



**General Certificate of Secondary Education
June 2012**

Law 41602

Law in Action

Unit 2

Mark Scheme

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 senior examiners and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation process each examiner analyses a number of students' scripts: alternative answers not already covered by the mark scheme are discussed and legislated for. If, after this process, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

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GCSE Law

Suggested answers are neither prescriptive nor exhaustive.

Within the exam paper as a whole, questions are set involving a varying number of marks. Some of these use a banded mark scheme. When using a banded mark scheme, 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 and/or the level of critical awareness displayed. All answers must be judged according to the standard one would expect from a notional 16-year-old, under examination conditions.

Banded Mark Scheme

Band 0	Inappropriate answer showing no understanding	The number of marks will reflect the marks appropriate to the individual question
Band 1	Basic awareness	
Band 2	Answer based on limited understanding	
Band 3	Appropriate answer showing sound understanding	

In addition to the above banded mark scheme, the mark scheme for some questions will include marks for specific points. Such questions will clearly be identified in the detailed Mark Scheme which follows.

While it is not expected that alternative answers to such questions will attract credit, students may, on occasions, interpret questions in an unexpected way and produce answers which, though not expected, should still be credited. Answers such as these will be discussed during the pre-standardisation process in the period following each new examination and credited where appropriate.

Quality of Written Communication is to be assessed in certain questions within each paper. The relevant questions are clearly identified on the front cover of the question paper, and, within the body of the paper, it also carries the instruction 'Answer in continuous prose'. The mark bands for these questions indicate the criteria which examiners should use to decide which band to place a student in, looking at both legal content and QWC to arrive at a band of 'best fit'.

1 (a) In a negligence case, outline what is meant by the following:

- duty of care
- breach of duty
- damage.

(6 marks)

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

Potential Content

Duty based on neighbour test (**1 mark**) and reasonable foreseeability (**1 mark**) and/or reference to incremental tests (**max 3 marks**)

Breach based on reasonable man test (**1 mark**)

Possible reference to risk factors (**1 mark**)

Damage based on factual causation (**1 mark**) and foreseeability (**1 mark**)

Possible reference to thin skull rule

Credit any other sensible development

Authority probably based on ***Donoghue v Stevenson*** – credit other relevant cases/examples

Note – notional 2:2:2 marks per part – check Band at end

Note – only 1 aspect dealt with – max 3 for a very good answer

Note – only 2 aspects dealt with – max 5 for two good answers

1 (b) Carol is considering suing both Ann **and** Barchester School for the damage caused to her car.

- Outline whether Ann would be held liable for negligence.
- Explain whether Barchester School would also be liable for negligence.

(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) Application of relevant law on duty, breach and damage

Recognition of clear duty and damage. Breach based on driving quickly in icy weather.

Relevant authority and conclusion

(ii) Recognition of vicarious liability for the negligent failure of the caretaker

Instructions not a relevant defence (***Limpus v LGO***)

Relevant authority and reasoned conclusion (school likely to be liable)

Note – alternative approach based on primary negligence liability rather than vicarious liability – max 3 marks for that aspect

Note – (i) or (ii) only, max 5 marks for a good answer

1 (c) Eduteen High School (EHS) has contacted you, indicating that Florence **and** Dougal are considering suing the school for negligence.

1 (c) (i) Consider whether, in these circumstances, EHS owed Dougal a duty of care.
(4 marks)

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

Potential Content

Application of the neighbour test based on reasonable foreseeability

Possible reference to **Caparo** tests

Authority in support, eg the rescue cases, eg **Haynes v Harwood** (clear duty to help in a dangerous situation)

Possible reference to vicarious liability of school for Gavin's failure to lock the door

Possible reference to contributory negligence by Dougal in failing to supervise properly

Authority and reasoned conclusion.

Note – alternative approach based on Occupiers' Liability Act 1957 – credit fully.

