

Examiners' Reports

June 2011

J485/R/11

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This report on the Examination provides information on the performance of candidates which it is hoped will be useful to teachers in their preparation of candidates for future examinations. It is intended to be constructive and informative and to promote better understanding of the specification content, of the operation of the scheme of assessment and of the application of assessment criteria.

Reports should be read in conjunction with the published question papers and mark schemes for the Examination.

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Any enquiries about publications should be addressed to:

OCR Publications
PO Box 5050
Annesley
NOTTINGHAM
NG15 0DL

Telephone: 0870 770 6622
Facsimile: 01223 552610
E-mail: publications@ocr.org.uk

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General Certificate of Secondary Education

Law (J485)

EXAMINERS' REPORTS

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Chief Examiner's Report

This series sees candidates awarded the OCR GCSE in Law qualification for the first time and this is gratifying, as is an encouraging rise in the number of candidates sitting the examinations. The intention underpinning the creation of this GCSE specification was to introduce the study of Law in a relevant and meaningful way – an aim which appears to have been achieved given the enthusiasm with which many candidates have engaged with all four units. The course's topical and varied subject matter gives candidates the opportunity to understand some of the core elements of the English legal system and its interaction with wider fundamental issues; knowledge which will serve them well, whether as Law students at a higher level or as citizens. Employment Law and Consumer Law focus on areas which are topical but that are also not studied anywhere else in OCR Law qualifications and so those who study the subject at Law a higher level in the future have the opportunity to broaden their knowledge whilst those who choose not to take this route have an understanding of key topics common to everyday life.

One way in which the qualification aims to engage candidates is by varied assessment methods and this year has seen the successful introduction of the Computer Based Testing (CBT) in B142, something well received by both candidates and centres.

Whilst GCSE Law aims to inform students as to the areas of Law being studied, it is also carefully constructed so as to deliver the acquisition of skills which are useful and transferrable such as close reading, communication of knowledge and its application as well as discussion through extended writing. Across all four units there were many examples of candidates being able to engage with the examinations in a positive way.

In B141 there was encouraging evidence of good subject knowledge, an awareness of the way the law has developed through EU law, statute and judge-made law and the ability to discuss and reflect on ideas which permeate the English legal system.

In B142 candidates responded well to the varied demands and subject matter of the examination paper, frequently making excellent use of the stimulus material provided, and there were plenty of examples of high quality and thoughtful discussion of topical issues.

B143 saw many examples of candidates engaging with the workings of a more specific area of law and able to discuss its effect on relationships in, and the practicalities of, the workplace.

B144 showed that candidates were able to explore some rather more technical aspects of a complex area of Law with great success, demonstrating good understanding and application skills as well as the ability to discuss this area's nuances and often bringing to bear their own experiences as consumers.

Although the use of case law is not required at GCSE level it was encouraging to see many candidates, through their teachers, engaging with the Law by the use of specific cases and examples alongside the use of issues of topical debate – methods which clearly informed and developed candidates understanding and confidence.

This qualification aims to be an accessible and enjoyable course, allowing candidates to achieve success and centres to feel that their candidates have earned a valuable and appropriate qualification. The evidence suggests that this aim is being realised and it is hoped that the qualification will go from strength to strength.

B141 The Nature of Law. Criminal Courts and Criminal Processes

General Comments:

The paper remained true to the format used in the specimen and 2010 paper. It is worth noting for the future that the exam paper could focus more on other areas of the unit specification rather than continuing to look in-depth in those already assessed on specimen and past papers. The 2011 paper continued to allow differentiation to stretch the more able candidates while still allowing lower-ability candidates to access marks. The paper contained a blend of straight-forward questions requiring simple answers alongside questions requiring high standards of specific subject knowledge and assessing candidate's ability to evaluate and discuss.

The main differentiator of ability was again seen in the short, comprehension-type questions. Those candidates scoring high marks typically were able to answer the question in a fluid style and stick to the question's command. The main questions which separated candidates were 2(b)ii, 3(b)ii and 4(d)ii.

Comments on Individual Questions:

Question 1

This was a short two part question that centred on the basics behind the nature of law. Very few candidates were able to score full marks in question 1(a). This seemed to centre on either their lack of understanding or, in many cases, confusing the question identifying '...reasons why we need delegated legislation' with reasons 'why we need law'. Many candidates who were aware of the topic were not able to access more marks because of the vagueness in their answer. Question 1(b) was not found to be problematic with the majority of students scoring full marks.

