

# **Critical Thinking**

Advanced GCE

Unit **F503**: Ethical Reasoning and Decision-Making

## **Mark Scheme for June 2011**

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All Examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the Report on the Examination.

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**Preamble**

The Unit 3 paper sets out to assess candidates' critical thinking skills in the context of decision-making. To be successful, in general terms candidates need to be able to demonstrate the ability to handle key terms and concepts such as choice, criteria and dilemma and to come to judgments in the context of situations determined by a set of resources.

**Assessment by Specification**

Candidates should be able to....		Qn 1	Qn 2	Qn 3	Qn 4
3.3.1	Evaluate a range of source material and select appropriate ideas, comments and information to support their reasoning and analysis of complex moral and ethical problems.	✓			✓
	Identify and evaluate conflicting ideas and arguments within a range of source material.				✓
	Explain how ideas and arguments presented in the source material may be influenced by a range of factors.	✓			✓
	In addition to those common patterns of reasoning developed in Units 1 and 2, identify, analyse and apply hypothetical reasoning.			✓	✓
	Demonstrate understanding of the idea that there may be a range of different possible responses to complex moral and ethical problems, and that there may be many different criteria that can be applied in assessing the value and effectiveness of different solutions to complex moral and ethical problems.		✓	✓	
3.3.2	Demonstrate understanding of the nature of a dilemma.				
	In response to real issues, construct their own arguments.				✓

**Extended Writing**

Question 4 requires candidates to produce a piece of extended writing.

**Stretch and Challenge**

Level 4 of Question 4 is the Stretch & Challenge element of this examination.

**Assessment Objectives [AOs] and Allocation of Marks**

The total mark for the paper is 60, allocated as follows:

- AO1 **Analyse** argument 15 marks
- AO2 **Evaluate** argument 19 marks
- AO3 **Develop** own arguments 26 marks

These Assessment Objectives are addressed together. The weighting between them is reflected in the different types of questions asked and in the application of the markscheme.

Question	AO1	AO2	AO3	Total
<b>1</b>	2	4	0	<b>6</b>
<b>2</b>	2	4	0	<b>6</b>
<b>3</b>	4	4	4	<b>12</b>
<b>4</b>	7	7	22	<b>36</b>
<b>Total</b>	<b>15</b>	<b>19</b>	<b>26</b>	<b>60</b>

**Guidelines for Annotating Scripts**

All markers will be required to use the following conventions. No annotation will be used except what is agreed at the Standardisation meeting.

- |   |  |
|---|--|
| 1 | two numbers between 0 and 3<br>total for question 1 ringed and transferred.                                  |
| 2 | three or four numbers between 0 and 2<br>total for question 2 ringed and transferred.                        |
| 3 | one number between 0 and 8<br>one number between 0 and 4<br>total for question 3 ringed and transferred.     |
| 4 | one number between 0 and 12<br>three numbers between 0 and 8<br>total for question 4 ringed and transferred. |

The following annotations may be used:

- |     |   |
|-----|---|
| D   | Relevant use of Document                  |
| ED  | Evaluation of Document                    |
| C   | Criterion (question 3)                    |
| EC  | Evaluation of criterion (question 3)      |
| P   | Use of principle (question 4)             |
| EP  | Evaluation of principle (question 4)      |
| ALT | Consideration of alternative (question 4) |
| R   | Resolution of issue (question 4)          |

- |     |                              |
|-----|------------------------------|
| IC  | Intermediate conclusion      |
| H   | Hypothetical reasoning       |
| CA  | Counter-argument / assertion |
| RCA | Response to counter-argument |
| An  | Analogy                      |
| Ex  | Example                      |
| Ev  | Evidence                     |

**Question 1**

Suggest and briefly explain **two** ways in which the data in **Document 4** might or might not be useful in deciding whether to raise the age of criminal responsibility.

**[3+3]**

*For each of two answers:*

3 marks	Valid point clearly identified and clearly explained.
2 marks	Valid point clearly identified <b>or</b> vague, generic or marginal point identified and explained.
1 mark	Vague, generic or marginal point identified.
0 marks	No correct content.