1 (c) (ii) Consider whether, in these circumstances, EHS was in breach of a duty of care to Florence.
(4 marks)

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

Potential Content

Application of reasonable man test/risk factors

Eg not reasonable for school employees to fail to supervise properly/fail to lock doors where pupils could get access, higher standard of care owed to young people, higher risks with dangerous substances, etc

Authority in support, eg **Paris v Stepney BC**

Possible reference to vicarious liability

Possible reference to contributory negligence by Florence

Reasoned conclusion (looks like a clear breach)

Note – alternative approach based on Occupiers' Liability Act 1984 – credit fully.

1 (d) Both Hari and Imran were clearly trespassing when they came back into Jon Anderson School (JAS).

1 (d) (i) Consider whether, in these circumstances, JAS would be liable for **Hari's** injury under the Occupiers' Liability Act 1984. **(5 marks)**

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

Potential Content

Recognition of the significance of trespassing and the lower duty of care normally owed to trespassers under the *1984 Act*

Recognition of the obviously dangerous condition of the office

Recognition of the 'special' rules related to child trespassers, eg children less careful than adults, allurements, significance of warnings, etc

Relevant case law, eg ***BRB v Herrington***, ***Glasgow Corp v Taylor***, etc

Application and conclusion (JAS probably liable)

1 (d) (ii) Consider whether, in these circumstances, JAS would be liable to **Imran** for his fractured skull and brain damage. **(4 marks)**

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

Potential Content

Recognition of damage

Recognition of remoteness based on foreseeability

Type rather than extent (thin skull rule)

Case, eg ***Smith v Leech Brain***

Application and conclusion (liability for full extent of injuries looks likely)

Note – it is irrelevant whether students deal with this question as a negligence or occupiers' liability problem.

1 (d) (iii) Briefly explain what is meant by contributory negligence **and** the effect that this would have in a negligence case. (4 marks)

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

Potential Content

Definition of contributory negligence

Effect, if proved, that damages are reduced accordingly

Authority in support, eg *1945 Act* and/or case, eg ***Sayers v Harlow UDC***

Note – max 3 marks if no authority

1 (d) (iv) Discuss whether the law on contributory negligence is fair to **both** parties in a negligence case. (5 marks)

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

Potential Content

Arguments in favour, eg prevents the claimant being awarded full damages when he is at fault, damages are only reduced by an appropriate percentage, etc

Arguments against, eg defendant is just as responsible but pays less money, etc

Possible reference to decided cases

Reasoned conclusion

Note – credit any other sensible points raised

Note – unbalanced answer, max 4 marks if very well argued

- | |
|--|
| <p>1 (e) Discuss the arguments for and against vicarious liability. (Answer in continuous prose.) (5 marks)</p> |
|--|

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 3 marks), then assess the QWC on the following basis:

- **Average performance for a notional 16-year-old under exam conditions – 1 mark**
- **Better than average – 2 marks**
- **Significantly below average – 0 marks**

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

- | | | |
|--------|---|------------------|
| Band 0 | Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately. | 0 marks |
| Band 1 | Basic awareness. The student spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately. | 1-2 marks |
| Band 2 | Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility. | 3-4 marks |
| Band 3 | Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly. | 5 marks |

Potential Content

Eg employer’s profit should also be employer’s loss, employee may be a ‘man of straw’, employer must be insured, etc, but employer/shareholders become responsible for another’s actions, employer may have given instructions that have been ignored, etc.

Credit any other reasonably sensible points

Note – unbalanced answer, max 4 marks for an excellent response.