Question 2

This centred on police powers and the balance between the police and citizens. The vast majority of candidates answered question 2(a) correctly, but it was, in many cases, misread by candidates who ignored the question's command. A similar pattern emerged in question 2(b)(i) with very few candidates achieving more than one mark. This was predominantly due to candidates answering the question on stop and search as opposed to the arrest process, thus failing to achieve full marks. Question 2(b)(ii)'s key thrust was an explanation of the necessity test in arrest. Candidates, in the main, were able to correctly identify such reasons. However, some candidates would tell anecdotal 'stories' which, largely, went unrewarded. Questions 2(b)(iii) and 2(c) were largely well answered by candidates; the former question allowing a range of possible answers; and the latter question allowing candidates to use much of their general and legal knowledge. It was especially pleasing to see less able candidates scoring well on this question.

Question 3

Responses to question 3(a)(i) were mixed with candidates either scoring very high or very low marks. Given the wide range of accepted answers for each classification this question became a differentiator of ability. Question 3(a)(ii) was well answered with the majority of students obtaining 2 or 3 marks. Where candidates lost marks was in their confusion about what the word 'type' referred to and they would commonly list three types of prison sentence. Question 3(b)(i) was generally well answered by candidates who read the question and the statements correctly. Candidates who understood '*the most appropriate aim*' were suitably rewarded. Where candidates in general struggled with question 3 was in 3(b)(ii). Very few candidates were able to score above 3 marks. Many candidates would simply reword the type of community sentence as their answer, e.g. 'an Action Plan is a plan of action', thus achieving no credit for this question.

Question 4

Question 4(a) seemed to confuse many candidates. The single most common error was where the candidate confused the qualification of juries with that of magistrates. Another common error was in the age range of juries, where many candidates incorrectly stated 18-65 rather than the correct answer which is 18-70. Question 4(b) was answered well by candidates. A small number of candidates used the incorrect word 'Nine', possibly not reading the statement carefully enough. Question 4(c) provided candidates with the opportunity to score 2 or 3 marks by raising one or more criticisms, explaining what they meant and expanding on the point. Question (d)(i) was again fairly well answered by most candidates. It seemed that where candidates went wrong was mainly in the second statement which it is suggested may not have been read correctly. Question 4(d)(ii) was designed to assess not only legal knowledge but also the candidates quality of written communication. It allowed candidates to develop the advantages of using magistrates, using examples where necessary. Where candidates scored highly they were able to identify a point and further expand through discussion on the reasons why it was an advantage. It was also pleasing to see that very few candidates discussed disadvantages, since this is irrelevant for this question.

B142 Civil Courts and Civil Processes. Civil Liberties and Human Rights

This was the first series in which this unit was assessed through computer based testing (CBT). It is pleasing to report that the majority of centres were able to prepare successfully for the CBT and that the candidates at these centres completed the CBT. Unfortunately a very small number of the centres entered experienced technical problems in advance of the examination which meant they did not run the CBT. A paper based alternative of the CBT containing the same questions was made available to the affected candidates. From the June 2012 centres will be able to enter candidates for either CBT or the equivalent paper based examination.

Due to the fact that the specification is now in its second year, many more candidates were entered for this examination and, correspondingly, there was a better spread of marks across the ability range. Overall the standard was very pleasing with clear evidence of some excellent teaching and learning taking place. This was particularly evident in the discussion questions which were answered with much better structure and more confidence than in June 2010. Once again, candidates were impressive in both the range and detail of their knowledge.

Please note that each of the following question specific comments is written in the context of the CBT. For question 3 (CBT) for example, references to the 'first two parts' relate to questions 3 and 4 on the paper based equivalent, and the 'final part' relates to question 5.

