Hazel and Freddie.

(g) (i) A mean mark of 2.36 out of 5 was a moderate return for the question which also tested quality of written communication. Most candidates scored at least 1 mark in that context and were generally able to say something sensible about borrowing without permission to justify credit beyond that. In one respect, answers to this question were disappointing. We had expected candidates to be able to say something about the current offence of taking without consent in relation to conveyances, and then relate that to other types of property. Very few candidates were able to do that. Most comments were limited to the potential inconvenience that unlawful borrowing could cause to the original owner.

(g) (ii) A mean mark of 1.66 out of 5 suggests a disappointing set of responses. There were a few good answers, but over 26% of candidates either wrote nothing creditworthy or wrote nothing at all. We had expected both homicide and non-fatal offences to be the popular answers, but theft and burglary also appeared. Centres must appreciate that there will be two 5-mark commentary questions that candidates must address for each topic area answered by candidates. This particular question, which allowed candidates to pick any one of the offences raised in the problem, is as straightforward a way as an offence-based commentary question can be written. Some teachers clearly need to prepare their candidates better for this type of question.

SECTION C – FAMILY LAW

Question 3

This was the second most popular of the optional questional in Unit 2, answered by about 75% of the candidates. The mean mark for this question overall was around 18.5 out of 45, very much in line with the other option questions on this Unit.

(a) (i) The mean mark was 2.2 out of 5 which was a little less than examiners might have expected. Most candidates knew that a blind witness would not be acceptable, but not because they could not see the **will** (a common error), but because they could not witness the testator's **signature**. Surprisingly, the large majority of candidates missed the fact that irrespective of his physical disability, Rex could never have been a valid witness because he was not in the presence of another witness. With respect to the 14-year-old Teresa, candidates were either aware of the relevant law (that there is no age limit on witnesses, but they must be old enough to understand what they are doing), or they were not. On the facts, either conclusion was possible.

(a) (ii) A mean mark of 1.46 out of 2 suggests a well understood issue by the majority of candidates. Over 50% of candidates achieved both marks available, and over 90% achieved one mark. The commonest error was to misapply the witness/beneficiary issue, ie that it is the bequest that is lost, not the signature that would be invalidated.

(b) A mean mark of nearly 3.9 out of 8 was satisfactory, but this is a 'standard' wills validity question, and we had expected a little better. Of the four issues raised: 'what the will was written on' was generally understood, but rarely developed (the eggshell case?); 'Where the will was signed' caused significant difficulties in that the candidates seem not be that aware of the effect of *s.17 Administration of Justice Act 1982*; The witness position had to raise the issue of two witnesses present at the same time and could have been concluded either way depending on how the candidates viewed Teresa. 'James's state of mind' was generally the best understood and applied issue.

(c) A mean mark of just over 2.6 out of 8 must be seen as a disappointing, given that it was a 'standard' question on the application of the intestacy rules. The fact that less than 10% of candidates managed to score 6 marks or better is further evidence of that. With respect to the wife, a high proportion of candidates seemed not to be aware of the increase in the intitial distribution to the spouse (where children are involved) to £250,000. Very few candidates mentioned or explained personal chattels, or were aware that the spouse then receives a life interest in half the remainder. Equal division of the balance between the children was better understood, but very few candidates mentioned the statutory trust that would have applied to the 15-year-old. The fact that the mother's life interest would then be divided between the children on her death was not known. On the facts, there were no other potential beneficiaries. Virtually no candidates mentioned the relevant statutory authority.

(d) A mean mark of 2 out of 5 for a 'quality of written communication' question must be seen as a below average level of performance. On the facts, there was plenty of material to use on how well the intestacy rules would have worked with James's estate. For example, the absent child doing as well as those in contact, the problem of the long term mistress, the problem of the dependent mother, that (close) friends are ignored under the rules, etc. Very few of these opportunities were taken by the candidates.

(e) (i) Less than 10% of candidates were able to correctly identify the *Inheritence (Provision for Family and Dependents) 1975*. Given that this is an important part of the specification in this area, that is more than a little surprising.

(e) (ii) There was a significantly more convincing set of answers to this question on who may claim under the 1975 Act, with over 75% of the candidates correctly identifying two or three potential claimants.

(e) (iii) A mean mark of nearly 3.2 out of 8 to this application question on the 1975 Act again seems disappointing. This is almost inexplicable, because if candidates know **who** can claim (see above), they ought to be able to apply that to the problem. Examiners were in a position to credit any of the following: the wife; the three children (best treated separately given their differing circumstances); the long term lover; and the financially dependent mother. All of those indidivuals would have been in a position to make a claim, with the wife, youngest child and mother in the best position to succeed. Candidates could also have been credited in respect of the disappointed best friend who would have no basis of claim. That makes a total of seven people who could have been discussed, any four of whom had to be discussed to achieve a top band answer.

(f) The final question in this section was a commentary question on the applicability of the *Family Provision Rules*. Given that credit could be achieved for specific comments relating to the problem or for more general commentary, a mean mark of under 1.5 out of 5 again seems disappointing. The most popular creditworthy comment was that the testator's wishes can be overridden, but few candidates then coupled that with the fact that the original beneficiaries bequest(s) would be reduced or removed. Protecting the legitimate interests of close family, co-habitees and dependents was considered by a few candidates, and the exclusion of others, eg friends, was also raised by a few candidates.