**Indicative Content**

- Because the survey is based on self-reporting, the numbers of offences may be understated, based on guilt or fear of prosecution.
- Because the survey is based on self-reporting, the numbers of offences may be overstated, based on bravado.
- Because the survey did not cover “some high offending groups”, the statistics are likely to be under-stated.
- Table 2 indicates that the highest number of young people admitting to offences irrespective of gender occurs in the mid teens, but offending by boys peaks a little later. This observation could be used to support raising the age of criminal responsibility, on the basis that being criminally liable does not seem to deter people of these ages at present, or it could be used to oppose raising the age, on grounds that a lot of offending would be decriminalised.
- Table 1 does not differentiate by age within the 10-25 range, while table 2 differentiates by age and gender but not by the seriousness of the offence. So it may be that the offences to which teenagers admit are mostly not serious, while nearly all serious offences are committed by older people.
- Even if these statistics for current criminal activity by teenagers are accurate, it is impossible to know how much worse (if at all) the amount of offending would be if some of the youngsters were to be considered below the age of criminal responsibility.

*Examples of 3-mark answers:*

- Because the survey is based on self-reporting, the numbers of offences may be understated, based on guilt or fear of prosecution.
- Table 2 indicates that the highest number of young people admitting to offences irrespective of gender occurs in the mid teens, but offending by boys peaks a little later. Since the young people concerned are above the age of criminal responsibility, it would be possible to infer that the risk of prosecution and punishment is not an effective deterrent.
- Table 1 does not differentiate by age within the 10-25 range, while table 2 differentiates by age and gender but not by the seriousness of the offence. So it may be that the offences to which teenagers admit are mostly not serious, while nearly all serious offences are committed by older people.
- Because the survey did not cover “some high offending groups”, the statistics are likely to be under-stated.

*Examples of 2-mark answers:*

- Because the survey is based on self-reporting, some respondents may have lied, making the statistics unreliable.
- Because the survey did not cover some high-offending groups, the statistics are unreliable.
- The statistics refer to 2005 and are therefore out-dated. They are therefore unsuitable for evaluating the current policy, which according to Doc 1 was introduced recently.
- The data refer only to one 12-month period, which may not be typical.

*Examples of 1-mark answers:*

- It may be that the offences to which teenagers admit are mostly not serious, while nearly all serious offences are committed by older people.
- The document has good credibility, because the Home Office has relevant expertise.
- The statistics refer to 2005 and are therefore out-dated.

*Other valid answers should be credited.*

**Question 2**

The government may have to decide whether to raise the age of criminal responsibility or keep it at its current level. Explain why this decision would **or** would not be a dilemma.

**[6]**

- |         |   |
|---------|---|
| 2 marks | Clear understanding of the nature of a dilemma (two alternatives; each has strong reasons against)  |
| 1 mark  | Some understanding of the nature of a dilemma   |
| 2 marks | Clear understanding of the disadvantages of each choice in this case  |
| 1 mark  | Some understanding of the benefits and/or disadvantages of at least one alternative in this case  |
| 1 mark  | Judgment that this case is or is not a dilemma (must follow from the explanation) (if there is no understanding of the nature of a dilemma, it is impossible to gain this mark.)                      |
| 1 mark  | <b>either</b> explanation that this is not a dilemma, because of the possibility of compromise/there are several ages from which to choose<br><b>or</b> full understanding of the nature of a dilemma |

**Indicative content**

- Strictly, there are several options, since if the age were to be raised there are several different ages which could be chosen. Even in broad terms there are three options – raise the age of criminal responsibility, keep it as it is or lower it. On this basis, the issue is not a dilemma. Alternatively, since no one is arguing that the age should be lowered, it is legitimate to argue that this issue does constitute a dilemma, inasmuch as there are two choices, each of which has significant reasons against it.
- If the age of criminal responsibility is kept as at present, some children who commit mischief without fully realising the significance of their own actions will gain a criminal record and may become more likely to commit further crimes in the future. If the age at which children typically understand the difference between right and wrong really is higher than 10, then it is unjust to punish 10-year-olds for their actions.
- But if the age is raised, more crimes may go unpunished and more children may commit crimes because they believe they can break the law with impunity.