| Question | | Comment |
|----------|-------------|--|
| CBT | QP | |
| 1 | 1 | Every candidate attempted this question and about half of the candidates correctly answered the first part with fewer candidates getting correctly answering the second and third parts. Since the Divisions of the High Court are courts of first instance in many civil matters it is important that candidates understand their key areas of jurisdiction. |
| 2 | 2 | Most candidates answered this question correctly. |
| 3 | 3 4 5 | The first two parts of this question posed little challenge for most candidates but a number of candidates found the final part more challenging. The track system is, arguably, the centrepiece of the Woolf Reforms and centres should make sure candidates cover this area. |
| 4 | 6 7 | The majority of candidates correctly identified negligence as the correct answer, although it was not an overwhelming majority, and a significant proportion of candidates did not answer the second part correctly. Once again, the ability to work out key areas of civil law and place a case on the appropriate track are a key skill on this unit. |
| 5 | 8 | There was a good spread of responses to this question. Candidates could achieve maximum marks through breadth and also depth by developing a single point or a range of smaller points. By this means, many candidates were awarded maximum marks and very few candidates were awarded zero. |

| | | |
|----------------|----------------------------|--|
| 6 | 9 10 | <p>The first part of this question discriminated well between candidates. There were good clues in the question and better candidates could work out the correct answer from the clues 'loser pays winner's costs' and 'lawyer gets nothing'. All variants of 'no win no fee' such as CFAs and contingency fees were accepted.</p> <p>The second part of this question was one of the least well answered in this examination.</p> <p>The availability and affordability of 'After the Event' insurance is a key part of access to justice today and the use of CFAs looks set to increase under proposed Ministry of Justice cut-backs.</p> |
| 7 | 11 | <p>Despite many candidates trying to make an educated guess with responses like 'Criminal Legal Service', very few candidates answered correctly.</p> |
| 8 | 12 | <p>About half of candidates answered this question correctly.</p> <p>Centres could advise students to try and use the information in the question stem as a clue to maximise potential marks.</p> |
| 9 | 13 | <p>A pleasing majority of candidates were aware of such an important (and free) source of legal advice.</p> |
| 10 | 14 | <p>Again, a pleasing majority of candidates were aware of the important work performed by the Citizens' Advice Bureaux.</p> |
| 11 | 15 | <p>The most common error on this question was candidates confusing means and merits tests.</p> |
| 12 | 16 | <p>A number of candidates appeared to guess the answer to this question.</p> |
| 13 | 17 | <p>This question produced a pleasing range of answers despite this being a discussion question on tribunals. It was pleasing to see candidates who would have struggled with the question making some thoughtful use of the source material. This is very good exam technique and shows excellent preparation by teachers.</p> |
| 14 | 18 19 20 21 22 | <p>The majority of candidates scored satisfactorily here.</p> <p>It was pleasing to see the level of awareness of the role and training of legal executives as this part of the specification is often overlooked in other qualifications despite its providing a useful route into legal practice for many school leavers.</p> |
| 15 16 17 | 23 24 25 | <p>These questions discriminated well between candidates.</p> <p>It is important that candidates are aware of how few judges actually develop and shape the law and there are exercises in the scheme of work published on the OCR website which encourage students to undertake research activity in this area.</p> |

| | | |
|-----------|-------------------------|--|
| 18 | 26 | This question demonstrated better than any other, the area of biggest improvement in performance against June 2010. The vast majority tackled this question confidently. It was pleasing to see candidates' use of structured arguments. Most candidates could raise an issue and then develop it and some were able to take the same point a step further and place it in some broader context. This showed very good work by candidates which will serve them well should they continue with their studies to A-Level. |
| 19 | 27 | The majority of candidates were awarded full marks on this question. The ability to work out the correct answer from the broader context of the text was, again, very encouraging. It is important that candidates gain an appreciation of the principles that underpin human rights. |
| 20 | 28 | The structure of this question gave candidates the opportunity to work out a relationship between the dates and the events that they did know. The question discriminated well between candidates. Understanding the development of human rights through such a timeline is a key part of the specification and, again, features as an exercise recommended in the B142 scheme of work available on the OCR website. |
| 21 | 29 | This question proved challenging for many candidates. Better candidates were aware of the variety of sources which protected freedoms or at least some of them and thus scored satisfactorily. Responses based on the UDHR and the EDHR were also accepted. |
| 22 | 30 31 32 | Candidates scored well on the first part of this question but less well on the other two parts. Candidates can improve their performance on these questions by considering the protection of fundamental freedoms before the Human Rights Act. |
| 23 | 33 | This was well answered by the overwhelmingly majority of candidates. |
| 24 | 34 | The majority of candidates were able to score at least one mark by making use of the stem material which was very encouraging. However, only a small number were able to develop their own arguments. Credit was given for both 'common sense' arguments and thoughtful reflection on the way different rights might be infringed. |

