



**General Certificate of Secondary  
Education**

*Law*

**Specimen Mark Scheme**

**Unit 2: Law in Action**

The specimen assessment materials are provided to give centres a reasonable idea of the general shape and character of the planned question papers and mark schemes in advance of the first operational exams.

Further copies of this Mark Scheme are available to download from the AQA Website: [www.aqa.org.uk](http://www.aqa.org.uk)

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## **Paper 2: Law in Action**

Suggested answers are neither prescriptive nor exhaustive.

Within the examination paper, questions/part-questions carry a varying number of marks. In general, marks can vary between a minimum of 3 marks and a maximum of 15 marks. Mark all of these questions/part-questions, irrespective of the number of marks, according to the following banded types of response. Award marks 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. Judge all answers according to the standard one would expect from a notional 16-year-old.

### **Banded Mark Scheme**

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

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

While it is not expected that alternative answers to such questions will attract credit, candidates 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 at Standardisation meetings 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 question or part-question is 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 examiners should use to decide which band to place a candidate in, looking at both legal content and QWC to arrive at a band of 'best fit'.

1	(a)	In respect of the tort of negligence, explain what is meant by:	
1	(a)	(i) a duty of care;	
1	(a)	(ii) a <b>breach</b> of a duty of care;	
1	(a)	(iii) <b>damage</b> arising from the breach;	
1	(a)	(iv) <b>res ipsa loquitur</b> .	(15 marks)

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-5 marks
Band 2	Answer based on limited understanding	6-10 marks
Band 3	Appropriate answer showing sound understanding	11-15 marks

**Potential Content**

- (i) Neighbour test based on reasonable foreseeability  
Case, eg Donoghue v Stevenson
  - (ii) Reasonable man test/risk factors  
Case, eg Paris v Stepney Borough Council
  - (iii) Directness (causation) + foreseeability tests  
Case, eg the Wagon Mound
  - (iv) An obvious case of negligence. Reversal of the burden of proof from C having to prove breach to D having to prove that he was not in breach  
Case, eg Grant v Australian Knitting Mills
- Note: only one aspect - max 5 for an excellent answer;  
only two aspects - max 9 for good answers;  
only three aspects - max 13 marks for good answers  
Notional 5:5:5:5 split may help – check Band at end*
- [AO1:10, AO2:5, AO3:0]

1	(b)	Gerwyn is considering suing in the tort of negligence. Taking into account your answer to 1(a), and any relevant defences which he could plead, discuss his chances of success if he sued the following people:	
1	(b)	(i) Hal;	(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**

- Clear duty of care despite the instructions from employer
  - Appears to be a breach (skill of defendant? – Nettleship v Weston)
  - Clear damage
  - Possible defence of consent. Case, eg Hall v Brooklands Auto Racing Club
  - Application/conclusion
- [AO1:0, AO2:5, AO3:0]

<b>1</b>	(b) (ii) Ivor.		<i>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Clear duty of care (employee to fellow employee)

Appears to be a breach (high risk activity, Ivor not acting reasonably)

Clear damage

Possible defence of consent/inevitable accident. Case/example

Application/conclusion

[AO1:0, AO2:5, AO3:0]

<b>1</b>	(c) Consider whether or not Drive plc could be sued by Gerwyn under the Occupiers' Liability Acts 1957 and/or 1984.		<i>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Under the 1957 Act – Gerwyn as an employee is a lawful visitor

Common duty of care; reasonable safety in using the premises; relevance of notices

Case law in support

Application + conclusion

Under the 1984 Act – Gerwyn was in a part of the factory where he was not supposed to be = trespasser?

Relevance of warnings + consent

Case law in support

Application + conclusion

*Only one aspect dealt with – max 4 marks for a good answer*

[AO1:0, AO2:5, AO3:0]

<b>1</b>	(d) Explain why Gerwyn has been given this advice.		<i>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

Recognition of contributory negligence

Act/case, eg Sayers v Harlow UDC

Key principle – damages reduced by percentage contribution of defendant

Application + conclusion

[AO1:0, AO2:5, AO3:0]

<b>1</b>	(e)	(i)	Discuss whether it is fair that an injured claimant should have his damages reduced. <b>(Answer in continuous prose.)</b>	<b>(5 marks)</b>
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**Note: Quality of Written Communication is to be assessed in this part-question. Examiners should 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 candidate 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 candidate spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately. **1 mark**

Band 2 Answer based on limited understanding. The candidate spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility. **2-3 marks**

Band 3 Appropriate answer showing sound understanding. The candidate spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly. **4-5 marks**

