

OCR Report to Centres

June 2013

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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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General Certificate of Secondary Education

Law (J485)

OCR REPORT TO CENTRES

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Overview

This GCSE course is now in its fourth year and continues to introduce the study of Law to candidates through topics which are relevant and thought-provoking. The areas studied are contemporary and during the course candidates cover a challenging range of skills which are a useful precursor for the study of Law, or indeed other subjects, at AS and A level. Law is a subject in which the big issues of the day can be examined, digested, applied and discussed: candidate engagement with such issues is evident in responses throughout all of the papers, which often show high levels of knowledge alongside reflection demonstrated by analytical writing and logical application to scenarios.

This course aims to improve the candidates' knowledge of Law and helps them gain useful and transferrable skills: these include close reading, problem solving and extended analytical writing. Across all four papers there are encouraging examples of candidates demonstrating these skills to a high level: some candidates would benefit from practising core skills such as careful reading and the development of points made in application and discussion questions to help them access the higher mark bands.

In B141 it was encouraging to see evidence of good subject knowledge alongside the skills of problem solving and analytical writing. Candidates are reminded of the need to answer the question set and picking out key information before beginning to write is helpful in this regard. Key information is given in the question, and its stem, and so it is important that candidates read all the information carefully before they begin their answer. In B142 some centres chose to enter for the written paper while others used the CBT format successfully. Candidate answers often showed a good engagement with the topical and complex area of human rights, evidenced by good application and confident construction of balanced arguments in discussion questions. There remains a need for candidates to read closely and carefully when answering knowledge based questions to ensure that they make use of the correct area of their knowledge. In B143 there were many examples of candidates engaging with the subject matter at a high level but a reliance on anecdotal answers, unsupported by relevant knowledge, meant many candidates were not able to access the higher mark bands. The topic areas are often complex and candidates need to read carefully to pick up on the particular stance being taken by the question. This is especially pertinent in application and discussion questions. In B144 it was encouraging to see candidates embracing the area of the course which requires the most detailed and specific legal knowledge. Candidates are reminded that they need to revise thoroughly as there are no optional questions and any material covered by the specification can be an examination question. They also need to be prepared for material to appear at any point in the paper.

The use of case law is not specifically required at this level and although it is encouraging to see candidates, supported by their teachers, engaging with the law by the use of specific cases and relevant examples, especially when applying knowledge or discussing topical issues it is possible to score maximum marks on any of the four papers without such citation.

GCSE Law aims to provide an insight into an important area of everyday life in an accessible and enjoyable way – so that candidates can achieve a valued qualification and gain skills useful in higher academic study and as young adults. The evidence suggests that this aim is being realised and it is hoped that the qualification will continue to go from strength to strength.

B141 The Nature of Law. Criminal Courts and Criminal Processes

This was the fourth series of the B141 GCSE Law paper. This paper contributes 25% of the marks towards the full four unit GCSE Law course. The paper remained true to the format used in the specimen, and past papers while able to explore other areas within major topics. The 2013 paper continued to allow differentiation to stretch more able candidates while still allowing lower ability students to gain marks. The paper continued the strong blend of straight forward questions requiring simple answers alongside questions requiring high standards of specific subject knowledge and the ability to evaluate and discuss.

The main differentiator of ability was again seen in the short and longer comprehension type questions worth 3 and 6 marks respectively. Indeed, for some of the topics tested on the 2013 paper, the AO1 type responses require some reflection by centres. Those students scoring high marks typically were able to answer each question in a fluid style and stick to the question's command. Candidates are reminded firstly to answer the question set, rather than that which they think is being asked or wish were being asked; and secondly, to note the mark-value of each comprehension question and work towards making their answer reflect the separate points. For example, a response that is marked out of three requires three separate points of issue.

This series the main questions which separated the ability of candidates were: Questions 1a, 2a, 2bii, 2biii, 2biv, 3bii, and 4b. This was interestingly mainly a mix of AO1 and AO2 questions.