SECTION D – RIGHTS AND RESPONSIBILITIES

Question 4

This was the least popular of the optional questions in Unit 2, answered by about 10% of the candidates. As this was the 'new' area on the specification, this was in line with initial expectations. We hope the number may grow, as this is an interesting area of study. Centres may be encouraged to teach this option by the fact that the mean mark for this question overall was around 17.9 out of 45, very much in line with the other option questions on this Unit.

(a) The mean mark for this question was 2.32 out of 5. Over 44% of candidates achieved sound undestanding (4 or 5 marks) and for a 'standard' question on an invitation to treat, that was not too surprising. Surprisingly, over 27% of candidates achieved no marks. The best responses demonstrated an ability to recognise and apply the relevant law, and cite authority in support.

(b) (i) This three-part question on the application of both the *Sale of Goods Act* and the *Supply of Goods and Services Act*, achieved a mean mark of nearly 4.9 out of 10. That suggests a reasonable level of understanding overall, but with some weaknesses as well. In practice, all three elements were answered in similar ways. There was a general recognition of the liability of the supermarket in all three situations, with an appropriate suggestion in terms of remedy. The weakest aspect was the specific law under which the consumer's rights arose. Thus, although the Act was generally recognised, the specific right created by the Act was less certain,

section numbers were usually missing and case-law authority was rarely seen. Candidates would not have had to do much more to achieve sound answers, but too many candidates only reached a basic/limited description.

(b) (ii) This commentary question on consumer protection legislation (which also incorporated a mark for quality of written communication) achieved a mean mark of 2.2 out of 5. Answers tended on the whole to be broadly based with a generally uncritical perspective, ie some of the advantages were known and discussed, but few of the disadvantages. In respect of the former, candidates could have raised the range of protection now available, the growth of consumer advice agencies and related websites, the support role of the OFT, and simpler processes through small claims, etc. On the downside, the restriction under *s.14* relating to private sales, the requirement of the need for the skill and judgement of the seller to be employed under *s.14(3)* and the lack of representation at small claims, etc, would have been good arguments, but were not widely seen. Answers which did not deal with both sides were limited to four marks.

(c) This seemed to be a more difficult application question for the candidates because they had to find two types of liability against both seller and manufacturer. This was reflected in a lower mean mark of 2.06 out of 5. In practice, the right of action under the Consumer Protection Act in respect of the consequent damage was better recognised, though not always correctly applied to the **manufacturer** (no question here of Vengers being an 'own-brander'). The right of action in respect of the toaster under the Sale of Goods Act against Vengers was less often dealt with. Only 19% of candidates achieved sound understanding, which suggests many found this question difficult.

(d) A mean mark of a little over 1.5 out of 5, and only 1.7% of candidates achieving sound understanding, suggests a poor set of responses. Far too often, answers resembled something more like a negligence claim, rather than an examination of the potential criminal liability of both the employer and potentially the employee(s) as well. Hardly any candidates made any specific references to the Act, the role of the Health and Safety Executive/inspectorate and only a very few candidates were able to cite relevant authority. This is clearly an area which needs more attention by some teachers.

(e) (i) With a mean mark of only 1 out of 5, and nearly 40% of candidates achieving no marks, this question seemed to be rather troublesome for many candidates. Those who recognised the big signpost in the question also recognised vicarious liability, though development for many was poor. The requirement of an employee, acting in the course of their employment together with a case such as ***Limpus v London General Omnibus Co***, and a little application, would have ensured a sound answer, but only just under 8% of candidates managed to achieve that.

(e) (ii) Surprisingly, the commentary question on vicarious liability was answered better than the application question above, with a mean mark of over 1.8 out of 5. However, that can still be viewed as a disappointing result, as the arguments are relatively straightforward. For example, candidates could have argued that vicarious liability encourages good training, reflects the fact that employers are in business to make profits (and should also bear the losses) and also the fact that employers are likely to be in a better position to pay the claimant's damages, especially taking into account the insurance position. Very few candidates were able to introduce that range of arguments and hence only just under 8% of candidates achieved sound understanding.

(f) (i) Just over 60% of candidates were aware that unfair dismissal cases are brought before an (employment) tribunal.

(f) (ii) This final question produced a mean mark of 1.34 out of 4, with 19% of candidates achieving sound understanding. Again, this could be seen as rather disappointing. Answers could have included the rules of natural justice, the presence of lay experts on the tribunal, and rights of appeal, as well as the Human Rights Act provisions in this area. In practice, answers were often rather sketchy, and lacking in specific detail.

Mark Ranges and Award of Grades

Grade boundaries and cumulative percentage grades are available on the Results Statistics page of the AQA Website: http://www.aqa.org.uk/over/stat.html.

Converting Marks into UMS marks

Convert raw marks into marks on the Uniform Mark Scale (UMS) by using the link below.

UMS conversion calculator www.aqa.org.uk/umsconversion