*Example of Level 3 answer (6 marks):*

- A dilemma is a case where a choice has to be made between two alternatives, each of which has significant reasons against it. Since no one is apparently arguing in favour of lowering the age of criminal responsibility, there are in effect only two broad choices in this case: raise the age or keep it at its present level. Significant objections can be raised against each of these choices. If the age of criminal responsibility is kept as at present, some children who commit mischief without fully realising the significance of their own actions will gain a criminal record and may become more likely to commit further crimes in the future. On the other hand, if the age is raised, some young people below the new age limit may be more likely to commit crimes, because they know they will not be punished if they are caught. However, the choice of raising the age is actually a compendium of several ages. A government faced with a proposal to raise the age of criminal responsibility to 16, for example, could put forward a compromise of an age of 12, 13 or 14. Strictly speaking, therefore, this issue does not constitute a dilemma.

*Example of 4-mark answer:*

- A dilemma is a case where a choice has to be made between two alternatives, each of which has significant reasons against it. If the age of criminal responsibility is kept as at present, some children who commit mischief without fully realising the significance of their own actions may become more likely to commit further crimes in the future. If the age is raised, some crimes will go unpunished, which is unjust.

*Example of 1-mark answer:*

- Keeping the age of criminal responsibility at its present level would be inconsistent with other countries, but raising it would offend public opinion.

## Question 3

Suggest and evaluate **one** choice which the government could make about the age of criminal responsibility. You should use **three** criteria (eg public safety).

[12]

The mark for this question will be the sum of the following:

- a mark out of 8 for Application and Evaluation of Selected Criteria to Choice
- a mark out of 4 for Quality of Argument.

Level	Application and evaluation of selected criteria to choice		Quality of argument	
Level 4	7, 8	<ul style="list-style-type: none"> <li>• Sound and perceptive application of three criteria to a clearly-defined choice.</li> <li>• Firm understanding of how criteria might support <b>and</b> weaken the case for the selected choice <b>and/or</b> some evaluation of criteria.</li> </ul>	4	<ul style="list-style-type: none"> <li>• Cogent and convincing reasoning, very well structured to express/evaluate complex ideas/materials.</li> <li>• Consistent use of intermediate conclusions.</li> <li>• Few, if any, errors of spelling, grammar, punctuation.</li> </ul>
Level 3	5, 6	<ul style="list-style-type: none"> <li>• Clear understanding of how three criteria might support <b>and/or</b> weaken the case for a clearly-defined choice <b>or</b> clear understanding how two criteria might support <b>and</b> weaken the case for a clearly-defined choice <b>and/or</b> some evaluation of criteria.</li> </ul>	3	<ul style="list-style-type: none"> <li>• Effective and persuasive reasoning.</li> <li>• Some clarity in expression of complex ideas.</li> <li>• Appropriate use of intermediate conclusions.</li> <li>• Relatively few errors of spelling, grammar, punctuation.</li> </ul>
Level 2	3, 4	<ul style="list-style-type: none"> <li>• Basic understanding of how at least two criteria might support <b>and/or</b> weaken support for a choice <b>or</b> clear understanding how one criterion might support <b>and</b> weaken the case for a choice.</li> </ul>	2	<ul style="list-style-type: none"> <li>• Basic presentation of reasoning, including relevant points and conclusion(s).</li> <li>• Written communication fit for purpose, but containing significant errors of spelling, grammar, punctuation.</li> </ul>
Level 1	1, 2	<ul style="list-style-type: none"> <li>• At least one criterion applied to a choice or to the issue in a limited/simplistic manner.</li> </ul>	1	<ul style="list-style-type: none"> <li>• Reasoning is sketchy and unstructured.</li> <li>• Communication may lack coherence and contain significant errors in spelling, punctuation and grammar.</li> </ul>
Level 0	0	<ul style="list-style-type: none"> <li>• No application of criteria to issue.</li> </ul>	0	<ul style="list-style-type: none"> <li>• No discernible reasoning.</li> </ul>

Candidates might show their understanding of how the criteria support or weaken the choice by referring to:

- ambiguity in the application of the criteria *and/or*
- why a criterion is *or* is not important in this case.