#### Potential Content

Claimant needs full damages to compensate properly for losses

Defendant benefits from an undeserved reduction in payment

Claimant should accept responsibility for his part in the loss

*Credit any other reasonably sensible points*

*Unbalanced answer – max 3 marks*

[AO1:0, AO2:0, AO3:5]

<b>1</b>	(e)	(ii)	Discuss whether the law should have a better way of compensating employees who are injured at work.	<b>(5 marks)</b>
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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

Recognition that a claim for damages in negligence can be a lengthy + expensive process

Non-availability of Legal Representation for personal injury cases/difficulties associated with contingency fee arrangements

Recognition that difficulty may exist in terms of who to take action against

Recognition that suing an employee is likely to be pointless if that person has no money

Recognition of alternative of suing employer in vicarious liability/guaranteed finance through insurance

Recognition of alternative forms of action, eg industrial injuries tribunal

Recognition that compulsory social insurance can provide a no-fault solution to personal injury cases

*Credit any other reasonably sensible points*

*Any two of the above points can reach top Band if properly recognised + discussed*

*Additional depth and/or breadth required for max marks*

[AO1:0, AO2:0, AO3:5]

<b>2</b>	(a)	(i)	Discuss Len’s criminal liability with respect to his aggressive behaviour and Maggie’s injuries.	(6 marks)
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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 on limited understanding	<b>3-4 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>5-6 marks</b>

**Potential Content**

Aggressive behaviour – recognition of assault  
 Definition  
 Authority  
 Application + conclusion  
 Bruising/split lip – probable charge of abh (credit explained alternatives)  
 Definition  
 Authority (Act and/or case)  
 Application + conclusion [AO1:1, AO2:5, AO3:0]

<b>2</b>	(a)	(ii)	Discuss Len’s criminal liability with respect to Maggie contracting HIV.	(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

HIV (assuming Len is responsible) – probable charge gbh  
 Definition  
 Varieties under S.20 + S.18  
 Authority in support (OATP Act 1861 + Dica (2003))  
 Application + conclusion (either way) [AO1:1, AO2:4, AO3:0]

<b>2</b>	(a)	(iii)	Discuss whether or not the solicitor’s advice is correct.	(4 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 on limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3-4 marks</b>

**Potential Content**

General principle governing consent/non-fatal offences + possible case  
 Public policy + exceptions  
 Consent induced by fraud + Dica (2003)  
 Best view – that solicitor’s advice is incorrect  
*Be prepared to credit the quality of the discussion even if the conclusion is wrong*  
[AO1:2, AO2:2, AO3:0]

<b>2</b>	(b)	Identify and discuss the charge(s) that Len could face if Maggie dies from an HIV-related illness.	<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 on limited understanding	<b>3-4 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>5-6 marks</b>

**Potential Content**

Possible charge of murder

Definition

Authority

Application + conclusion (may be difficult to prove *mens rea*?)

Alternative charge/conviction for constructive manslaughter

Definition

Authority

Application + conclusion

*Murder or manslaughter only – max 4 marks*

[AO1:2, AO2:4, AO3:0]

<b>2</b>	(c)	Discuss what charges Len may face in respect of:	
<b>2</b>	(c)	(i)	DS Nixon’s fractured skull;
<b>2</b>	(c)	(ii)	the injury to PC Ogden’s face. <span style="float: right;"><i>(6 marks)</i></span>

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

**Potential Content**

(i) Fractured skull = serious injury = gbh

S.18 or S.20 – *mens rea* issues

Authority in support

Application + conclusion

(ii) Cut = wound (definition)

S.18 or S.20 – *mens rea* issues

Authority in support

Application + conclusion

*Only 1 dealt with – max 4 marks*

[AO1:2, AO2:4, AO3:0]



**2** (d) Taking account of your answers to 2(c) above and the following factors:

Len's mental state and the effect of his prescribed tablets  
 Len's drunkenness and use of illegal drugs,

identify which **defence(s)** may be appropriate and discuss the likely success of that defence/those defences. (8 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 on limited understanding	<b>3-5 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>6-8 marks</b>

**Potential Content**

- (i) Possible plea of insanity  
 Possible plea of automatism linked to insanity or otherwise  
 Possible plea of (involuntary) intoxication  
 For any of the above:  
     Definition  
     Authority  
     Application + conclusion  
*Only 1 defence needs to be dealt with for full marks*

- (ii) Plea of voluntary intoxication  
 Definition  
 Authority, eg Majewski/Lipman  
 Application to drink and drugs + conclusion (basic or specific intent)  
*Only 1 aspect dealt with – max 5 marks* [AO1:2, AO2:6, AO3:0]