B143 Employment Rights and Responsibilities

This year saw a larger entry, comprising the full range of candidate abilities. The level of preparation shown by many candidates was good, suggesting this is an area of law which is both interesting and relevant. It was encouraging to see candidates using examples and pertinent issues in the media to demonstrate understanding, although such references should support knowledge and understanding rather than a substitute for it. This was especially the case in questions necessitating extended writing, such as 2(c) and 4(b)(ii). Whilst it was good to see some articulate and fluent answers centres are advised that candidate practice in the organisation of ideas and the thorough use of legal principles will inform the overall quality of what is written in a positive way.

The nature of this paper, with every question being compulsory, dictates that thorough knowledge of the areas covered by the specification is required to perform well. All questions were accessible and although, for example in question 1, knowledge based answers to 1(a) were often variable, there were good skills of application evident in 1(b). There were few instances of candidates being unable to make any response at all to a given question although this was sometimes the case for both 2(c) and 4(b)(ii).

An important examination skill is close reading of the rubric and any text contained in particular questions. 2(a), 3(c), 4(a)(ii) and 4(b)(ii) were areas in which candidates did not always perform as well as might have been the case had they been more careful and attentive in responding to instructions.

Questions calling for development of knowledge, whether as application or analysis of an area of law, require good use of the legal skill of starting with a basic premise which is then expanded and applied or considered from a different perspective. This is an area on which it would benefit both centres and candidates to focus some attention.

Responses to individual questions

Question 1

Candidates were not always able to identify correctly the tests for employment; confident skills when applying these tests to scenarios were shown suggesting good understanding.

Question 2

This question contained a range of tasks focused on different skills. In 2(a) the rubric directed candidates to a particular kind of response and many were very successful in meeting its demands. In 2(b) candidates who used the stimulus material often reached a reasoned conclusion, backed up by reference to the information provided, with scenarios (i) and (ii) providing considerable differentiation as they required candidates to be confident in the distinction between direct and indirect discrimination. In (iii) many candidates were able to explain that the scenario was an example of a very particular form of sex discrimination (harassment) and some were able to link this clearly to the chance of being promoted. This question provided some candidates with an opportunity to comment generally on this area of law from a more emotional perspective and centres are advised that whilst such discussion may be a valuable teaching tool it is less likely to be required in an examination. In 2(c) many candidates were able to show good knowledge which they were then able to develop – here it was important to consider the law from the perspective of the employer and not the employee.

Question 3

This question focused on health and safety law and many candidates were able to perform well. In 3(a) there was good general knowledge about the duties of an employer whilst precision and clarity allowed candidates to access top marks were required. In 3(b) there were many good answers although relatively few picked up on the nuances in all six of the scenarios. Responses to 3(c) showed that relatively few candidates were clear on the principles which underpin the EU Six Pack and the basic mechanics of its operation. 3(d) allowed candidates to show good application skills if they had detailed knowledge of health and safety signs, with signs 3 and 4 posing particular challenges.

Question 4

There was a generally confident grasp of the area of discrimination law with the best candidates dealing well with the breadth covered by these questions. In 4(a)(i) many candidates were both accurate and succinct in their responses whilst others were less confident and gave long or repetitive examples. In 4(a)(ii) some candidates were much less clear as to how the law would impact on the individual named in the scenario but there were also plenty of clear and focused answers. In 4(b)(i) many candidates were comfortable with the principles underlying redundancy and were able to identify them accurately. In 4(b)(ii) a wide range of responses were seen. Many candidates covered a range of reasons why the law on dismissal is important to both employer and employees. Those achieving the highest marks followed the rubric and focused on only three reasons through accurate identification, explanation and evaluation of their importance. Attention to the skill of developing evaluation, and the consideration of a given issue from more than one perspective, is a way in which centres and candidates can usefully spend time to develop both understanding and important legal skills.

B144 Consumer Rights and Responsibilities

This series' larger entry demonstrated the full range of candidate ability and it was encouraging to see a level of preparation shown by many candidates that suggests the material is pertinent and challenging. With its focus on detailed areas of law this paper rewards those who develop close reading skills and then show the discipline to respond to questions in the way they have been directed. Application skills were often good, with many candidates able to support their responses with relevant examples but to reach the highest marks it is necessary to fulfil all the demands of the question; 2(b) is a good example of this as many candidates applied relevant law but did not go on to consider remedies despite the instruction to do so in the question. In the questions necessitating extended writing, such as 2(c) and 4(d) it was encouraging to see some articulate and fluent answers. The sophistication of such discussions can be informed by practice, the organisation of ideas and the use of relevant material in a thoughtful way.