**Indicative content**

Choices which may be evaluated include:

- Keep the age of criminal responsibility at 10 years in all cases.
- Restore the previous system of flexibility between the ages of 10 and 14.
- Raise the age of criminal responsibility to 16 years.
- Raise the age of criminal responsibility to 18 years.
- Do not have a fixed age of criminal responsibility, but assess each offender's awareness of wrongdoing individually.

Suitable criteria which might be used to assess a choice include:

- Public safety
- Child welfare
- Ease of implementation
- Justice.

Public opinion is not a good choice as a criterion in this case, because any assessment is likely to be entirely speculative; however, it should be credited if candidates use it. They may suggest that many people would agree with the views expressed by the retired magistrate.

Other valid choices and criteria should be credited.

*Keep the age of criminal responsibility at 10 years in all cases*

At first sight, this option would appear the one most conducive to public safety, since it would deter at least some young people from committing crimes because they were afraid of being punished; however, in the long run criminalising youngsters might encourage them in a life of crime, which would indirectly harm public safety. Child welfare does not favour this choice, since it is highly unlikely that a child would benefit from being treated as a criminal. This choice would be fairly easy to implement, since it involves no change from the present system and does not involve the necessity of assessing mental awareness; however, finding appropriate punishments for young offenders is difficult and expensive. Many people would feel that this option is the most just, because it treats the offence itself with due seriousness and prevents offenders from escaping punishment; however, it is harsher than the previous system, which recognised that some young people between the ages of 10 and 14 do not have a sufficiently developed sense of right and wrong; furthermore, some would argue that children of 10 are mainly the product of their environments, and that it would therefore be unjust to punish them for behaviour which is really the fault of their parents or of government policy.

*Restore the previous system of flexibility between the ages of 10 and 14*

This is the choice described in para 3 of Doc 1. Like the previous choice, this would appear to be conducive to public safety, since it would deter some young people from committing crimes because they were afraid of being punished (although Doc 4 shows that it was not entirely effective); in this case, too, however, criminalising youngsters might indirectly harm public safety in the long term. The flexibility of this choice would satisfy the criterion of child welfare to some extent, depending on what treatment or punishment would be imposed in each case. This system was not easy to implement, because the assessment of the mental state of people between the ages of 10 and 14 is difficult and capable of being disputed; Doc 3 also suggests that appropriate strategies for dealing with under-age offenders have not been developed. Arguably, this choice would be more just than a rigid age of 10, since it would recognise variations in people's intellectual, emotional and social maturity; some would argue, however, that children of these ages are mainly the product of their environments, and that it would therefore be unjust to punish them for behaviour which is really the fault of their parents or of government policy.

Raise the age of criminal responsibility to 16 years

This choice is not good according to the criterion of public safety, because if some teenagers up to the age of 16 felt that they could behave as badly as they liked and get away with it, they would be more likely to engage in offences such as theft, criminal damage and violence; however, the increased danger to public safety may not be great, because the mere fact that offenders would not be treated as criminals does not necessarily mean that they would get away scot free, and in any case many of the 75% of teenagers who currently do not commit crimes (Doc 4) would probably still not do so even if they knew they could escape punishment. Child welfare would be satisfied inasmuch as children would not be subjected to inappropriate punishments, but they might be harmed by a failure to help them to face up to their own responsibility for their actions. The actual administration of the judicial process involved in this choice would be easy, since all wrong-doers under the age of 16 would be excluded from being prosecuted, but the task of finding appropriate other ways of dealing with offenders up to and including the age of 15 would be difficult (but not as difficult as including 16 and 17 year olds). This would be rather unjust, since a significant number of offenders (Doc 4) would escape being held to account for their misdeeds; if a lower burden of proof were to be applied than in criminal trials, this choice might also unjustly deprive some people of the opportunity to establish their innocence.