Comments on Individual Questions:

- 1 This was a short two part question that centred on the basics behind the police powers of arrest and detention. Few candidates were able to score full marks in question 1(a). This seemed to be because of their misreading of the question which required candidates to state three reasons why the police would believe an arrest was required under the 'necessity' test. Correct responses included, for example, to find out a suspect's name or address. However, a minority of candidates, instead, stated the more general 'when' the police can arrest a suspect. Specifically, such candidates would say: before during or after an offence has or is believed to be carried out. Some candidates discussed the police's powers of stop and search which was incorrect.

Question 1(b) was well answered by candidates with the majority of students achieving 2 or 3 marks.

- 2 This question for 2013 centred on sources of law, in particular, judicial precedent.

The majority of candidates answered Question 2(a) correctly. However, despite the command of the question a minority of candidates were unable to recall the types of bill and instead would state, incorrectly, 'Green' or 'White Paper'. A small number of candidates confused their answers with incorrect legal terminology and would give responses such as 'Private Persons bill'. Nevertheless given the three or four potentially correct responses available, many candidates scored full marks.

Question 2(b)(i) was, in general, well answered. A common occurrence was a minority of candidates would confuse themselves between *ratio decidendi* and *obiter dicta* forcing a single mark for the question.

Question 2(b)(ii) This question required candidates to identify three different types of judicial precedent. Few candidates were able to identify two and even less a correct third type. Some candidates, who were unsure of the question's demands, would simply use the terms from the question list in 2(b)(i) or state, incorrectly, 'White paper' or 'EU Law'.

Question 2(b)(iii) was generally well answered by candidates. Those candidates who scored highly on this question were able to explain two problems with the process of judicial precedent. For example, they would state that it is time consuming for a mark, explain why this was a problem, then for a third and final mark, expand on their first two points either with an example or an evaluative point of their own. However, some candidates would simply state a reason without any further elaboration achieving only one or two marks.

Question 2(b)(iv) produced some very mixed responses. Again, this would seem to be explained by candidate's inability to articulate a narrower part of the topic of precedent. Nevertheless, many candidates were able to discuss what distinguishing meant for a single mark but were unable to expand on this single mark. A small minority of candidates incorrectly discussed the disadvantages of judicial precedent.

- 3 Question 3(a)(i) was answered well by most candidates who were able to identify three types of sentences available for adult offenders. A small minority of candidates failed to understand the meaning of 'type' even when there was a steer in the question, and instead responded incorrectly, for example, with 'disqualification from driving', 'mandatory life sentence' or 'suspended sentence'.

Question 3(a)(ii) provided some mixed responses but, on the whole, candidates correctly discussed two of their correct responses to Question 3(a)(i). Here strong responses looked at how, specifically, a trial judge or magistrate would use, for example, a prison sentence, in practice. Candidates could then discuss the aim or an example of this type of sentencing and any other specifics relating to their chosen type for full marks. Many candidates were able to develop a good discussion on a type of sentencing showing good understanding of how the judge uses the type of sentencing and for what practical purpose.

Question 3(b)(i) was answered well by the majority of candidates, and most achieved full marks. However, a few candidates mixed definition B 'This type of offence can be tried in the Magistrates' Court or the Crown Court' and stated, incorrectly, 'Summary offence'.

Question 3(b)(ii) provided some interesting, if somewhat, brief answers. The majority of candidates were able to identify, at least, the correct court in the appeal process for both the Magistrates' Court and the Crown Court. However, some were unable to expand on this as to the grounds of appeal or any other salient point. For example, whether there was any further route of appeal. Some candidates appeared to have misread the question and simply explained the trial process in each court, for example, the crown court uses a judge and jury, rather than explain the appeal process after the verdict.

- 4 Question 4(a). Most candidates were able to correctly identify whether the statements were true or false.

Responses to Question 4(b) suggested many candidates appeared to misread the question and gave steps for the selection of a jury before the trial date rather than, as the question required, 'once summoned' and 'in the Crown Court'. Therefore some candidates would incorrectly state jury qualification, for example, is to be aged 18-70. Many candidates correctly centred on selection in the Court, for example, being selected into groups of fifteen jurors or jury vetting.