- | |
|---|
| <p>2 (a) Discuss Lorraine’s criminal liability for what she shouted at Martin. (4 marks)</p> |
|---|

- | | | |
|--------|--|------------------|
| 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 assault **(1 mark)**

Definition including *actus reus* and *mens rea*

Relevant authority (Act and/or case)

Application and conclusion (clear assault)

Note – conclusion based on Turbervell v Savage – max 3 marks

2 (b) Consider Kelly's criminal liability for pushing Martin **and** for taking his wallet. (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

EITHER

Push - recognition of battery **(1 mark)**
 Definition including *actus reus* and *mens rea*
 Relevant authority (Act and/or case)
 Application and conclusion (clear battery)

and Taking the wallet - recognition of theft **(1 mark)**
 Definition including *actus reus* and *mens rea*
 Relevant authority (Act and/or case)
 Application and conclusion (clear theft)

Note – only one aspect dealt with – max 4 marks for a very good answer

OR

Push and taking the wallet **(1 mark)** - recognition of robbery **(1 mark)**
 Definition including *actus reus* and *mens rea* (encompassing both the force and subsequent theft)
 Relevant authority (Act and/or case)
 Application and conclusion (clear robbery)

Note – students may approach this question as two separate offences (battery and theft) or as one offence (robbery). Either approach is equally creditworthy and can achieve max marks

2 (c) The Crown Prosecution Service is considering bringing manslaughter charges for the death of Nell.

2 (c) (i) Ignoring the mistake made by Oliver, consider Lorraine's liability for manslaughter in pushing Nell. (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 unlawful act (constructive) manslaughter **(1 mark)**
 Definition including *actus reus* (unlawful and dangerous act, death follows) and *mens rea* (for the battery on an old lady)
 Relevant authority, eg **Mitchell**
 Application and conclusion (clear basis to charge)

Note – discussion of manslaughter with no particular reference to type – max band 2

2 (c) (ii) Ignoring the mistake made by Oliver, consider Kelly's liability for manslaughter based on her leaving Nell badly injured on the footpath. (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 gross negligence manslaughter (**1 mark**)

Definition including *actus reus* (liability for an omission when under a duty to act, death follows) and *mens rea* (disregard for the life and safety of Nell)

Relevant authority, eg **Miller, Pittwood**

Application and conclusion (clear basis to charge)

Note – credit fully discussion based on a lack of duty because Nell was pushed and injured by Lorraine, not by Kelly. The alternative view (joint responsibility) is probably better in the circumstances

Note – discussion of manslaughter with no particular reference to type – max band 2

2 (c) (iii) Discuss whether Lorraine and/or Kelly could argue that Oliver's mistake provides them with a defence to a manslaughter charge. (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 causation issue (**1 mark**)

Significant and operating cause/intervening act

Case, eg **Smith** (possibly **Jordan**)

Application and conclusion (no defence is the likely answer based on the facts)

*Note – credit up to max 3 marks the alternative answer, based on a break in the chain of causation, based on a **reasoned** approach.*

2 (c) (iv) Consider Oliver's liability for manslaughter.	<i>(5 marks)</i>
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 mark
Band 2	Answer based upon limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5 marks

Potential ContentRecognition of gross negligence manslaughter (**1 mark**)Definition including *actus reus* (liability for a duty-based lawful act carried out 'so badly', death follows) and *mens rea* (must amount to gross negligence showing disregard for the life and safety of Nell)Relevant authority, eg **Adomako**

Application and conclusion (clear basis to charge)

2 (d) Both Kelly and Lorraine are facing further charges for their actions when being arrested.
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2 (d) (i) Briefly discuss Kelly's criminal liability for PC Peel's cut.	<i>(3 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 marks

Potential ContentRecognition of wound (definition) (**1 mark**)

Recognition of two versions under s.18 and s.20

Application and conclusion (probably only enough evidence to suggest a s.20)

Authority in support, eg **Eisenhower**, **Savage** and **Parmenter***Note – approach based on either ABH or GBH – max 2 marks*

2 (d) (ii) Briefly discuss Lorraine's criminal liability for PC Quo's injuries.	<i>(3 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 marks

Potential ContentRecognition of a serious injury = gbh (**1 mark**)

Recognition of two versions under s.18 and s.20 (does Lorraine have intent to cause serious injury?)