Raise the age of criminal responsibility to 18 years

This choice is probably the worst according to the criterion of public safety, because if some teenagers felt that they could behave as badly as they liked and get away with it, they would be more likely to engage in offences such as theft, criminal damage and violence; however, the increased danger to public safety may not be great, because the mere fact that offenders would not be treated as criminals does not necessarily mean that they would get away scot free, and in any case many of the 75% of teenagers who currently do not commit crimes (Doc 4) would probably still not do so even if they knew they could escape punishment. Since everyone under the age of 18 is legally a child, the criterion of child welfare has to be applied to this choice; it can be argued that whereas younger children would probably benefit from not being punished for their wrong-doing, miscreants in their late teens need to face their own guilt. The actual administration of the judicial process involved in this choice would be easy, since all wrong-doers under the age of 18 would be excluded from being prosecuted, but the task of finding appropriate other ways of dealing with offenders up to and included the age of 17 would be seriously difficult. This would be the least just of all the choices, since a large number of offenders (Doc 4) would escape being held to account for their misdeeds; even if a non-judicial way were to be found of dealing with these offences as social problems rather than crimes, it would still be unjust, because by this age people should be confronted with their own criminal behaviour (and also have the opportunity to establish their own innocence).

Do not have a fixed age of criminal responsibility, but assess each offender's awareness of wrongdoing individually

This choice would endanger public safety to some extent, since many young people would probably believe (rightly or wrongly) that they could escape being held to account for criminal activities. The flexibility of this option may make it the one which would best satisfy the criterion of child welfare. It would probably be the hardest choice to implement, because it would involve relying on either the evidence of psychologists or subjective judgments by police or magistrates; inconsistencies would be likely to occur between cases and between courts. Despite this inconsistency, this option might be the most just, since it would recognise variations in people's intellectual, emotional and social maturity; the previous policy for offenders between the ages of 10 and 14, as set out in Doc 1 para 3, gives some support for this approach.

**Question 4**

Do you think the age of criminal responsibility should be raised, and, if so, how far?

Write an argument to support your choice. In your argument you should use some relevant principles and explain why you have rejected at least one possible **alternative** choice. Support your argument by referring critically to the resource documents. [36]

Mark by levels, according to the following table. Answers which satisfy at least one of the descriptors for a level will normally be awarded a mark within that level. Answers which fulfil all four descriptors of a level will receive a mark at or near the top of that mark-band, while answers which satisfy fewer of the descriptors will receive a correspondingly lower mark within that mark-band.

The mark awarded for this question will be the sum of the following:

- Mark out of 12 for Identification and Application of Relevant Principles
- Mark out of 8 for Resolution of Issue
- Mark out of 8 for Use and Critical Assessment of Resource Documents
- Mark out of 8 for Quality of Argument.

This question is the provision for extended writing.

Level 4 in this question is the provision for Stretch and Challenge.

**Principles**

General principles have implications that go beyond the case in point. Different kinds of principle a candidate can refer to might include legal rules, business or working practices, human rights, racial equality, gender equality, liberty, moral guidelines.

Candidates are likely to respond to the dilemma by explaining and applying relevant ethical theories. This is an appropriate approach, provided the result is not merely a list or even exposition of ethical theories with little or no real application to the problem in hand. Candidates who deploy a more specific knowledge of ethical theories will be credited only for **applying** identified principles to the dilemma in order to produce a reasoned argument that attempts to resolve it. Candidates are **not** required to identify standard authorities such as Bentham or Kant, or even necessarily to use terms such as Utilitarianism etc, although they may find it convenient to do so; the word “however” is likely to deserve more marks than the word “deontological”.