**2** (e) Choose **one** defence which can be pleaded in a criminal case. Identify and discuss advantages **and** disadvantages relating to that defence. (5 marks)

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>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

- For each relevant issue identified - **1 mark**  
 Eg Insanity issues could include:  
 Important to have a defence for the mentally ill. Outdated common law definition; medical knowledge has outstripped a 160-year-old law; the stigma of the word 'insanity'; problem of the standard of proof required of the defendant; narrow legal definition, etc  
 Authority in support  
*Credit any reasonably sensible points made as critical commentary*  
*Unbalanced answer – max 4 marks* [AO1:0, AO2:0, AO3:5]

- |          |     |  |                  |
|----------|-----|--|------------------|
| <b>2</b> | (f) | Comment on whether or not the law in relation to non-fatal offences is in need of reform. <b>(Answer in continuous prose.)</b> | <b>(5 marks)</b> |
|----------|-----|--|------------------|

**Note: Quality of Written Communication is to be assessed in this part-question. Examiners should 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 candidate 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 candidate spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately. **1 mark**
- Band 2 Answer based on limited understanding. The candidate spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility. **2-3 marks**
- Band 3 Appropriate answer showing sound understanding. The candidate spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly. **4-5 marks**

#### Potential Content

Identification + comment on issues such as:

Language of 1861 Act no longer appropriate

Structural issues, eg pairs of offences under the same Section

Sentencing issues, eg S.47 + S.20 carry the same sentence

[AO1:0, AO2:0, AO3:5]

- |          |     |  |                  |
|----------|-----|--|------------------|
| <b>3</b> | (a) | Identify and discuss the legal issue(s) relating to the intended marriage of Una and Vikram. | <b>(5 marks)</b> |
|----------|-----|--|------------------|

- 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

Marriage Act 1949 as amended

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

Do Una + Vikram know each other? – possible 'marriage of convenience'? [AO1:1, AO2:4, AO3:0]

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

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

**Potential Content**

Recognition that marriage under 16 would be void  
 Recognition that 16/17-year-olds require parent/court permission  
 Recognition that marriage valid despite lack of permission, possible prosecution for fraud  
 Matrimonial Causes Act 1973 [AO1:1, AO2:4, AO3:0]

**3** (c) Describe the relevant law on marriage relating to witnesses, permitted times and legal venues that you will need to explain to Zoe when you return her call. *(5 marks)*

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>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Witnesses – must be two competent witnesses  
 Permitted times – normally 8am to 6pm, unless a special licence exists  
 Venues – church or other recognised religious building, Register Office, other approved premises  
 Authority, eg Marriage Acts 1949 + 1994  
*Note: only one aspect - max 2 marks for a good answer;*  
*only two aspects - max 4 marks for two good answers* [AO1:1, AO2:4, AO3:0]

<b>3</b>	(d)	In relation to the law on divorce, explain to Trudy the legal meaning of the following terms.	
<b>3</b>	(d) (i)	“Irretrievable breakdown” and how it can be proved;	(4 marks)
<b>3</b>	(d) (ii)	“Decree nisi” and “decree absolute”;	(4 marks)
<b>3</b>	(d) (iii)	“Maintenance” and “child maintenance”;	(4 marks)
<b>3</b>	(d) (iv)	“Mediation”.	(3 marks)

3 (d) (i)	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 based on sound understanding	<b>3-4 marks</b>

**Potential Content**

Marriage cannot be saved  
 Proved by one of the ‘five facts’  
 Matrimonial Causes Act 1973

[AO1:0, AO2:4, AO3:0]

3 (d) (ii)	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 based on sound understanding	<b>3-4 marks</b>

**Potential Content**

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

[AO1:1, AO2:3, AO3:0]

3 (d) (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 based on sound understanding	<b>3-4 marks</b>

**Potential Content**

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

Payment made in respect of the children of a relationship  
 Money generally paid to parent where children reside  
 Role of CSA – calculations + allowances for other commitments

[AO1:0. AO2:4, AO3:0]

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

3 (d) (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 based on sound understanding	<b>3 marks</b>

**Potential Content**

'Counselling' process related to divorce

Role of Relate/purpose if the marriage cannot be saved

Family Law Act 1996

[AO1:1, AO2:2, AO3:0]

<b>3</b>	(e)	(i)	Identify the courts which can be used in divorce proceedings.	<i>(2 marks)</i>
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(Divorce) County Court

High Court (Family Division)

**1 mark each**

[AO1:2, AO2:0, AO3:0]

<b>3</b>	(e)	(ii)	Comment on whether or not the law on divorce is suitable to meet the needs of a modern society.	<i>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Recognition and discussion of issues such as:

Proof of irretrievable breakdown generally based on fault – problem in terms of future relationship

Problems associated with mediation (delay, inappropriate in domestic violence situations)

Financial issues post-divorce, eg incomes will not stretch to two households, problems with the CSA, etc

Problems with access to children, eg Fathers for Justice

Conclusion

*Credit any other reasonably sensible points raise/discussed*

[AO1:0, AO2:0, AO3:5]

<b>3</b>	(f)	(i)	Outline the relevant law which applies to civil partnerships (the registration of same-sex relationships).	<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 on limited understanding	<b>2 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>3 marks</b>

**Potential Content**

Requirement to give notice

Minimum 15 days after giving notice before the ceremony can take place

Ceremony can take place at a Register Office or other approved premises

Civil Partnership Act 2004

[AO1:3, AO2:0, AO3:0]

<b>3</b>	(f)	(ii)	Identify and comment on the <b>legal</b> benefits of registration. <b>(Answer in continuous prose.)</b>	<b>(5 marks)</b>
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**Note: Quality of Written Communication is to be assessed in this part-question. Examiners should 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 candidate 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 candidate spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately. **1 mark**
- Band 2 Answer based on limited understanding. The candidate spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility. **2-3 marks**
- Band 3 Appropriate answer showing sound understanding. The candidate spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly. **4-5 marks**

**Potential Content**

Benefits include employment rights, eg survivor pensions, paternity/maternity leave; tax benefits, eg Inheritance Tax; succession rights, eg under an intestacy; housing rights, eg inheriting a tenancy. Commentary on the above as appropriate  
 Credit any reasonably sensible issue raised  
*Balanced argument not necessarily required, but answer likely to be better if balance is shown*  
 [AO1:0, AO2:0, AO3:5]

<b>4</b>	(a)	Advise Joe whether he was legally entitled to buy the book at the lower price indicated on the shelf of the bookshop.	<b>(5 marks)</b>
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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**

Recognition of the contractual nature of the situation  
 Recognition of the difference between an offer and an invitation to treat  
 Application to the facts  
 Authority in support  
 Conclusion [AO1:1, AO2:4, AO3:0]

<b>4</b>	(b)	(i)	Advise Joe of his statutory consumer rights in respect of the following:	
			<ul style="list-style-type: none"> <li>• the tea bags</li> <li>• the coffee</li> <li>• the toaster.</li> </ul>	<i>(10 marks)</i>

Band 0	Inappropriate answer showing no understanding	<b>0 marks</b>
Band 1	Basic awareness	<b>1-3 marks</b>
Band 2	Answer based on limited understanding	<b>4-7 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>8-10 marks</b>

**Potential Content**

Tea bags – recognition of a sale by description  
 S.13 Sale of Goods Act 1979  
 Case(s) in support  
 Application + conclusion  
 Coffee – recognition of satisfactory quality/fitness for purpose  
 S.14 S of G Act 1979 as amended  
 Case(s) in support  
 Application + conclusion  
 Toaster – recognition of defective product  
 Consumer Protection Act 1987  
 Possible case in support  
 Application + conclusion  
 Possible alternative – action against the university under the sale of Goods Act 1979  
[AO1:0, AO2:10, AO3:0]

<b>4</b>	(b)	(ii)	Discuss the advantages of consumers being able to take legal action through small claims.	<i>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Advantages could include speed, cost, informality, convenient, local, accessible, no need for expensive lawyers, etc  
*At least two discussed for top Band*  
*At least three discussed for max*  
*No requirement to discuss disadvantages, though could enhance the answer where the disadvantage relates to an equivalent advantage*  
[AO1:0, AO2:0, AO3:5]

**4** (b) (iii) Discuss whether or not consumers are well protected by the range of consumer protection legislation identified in the introduction to the question.  
**(Answer in continuous prose.)** **(5 marks)**

**Note: Quality of Written Communication is to be assessed in this part-question.**  
**Examiners should 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 candidate 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 candidate spells, punctuates and use the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately. **1 mark**

**Band 2** Answer based on limited understanding. The candidate spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility. **2-3 marks**

**Band 3** Appropriate answer showing sound understanding. The candidate spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly. **4-5 marks**

**Potential Content**

Issues could include range of protection covering both goods and services; implied terms do not have to be agreed by the parties; limited opportunities for the trader to exclude liability; overall the legislation promotes a pro-consumer culture; but consumers not always aware of their rights; difficulties in taking/enforcing those rights, eg lack of Legal Representation at Small Claims; limitations on liability in the legislation, eg min £275 damage under CPA, exclusion of private sellers under S.14 SoGA, etc [AO1:0, AO2:0, AO3:5]