Application and conclusion (probably enough evidence to suggest a s.18 charge)

Authority in support, eg **Smith**, **Belfon**

2 (d) (iii) Comment on whether the law relating to non-fatal offences is in need of reform. (5 marks)

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

Potential Content

Recognition that the law in this area has been the subject of much criticism

Eg language issues (assault, grievous, maliciously, wounding, etc) paired offences under the same Section (s.39, 20, 18), sentencing structure (s.47 and 20), more general problems relating to consent, domestic violence, etc

Conclusion (probably in favour of reform, but credit reasoned alternatives)

Note – credit any other sensible critical comments made

Note – unbalanced answer can still achieve max marks

2 (e) There are a number of general defences which can be pleaded in a criminal case. These include insanity, self-defence, consent and duress. Comment on how well the law operates for **one** of these defences. (**Answer in continuous prose.**) (5 marks)

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 3 marks), then assess the QWC on the following basis:

- **Average performance for a notional 16-year-old under exam conditions – 1 mark**
- **Better than average – 2 marks**
- **Significantly below average – 0 marks**

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5 marks

Potential Content

Eg in respect of insanity: general criticisms of this defence, eg stigma associated with mental illness (insanity), narrow definition of insanity, problems associated with medical evidence being applied in a legal context.

Specific criticisms of the defence(s), eg diabetics, sleepwalkers (and associated cases), etc
 Commentary based on any of the above.

Note – credit any other sensible points raised

Eg in respect of self-defence: general criticisms of this defence(s), eg problems of defining reasonable force, issue of use of pre-emptive force, etc

Specific criticisms, eg application to armed forces or police (**Clegg**), application to householders (**Martin**), etc

Commentary based on any of the above.

Note – credit any sensible points raised

Note – unbalanced answer can still achieve max marks for a good answer

*Note – **any** of the **general** defences can be addressed*

3 (a) About a month ago, Sally approached you for advice about a possible divorce. She had a leaflet with her which included some legal terms that she did not understand. Briefly explain the meaning of the following terms.

- Irretrievable breakdown
- *Decree nisi* **and** *decree absolute*
- Maintenance.

(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

Irretrievable breakdown – definition (**1 mark**)

Matrimonial Causes Act 1973

Possible reference to proof requirements

Decree nisi and *decree absolute* – recognition of stages in divorce (**1 mark**)

Translations and meaning/effect

6 week rule and purpose

Maintenance – definition (**1 mark**) and types of settlement

Matrimonial and Family Proceedings Act 1984 criteria

Possible reference to child maintenance

Note – credit any other sensible points raised

Note – notional 3:3:3 division of marks – check band at end

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

Note – only two aspects – max 6 marks for two good answers

3 (b) Consider whether Ron **and** Sally would both have been in a position to apply for a divorce. (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

Recognition that in either petition, the marriage would have to have broken down irretrievably

Application of the relevant proofs

Ron – possible adultery by Sally (has to be proved not just suspected) and that he would now find it intolerable to live with Sally.

Sally – probable unreasonable behaviour by Ron (drinking and violence)

Matrimonial Causes Act 1973

Possible reference to process, including mediation

Note – only one party dealt with – max band 2

3 (c) (i) Briefly explain the difference between a **void** marriage and a **voidable** marriage. (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

Void marriage has never existed in law – example or development } (only one

Voidable marriage is valid initially but can be avoided – example or development } (example needed)

Possible reference to *Matrimonial Causes Act 1973*

3 (c) (ii) Outline the law that applies to the marriage of young people below the age of 18. (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

Recognition of difference between under-16s and 16/17-year-olds (**1 mark**)

Under-16 – marriage would be void (implications)

16/17-year-olds – permission to marry required (parents or Family Proceedings Court (Magistrates))

Marriage valid in the absence of permission, but parties liable to prosecution for fraud

Possible reference to marriage in a foreign jurisdiction, eg Scotland

Matrimonial Causes Act 1973

Note – only one aspect dealt with – max 3 marks

<p>3 (c) (iii) Outline the legal advice you would give to Una and to Victoria with respect to their planned marriages. (3 marks)</p>
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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

Application of the relevant law from 3 (c)(ii), ie Una will need the relevant permission and implications if she does not. Victoria cannot legally marry until she turns 16.