Level	Mark	Identification and Application of Relevant Principles	Resolution of Issue	Mark	Use and Critical Assessment of Resource Documents	Mark	Quality of Argument
<b>Level 4</b>	10-12	<ul style="list-style-type: none"> <li>• Skilful and cogent treatment and application of at least 3 principles or at least 2 major ethical theories.</li> <li>• Clear and purposeful exposition of how the principles might be more or less useful in resolving the issue.</li> </ul>	<ul style="list-style-type: none"> <li>• Confidently-expressed resolution of the stated issue on the basis of a persuasive account of the arguments in favour of the stated choice and developed consideration of at least one alternative.</li> <li>• Perhaps an awareness that the resolution is partial/provisional.</li> <li>• Clear and valid judgments made in coming to an attempted resolution.</li> </ul>	7, 8	<ul style="list-style-type: none"> <li>• Perceptive, relevant and accurate use of resource material to support reasoning.</li> <li>• Sustained and confident evaluation of resource material to support reasoning.</li> </ul>	7, 8	<ul style="list-style-type: none"> <li>• Cogent and convincing reasoning.</li> <li>• Well-developed suppositional reasoning.</li> <li>• Communication very well suited to handling complex ideas.</li> <li>• Consistent use of intermediate conclusions.</li> <li>• Meaning clear throughout.</li> <li>• Frequent very effective use of appropriate terminology.</li> <li>• Few errors, if any, in spelling, grammar and punctuation.</li> </ul>
<b>Level 3</b>	7-9	<ul style="list-style-type: none"> <li>• At least 2 relevant principles or theories accurately identified, explained and applied.</li> <li>• Clear exposition of how the principles might be more or less useful in resolving the issue.</li> </ul>	<ul style="list-style-type: none"> <li>• Generally confident and developed treatment of the stated choice.</li> <li>• Some consideration of at least one alternative.</li> <li>• Clear attempt to resolve the issue.</li> </ul>	5, 6	<ul style="list-style-type: none"> <li>• Relevant and accurate use of resource material.</li> <li>• Some evaluation of resource material.</li> </ul>	5, 6	<ul style="list-style-type: none"> <li>• Effective and persuasive reasoning.</li> <li>• Some suppositional reasoning.</li> <li>• Clear and accurate communication.</li> <li>• Appropriate use of intermediate conclusions.</li> <li>• Frequent effective use of appropriate terminology.</li> <li>• Few errors in spelling, grammar and punctuation.</li> </ul>

<b>Level 2</b>	4-6	<ul style="list-style-type: none"> <li>At least 2 relevant principles identified <b>or</b> a well-developed discussion of 1 principle.</li> <li>Basic application of principles to the issue.</li> </ul>	<ul style="list-style-type: none"> <li>Basic discussion of the issue.</li> </ul>	3, 4	<ul style="list-style-type: none"> <li>Some relevant and accurate use of resource material, which may be uncritical.</li> </ul>	3, 4	<ul style="list-style-type: none"> <li>Limited ability to combine different points of view in reasoning.</li> <li>Perhaps some suppositional reasoning.</li> <li>Some effective communication.</li> <li>Some use of appropriate terminology.</li> <li>Fair standard of spelling, grammar, punctuation, but may include errors.</li> </ul>
<b>Level 1</b>	1-3	<ul style="list-style-type: none"> <li>Some attempt to identify at least 1 principle and to apply it to the issue.</li> </ul>	<ul style="list-style-type: none"> <li>Limited discussion of the issue.</li> </ul>	1, 2	<ul style="list-style-type: none"> <li>Very limited, perhaps implicit, use of resource material.</li> </ul>	1, 2	<ul style="list-style-type: none"> <li>Limited ability to produce coherent reasoning.</li> <li>May contain significant errors in spelling, punctuation and grammar.</li> </ul>
<b>Level 0</b>	0	<ul style="list-style-type: none"> <li>No use of principles.</li> </ul>	<ul style="list-style-type: none"> <li>No discussion of the issue.</li> </ul>	0	<ul style="list-style-type: none"> <li>No use of resource material.</li> </ul>	0	<ul style="list-style-type: none"> <li>No discussion of the issue.</li> </ul>

Maximum Level 1 for Identification and Application of Relevant Principles for anyone who only re-cycles criteria from question 3 as principles.

Maximum Level 2 for Use and Critical Assessment of Resource Documents for anyone who uses the documents uncritically.