Thorough knowledge of the areas covered by the specification is required to perform well, although there is no requirement for citation of cases or reference to detailed statutory or regulatory provisions. All questions were accessible but there were also some instances where a number of candidates made no response; 1(a), 2(c), 3(a), 4(b), 4(c) and 4(d) being examples of this. This would seem to suggest a lack of thorough preparation and the compulsory nature of all questions means that tactical revision in the hope that particular topics will be favoured is not one to be encouraged.

Questions calling for development of knowledge, whether as application or analysis of an area of law, require good use of the legal skill of building on a basic premise through expansion and application or consideration from a different perspective. This is an area where it would benefit both centres and candidates to focus some attention as the rewards success in this skill brings are significant.

Responses to individual questions

Question 1

Some candidates were confident in their identification of all the key elements in negligence whereas others were not able to make any correct response. However, in relation to breach of contract candidate skills of application were good.

Question 2

This question contained a range of tasks focused on different skills. In 2(a) the rubric required candidates to respond by identifying the correct type of implied term – many were successful in doing so but simple reference to the relevant statute rather than the type of term could not lead to higher marks. In 2(b) candidates performed across the whole spectrum of marks with some able to expand little beyond a basic assertion as to whether a term had been breached or not. The question asked for the most appropriate remedy in each scenario and many responses suggested that candidates had not read this part of the question – a good tip for candidates is to identify the key terms in each question. It is such attention to detail that brings the highest reward and is an essential skill for a successful law student. In situation (i) many candidates successfully noted that this was an issue of matching description rather than satisfactory quality or durability, which was the area covered in (ii). In (iii) many candidates were able to explain that the situation was an example of issues relating to reasonable time but relatively few were clear on the remedies available in such a situation. In 2(c) the best responses chose two of the three possible ways and developed their points with an explanation and sometimes an example. Those who simply listed all three ways or used again their response to (b) were not able to score so highly.

Question 3

3(a) required some specific knowledge and this rewarded those whose knowledge was both detailed and wide-ranging. Whilst many candidates were able to show good application skills in (b) relatively few picked up on the nuances in all six of the scenarios. Responses to 3(c) varied from clear and accurate definitions to very general remarks such as “a producer produces things”. 3(d) allowed many candidates to demonstrate good application skills. Some responses were colloquial, especially with regard to the scenario concerning Matt and his use of the microwave and candidates are reminded of the need to be objective and to draw conclusions based on sound legal principles at all times.

Question 4

This question focused on the issue of exclusion clauses; a topic that perhaps some candidates had not prepared for evidenced by a good number of detailed and expansive responses based on material inappropriate to the question. In 4(a) many candidates were able to select some of the appropriate terms. In 4(b) some candidates were clear and accurate in their explanation; others relied on the use of basic principles of negligence, despite the rubric of the question, and a number of candidates did not attempt an answer. In 4(c) a small number of candidates were able to identify correctly the specific elements required for a consumer contract whilst a good number were successfully able to identify the three basic elements of a contract. In 4(d) some candidates wrote extensively and insightfully whilst a number of candidates offered no response at all and others did not focus on the two key elements – the role of the judges and the area of controls on exclusion clauses. Centres and candidates are advised that the skills of constructing a discussion in response to a wide range of topics is one that can only help confidence levels and inform the sophistication of analytical writing under exam conditions. This particular question required the discussion of three ways judges protect consumers and so the inclusion of a long list of methods but without any development would not allow candidates to demonstrate detailed analysis and evaluation, skills necessary to access the higher mark bands.

OCR (Oxford Cambridge and RSA Examinations)
1 Hills Road
Cambridge
CB1 2EU

OCR Customer Contact Centre

14 – 19 Qualifications (General)

Telephone: 01223 553998

Facsimile: 01223 552627

Email: general.qualifications@ocr.org.uk

www.ocr.org.uk

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OCR (Oxford Cambridge and RSA Examinations)
Head office
Telephone: 01223 552552
Facsimile: 01223 552553

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