Note – no need for the answer to go any further than that

<p>3 (c) (iv) Comment on how well the law deals with young people who wish to marry. (Answer in continuous prose.) (5 marks)</p>
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Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 3 marks), then assess the QWC on the following basis:

- **Average performance for a notional 16-year-old under exam conditions – 1 mark**
- **Better than average – 2 marks**
- **Significantly below average – 0 marks**

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5 marks

Potential Content

Comments may include:

Ban on marriage under 16 appropriate to protect young people, especially girls, from exploitation/early pregnancy; permission rules (16/17-year-olds) probably sensible, as young people mature at different ages, and parents in the best position to judge; marriage without permission being valid looks odd, why not make the marriage void? Fraud prosecutions in practice very rare: easy way round the law by going to Scotland, etc

Note – credit any other sensible comments in a legal context

3 (d) (i) Briefly discuss the validity of **each** of the wills made by Tom.

(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

First will – recognition of a privileged will and special rules (forces or merchant seaman, active service or emergency situation, relaxation of usual legal formalities)

Relevant authority (Act and/or case)

Second will – recognition of a will made (probably) in contemplation of marriage to Whitney

Legal requirements, ie named person, marriage takes place within 6 months

Second will and the marriage revoke first will

Implications, ie that the subsequent marriage does not revoke the second will which is therefore valid on his death

Note – one aspect only – max 3 marks

3 (d) (ii) Explain how Ron's estate would be distributed under the Intestacy Rules, assuming that the estimate of the value of his estate is correct at the time of his death.

(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 family position, ie surviving spouse and children

Sally receives personal chattels, £250 000 absolutely and a life interest in half the balance (£60 000)

Tom, Una and Victoria receive £20 000 now and another £20 000 each on the death of Sally

Tom's share will pass to his daughter Yvonne

Yvonne and Una's shares will be held on the statutory trusts

No other beneficiaries

Possible reference to the *Administration of Estates Act 1925* as amended

Note – the figures do not have to be correct, but the principle of division does

3 (d) (iii) EITHER

Comment on the relevance of 'privileged' wills in a modern society.

OR

Comment on how well the Intestacy Rules meet the needs of a modern society. (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**Privileged wills**

Eg ancient law (dating back to Roman times), confirmed by statute in 1918, covers battlefield/emergency situations where legal formalities may be difficult to comply with, **but** not difficult to comply with legal requirements before emergency situation, better to consider all the legal implications of succession with advice rather than *in extremis*, etc. Possible reference to case and/or topical examples.

Note – unbalanced answer – max 4 marks

Intestacy Rules

Eg protects the legitimate interests of close family, rules are clear and have recently been up-rated financially, **but** testator may have wished to distribute differently, all children benefit equally (may not be deserved), other family/friends are excluded, children's interests may prejudice the needs of the surviving spouse, etc

Note – unbalanced answer – max 4 marks

4 (a) There are a number of exceptions to the right to personal liberty. In that context, outline what is meant by **trespass to land** and **arrest**. (6 marks)

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

Potential Content

Trespass to land – definition and recognition of the different forms (entry, remaining, placing objects)
 Case(s)/examples in support
 Arrest – definition. Police powers and citizen's arrest
 Case(s)/examples in support
 Possible reference to statutory authority

Note – only one aspect – max 4 marks for a good answer

- 4 (b)** There are a number of exceptions to the right to freedom of communication. One of those exceptions is the law of defamation.
- 4 (b) (i)** Outline the differences between **libel** and **slander**. (4 marks)

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

Potential Content

Permanent v transitory (or examples)
 Actionable *per se* v damage must be proved (exceptions)
 Tort and crime v tort only
 Possible authority in support

Note – one difference only – max Band 2

Note – any two differences can achieve max marks

- 4 (b) (ii)** Discuss whether Craig may have committed defamation against Bertram and, if so, what Bertram can legally do about it. (6 marks)