**4** (c) Joe has asked you whether he may have been the victim of discrimination by Caroline.  
**4** (c) (i) Advise him whether this is correct.  
**(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 discrimination on the grounds of sex **(1 mark)**  
 Definition/exceptions  
 Case(s) in support  
 Application + conclusion [AO1:0, AO2:4, AO3:0]



**4** (c) (ii) If it is correct, advise Joe where a case involving discrimination would be heard. **(1 mark)**

**Potential Content**

Recognition of (Employment) Tribunal

**1 mark**  
[AO1:1, AO2:0, AO3:0]

**4** (d) (i) What would Caroline have to prove in a defamation case against Joe? **(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 on limited understanding          | <b>3-4 marks</b> |
| Band 3 | Appropriate answer showing sound understanding | <b>5-6 marks</b> |

**Potential Content**

That the statement was defamatory  
 Definition + application  
 That the statement referred to the claimant  
 Definition + application  
 That the statement was published  
 Definition + application  
 Case(s) in support  
 Conclusion

[AO1:1, AO2:5, AO3:0]

**4** (d) (ii) Explain to Joe how the case would be dealt with and who would try the case. **(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 on limited understanding          | <b>2 marks</b>   |
| Band 3 | Appropriate answer showing sound understanding | <b>3-4 marks</b> |

**Potential Content**

Likely to be a multi-track case  
 Heard before judge and jury  
 At the High Court  
 Some indication of process, ie evidence, legal submissions, judgement [AO1:2, AO2:2, AO3:0]

<b>4</b>	(d)	(iii)	Describe the various safeguards that are in place to ensure that both Joe and Caroline would have a fair trial.	<b>(5 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 on limited understanding	<b>2-3 marks</b>
Band 3	Appropriate answer showing sound understanding	<b>4-5 marks</b>

**Potential Content**

Possible answers include:

- Rules of natural justice, ie both sides must be heard, unbiased decision makers
- Presence of a jury of ordinary people to judge the issue of reputation
- Limitations on government funding in defamation cases, but availability of conditional fee arrangements + various ways of accessing legal advice
- Opportunities to avoid trial, eg apology + offer of amends
- Human Rights Act provisions relating to the right to a fair trial, etc

*Credit any other reasonably sensible points described*

*Credit can be given for discussion rather than description*

[AO1:5, AO2:0, AO3:0]

**ASSESSMENT GRID PAPER 2**

	<b>Maximum Mark</b>	<b>Assessment Objective 1</b>	<b>Assessment Objective 2</b>	<b>Assessment Objective 3</b>
Question 1	45	a) 10 b) 0 c) 0 d) 0 e) 0	5 10 5 5 0	0 0 0 0 10
Question 2	45	a) 4 b) 2 c) 2 d) 2 e) 0 f) 0	11 4 4 6 0 0	0 0 0 0 5 5
Question 3	45	a) 1 b) 1 c) 1 d) 2 e) 2 f) 3	4 4 4 13 0 0	0 0 0 0 5 5
Question 4	45	a) 1 b) 0 c) 1 d) 8	4 10 4 7	0 10 0 0
<b>SUB-TOTAL</b>	90	20	50	20

**ASSESSMENT GRID OVERALL**

	<b>Target</b>	<b>Achieved</b>
<b>AO1</b>	30-40%	37.2%
<b>AO2</b>	20-30%	27.8%
<b>AO3</b>	35-40%	35.0%

**SPECIFICATION COVERAGE**

<b>Topic</b>		<b>Specimen Paper</b>
Introduction to Law	Meaning and definition of law	
	Classifications of law	✓
Courts and Processes	Hierarchy of the courts	✓
Criminal Courts	The Magistrates' Court	✓
	The Crown Court	✓
Civil Courts	The County Court	✓
People in the Law Lay People	Juries	✓
	Lay magistrates	✓
Legal Professionals	Solicitors and barristers	✓
	Judges	✓
Sources of Law	Acts of Parliament	✓
	Case law and precedent	✓
	Relationship between sources of law	✓
Law of Tort	Negligence	✓
	Trespass	
	Nuisance	
	General defences	✓
	Remedies	✓
Criminal Law	Introduction	
	Fatal offences	✓
	Non-fatal offences	✓
	Property offences	
	Defences	✓
Family Law	Marriage	✓
	Divorce	✓
	Succession	
Rights and Responsibilities	Introduction	
	Buyers and sellers	✓
	In employment	✓
	As a citizen	✓