### Quality of Argument

Typical indicators of Level 3 are:

- use of intermediate conclusions
- use of hypothetical reasoning.

Consistent and well-supported use of intermediate conclusions and/or hypothetical reasoning is an indicator of Level 4.

In addition to the indicators of Level 3, typical indicators of Level 4 are some of:

- use of relevant counter-argument with persuasive response
- use of relevant analogy
- use of relevant examples or evidence.

## Indicative Content

Credit must be given to any argument based on a principle in the sense outlined in the preceding note. Principles of that kind might include:

- People who commit crimes should be punished.
- Children ought to be treated differently from adults.
- The Government has a duty to protect citizens from crime.

The best answers are likely to appeal to two or three of the following ethical principles and theories, which are susceptible of fuller development. Good answers will recognise that most of these theories apply primarily to sane adults, and will question whether they can properly be applied to children.

As in most cases, the most likely principle to which appeal may be made is the Utilitarian slogan, “[we should aim to produce] the greatest good of the greatest number”. The parties whose happiness, preferences or welfare should be calculated are the victims of crime (and their friends and relatives), young offenders (and their friends and relatives) and those who would become or fear becoming victims of crime in the future. Because Utilitarianism does not take account of desert, the welfare of offenders is just as significant in the Utilitarian calculus as the welfare of victims.

This subject can also be expressed as a conflict of rights. Candidates may set the public’s rights to retribution and protection against the right to a fair trial, which might reasonably be interpreted as including being treated appropriately for one’s age and the right to defend oneself.

Candidates who approach the issue from the perspective of duty may appeal to Kant’s Categorical Imperative. The first version, “Act according to that maxim which you can will to be a universal law” could be used to support as low an age of criminal responsibility as possible, on the principle that no one would want all culprits to escape conviction and punishment. However, if Kant recognised that children are not fully rational or autonomous until they reach a certain age, he would probably not have applied this principle to them until they could be regarded as full members of the moral community. Furthermore, at whatever age criminal responsibility is set, it would be applied universally, and not on the basis of ad hoc exceptions, which would satisfy a modified version of the Categorical Imperative. The second version, that we should always treat persons as ends, and not as means only, could be used to argue that young offenders should not be treated as means to the safety or satisfaction of the public, or alternatively that young offenders themselves should not treat victims of crime as the means to their end of self-gratification by means of violence or theft.

Several of W D Ross’s *prima facie* duties could shed light on this issue: Reparation and justice may imply that crime should be punished from as young an age as possible, while the duties of beneficence and self-improvement could justify punishments aimed at rehabilitation.

The content of any appeal to Divine Command ethics would vary according to which religion such commands were drawn from, but ancient sacred texts tend not to recognise any difference between children and adults. Judaism, Christianity and Islam all emphasize the obligation for crimes to be avenged.

Theories of Social Contract justify the right of the state to punish criminals, but they do not directly consider crimes committed by children. A possible justification for action, however, is that if parents are unable to bring up their children properly (including steering them away from crime), then the state may and should intervene.

Behind the Rawlsian Veil of Ignorance, one might be a young offender or a victim of crime, but it is doubtful if it is possible to imagine oneself not to have developed a sense of moral responsibility.

**Indicative content on evaluation of resources**

***NB These comments are presented separately for the convenience of markers and teachers. Credit will be given to material of this kind in candidates' answers only if it is used in support of their discussion of the issue.***

Document 1:

This information comes from official websites intended to inform citizens about the law. It has excellent expertise and no apparent vested interest to misrepresent the truth.

Document 2:

Although this article is reproduced from The Guardian, which has a good reputation as a quality newspaper, it is clearly presented as the expression of a personal opinion and is therefore under no obligation to be neutral. The reasoning is weakened by being based heavily on flawed analogies.

Document 3:

As a magistrate, the author of this anecdote had expertise and ability to observe this particular incident, but it is possible that situations have changed since he retired. The relevance of the anecdote to the possible raising of the age of criminal responsibility is indirect, since the boy concerned was considered too young to be aware of his own wrong-doing under the present system.