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

Potential Content

Recognition of the proof requirements for defamation, ie statement defamatory, refers to the claimant, published, damage.
 Relevant authority in support
 Application to the problem (leaflets – libel, speech – slander)
 Bertram's right to take civil action to sue for damages/injunction

Note – defamation aspects only – max 5 marks for a very good answer

Note – process/remedies only – max 3 marks for a very good answer

- 4 (b) (iii)** Defamation is one of the few civil cases which is often decided by a jury. Comment on the use of juries in defamation cases.
(Answer in continuous prose.) (5 marks)

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 3 marks), then assess the QWC on the following basis:

- Average performance for a notional 16-year-old under exam conditions – 1 mark
- Better than average – 2 marks
- Significantly below average – 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the 'best fit' in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5 marks

Potential Content

Advantages, eg jury represents 'right-thinking members of society', ordinary person approach – gives the law a lay involvement, jury best at judging credibility, etc

Disadvantages, eg jury may not understand technicalities of a complex law, may be impressed by celebrity, jury have little basis to award damages fairly (cases), etc

Reasoned conclusion

Note – credit any other sensible points raised

Note – unbalanced answer – max 4 marks for a good answer

- 4 (c) (i)** Discuss whether Amy has been unfairly treated by her employer. (5 marks)

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

Potential Content

Recognition of potential sex discrimination case (**1 mark**) (though the employer may have other grounds to dismiss Amy, eg working day? involved a student in the protest?)

Sex Discrimination Act 1975

Case/example in support

Application and conclusion

4 (c) (ii) If Amy were to pursue this matter, she would need to take her employer to a tribunal. Outline what is meant by an employment tribunal. (4 marks)

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

Potential Content

Eg quasi-judicial body outside the court structure, composition (legally-qualified chair, lay involvement)

Powers include (if successful) re-instatement, re-engagement and/or an award of compensation

Possible authority in support (statute or case)

Note – credit any other sensible points raised

4 (c) (iii) Briefly comment on the advantages **and** disadvantages of using employment tribunals. (5 marks)

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

Potential Content

Advantages – eg relatively quick and cheap compared to court action, informal, lay involvement, tailored remedies

Disadvantages – eg lack of Legal Representation, low success rates, limited rights of appeal, etc

Note – credit any other sensible points raised

Note – unbalanced answer – max 4 marks for a good answer

4 (d) There are a number of rules which protect young people during the criminal justice process.

4 (d) (i) Explain how these rules would protect Zoe at the police station. (5 marks)

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

Potential Content

Recognition of the rights of young people at the police station, eg parent/guardian/appropriate adult present, right to legal advice (duty solicitor), 'soft' interview rooms/separate waiting area for young offenders, more frequent breaks, etc

Credit also more general rights available to all suspects, eg taped videos, right to bail, etc

Possible reference to *PACE 1984*

Note – credit any other sensible points raised

4 (d) (ii) Explain how these rules would protect Zoe and others in court.	<i>(5 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 on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Possible answers include:

Relative informality in both the Youth and Crown Court

Presence of lay people to judge the case (trained youth magistrates or jury)

Rules of natural justice, ie both sides must be heard, unbiased decision-makers

Rights of appeal

Human Rights Act provisions relating to the right to a fair trial, etc

Note – credit any other sensible points raised

**ASSESSMENT GRID
PAPER 2**

	Maximum Mark	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3
Question 1	45	a) 6 b) 1 c) 0 d) 3 e) 0	0 7 8 10 0	0 0 0 5 5
Question 2	45	a) 1 b) 2 c) 5 d) 2 e) 0	3 4 14 4 0	0 0 0 5 5
Question 3	45	a) 5 b) 0 c) 4 d) 1	3 6 7 9	0 0 5 5
Question 4	45	a) 4 b) 3 c) 3 d) 0	2 7 6 10	0 5 5 0
SUB-TOTAL	90	20	50	20