Document 4:

These statistics are published by the Home Office, on the basis of expert research sponsored by the Government. They are highly reliable, because the author had excellent expertise and ability to see. Although it is always possible that Government publications have a vested interest to misrepresent the truth in order to support Government policies, no inferences are drawn from these figures and there is therefore every reason to believe them. A range of different interpretations of these data and hypotheses based upon them is acceptable.

*Specimen Level 4 answer* (819 words)

That crime should be punished is a principle widely considered – eg by Kant - to be fundamental to the life of a civilised society. The major religions also support this principle, which may be found in the Jewish Scripture (Christian Old Testament) and the Qur'an. This approach focuses on the crime itself, and the need for retribution, rather than on the perpetrator, and it implies that the age of criminal responsibility should be as low as possible, since this would reduce the number of wrong-doers evading responsibility for their misdeeds. The tables in Doc 4 show how many teenagers would escape justice if the age of criminal responsibility were to be raised; in fact, the true figure is almost certainly higher, since this survey excluded people who were currently in prison. Arguably, this approach is inconsistent with modern ideas of childhood, which recognise that children should not be treated like adults; although Doc 2 overstates the implications of the differences between children and adults, the point itself is valid and important.

Choosing the alternative which is likely to bring about the greatest good of the greatest number (simple Consequentialism) is a principle which many people follow in relation to all issues and dilemmas. The people who might be benefited or harmed by a higher or lower age of criminal responsibility are young law-breakers, their families and friends; the victims of such law-breaking, their families and friends; and those who might become victims of crime in the future or might fear doing so. The tables in Doc 4 (based on academic research funded by the Home Office and therefore reliable, on the basis of expertise and ability to observe) indicate that a lot of crime is already committed by young people, but how much it might rise if the age of criminal responsibility were to be raised is a matter of speculation. At first sight, it seems likely that raising the age of criminal responsibility would increase the amount of crime, because some young people would believe they could break the law with impunity, but that may not be the case, at least in the long run: perhaps giving youngsters a criminal record and locking them up together may set some people on a criminal career whose misdemeanours might otherwise have been a temporary aberration in a law-abiding life.

In view of this uncertainty, the system with the best consequences is likely to be setting a low threshold for criminal responsibility but ensuring that punishment in the case of young offenders is aimed primarily at rehabilitation rather than retribution (which does little good to anyone). A possible objection to this consequentialist approach, however, is that it prescinds from the issue of guilt, treating perpetrator and victim as of equal worth.

Several widely-accepted human rights could be applied to this dilemma. One of them is the right to a fair trial, which is listed in the UN Declaration of Human Rights. Arguably, one aspect of a fair trial is to be treated as being aware or unaware of the wrongness of one's own actions. The previous system of a flexible age of criminal responsibility is fully consistent with this human right. Another aspect of this right is that accused persons must be able to defend themselves. If youth crime were to be treated as a social rather than a forensic issue, young people might be deprived of this right.

Another right which could be applied to this dilemma is the right of private property, which might be threatened if a decision about the age of criminal responsibility were to make young people more likely to engage in crime, either because they knew they could escape punishment or because they had been criminalised from a young age. Once again, a judgment on this matter is inevitably speculative.

Theories of Social Contract can be used to justify the right of the state to punish criminals, but they do not directly consider crimes committed by children. If parents are unable to bring up their children properly (including steering them away from crime), then the state may and should intervene. This provides a possible basis for disciplinary action towards children who break the law, even at quite a young age.

Some of these principles imply that there should be a legal age of criminal responsibility, but not what that age should be. Other principles establish that crime reduction should be an important aim, but either retaining a young age of criminal responsibility or raising it could lead in different ways to an increase in crime. The best (or least bad) solution to this uncertainty seems to be the previous arrangement, as described authoritatively in para 3 of Doc 1, namely a flexible system beginning at a young age, with punishments for young offenders being focused firmly on rehabilitation more than retribution. Raising the age of criminal responsibility is too likely to cause too much harm to all concerned.

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