Question 4(c)(i) gave candidates an opportunity to explain simply and effectively three features or purposes the jury has in a criminal trial. The majority of candidates were able to use good and thorough features. Candidates clearly understood this area of the unit well. The majority of candidates provided a good feature for a single mark, were able to explain what it involved and use a good developmental point to achieve full marks for each of the three features required. Some candidates used their response to incorrectly discuss the advantages of juries, which, having looked at the next question, should have given them a pointer that they were on the wrong track.

Question 4(c)(ii) was answered well, however, a minority of candidates did only give one benefit. The main benefits were generally identified with a good understanding, in particular, shown of the independence and privacy of juries.

B142 Civil courts and civil processes. Civil liberties and human rights.

General Comments:

This is the fourth series of the B142 GCSE Law paper. This paper contributes 25% of the marks towards the full four unit GCSE course. In this series, the unit was assessed through computer based testing (CBT) or equivalent paper based test.

This paper contained a number of straightforward questions requiring candidates to demonstrate their knowledge. Those candidates who had a sound understanding of the different types of ADR and of the civil court hierarchy did well on these questions. However, there are a significant number of responses that need to work on clearly distinguishing between conciliation and mediation.

The paper included questions that required the candidates to apply their knowledge to factual scenarios. Here, good responses showed a sound understanding of the legal professions and the differences between solicitors, barristers and legal executives. Most candidates also successfully identified the relevant rights and restrictions in questions 18-20. To get full marks on these questions, candidates had to be able to relate these to the relevant Article under the Human Rights Act.

The extended answer questions at 13 and 21 acted as the main differentiators. Those candidate responses that scored well tended to adopt a structured approach to their answer in terms of making a point; explaining it and then developing it. Some candidate responses to question 13 focused on criticisms of the judiciary specifically rather than criticisms of the legal profession in general. It is important that candidates recognise the difference between the two. To achieve full marks on question 21, candidates needed to explain both sides of the argument using real life examples rather than anecdotal evidence.

| CBT Question | Question Paper | Comment |
|--------------|----------------|---------|
|--------------|----------------|---------|

| | | |
|---|---|--|
| 1 | 1 | Where candidates did not correctly identify all three types of ADR, the common confusion was between conciliation and mediation. |
|---|---|--|

| | | |
|---|---|--|
| 2 | 2 | The evaluation of ADR was generally well answered. Many candidates did very well by recognising the need to give a balanced answer in order to get the highest marks. They also took a structured approach to each point by recognising the need to identify a point (pro or con of ADR); explain it and then extend it. |
|---|---|--|

No marks could be awarded where there was a repeat of the question regarding saving money - care needs to be taken to read the question as it specifically directed candidates to look for **other** advantages and disadvantages.

There was also a common misconception that ADR cannot be used for serious matters. Some weaker responses expressed the view that ADR was some sort of tiered process where the parties to a dispute started at negotiation and worked through mediation, conciliation etc. to see what would work. This type of response was often given where in question one there was a failure to recognise that different types of ADR are applicable for different types of problems.

| CBT Question | Question Paper | Comment |
|--------------|----------------|---|
| 3 | 3 | The majority of candidates were able to obtain full marks on this question. |
| 4 | 4 | The majority of candidates were able to obtain full marks on this question. |
| 5 | 5 | Many candidates answered this question correctly. Those who did not tended to also struggle with question 9 which also looked at the court hierarchy. |
| 6 | 6 | The correct answer here was 'Tribunals'. A common incorrect answer seen was 'magistrates'; possibly because one of the clues referred to 'three members'. |
| 7 | 7 | Where full marks were not achieved, it was common to see 'County Court' incorrectly given. Some responses stated 'High Court Judges ' rather than simply 'High Court', no marks could be awarded for this response as the question clearly asked them to identify a legal body. |
| 8 | 8 | Where full marks were not achieved, it was common to see 'High Court' incorrectly given. Some responses stated 'County Court Judges ' rather than simply 'County Court', no marks could be awarded for this response as the question clearly asked them to identify a legal body. |
| 9 | 9 | The majority of responses accessed the higher marks available on this question which showed a good understanding of the civil court hierarchy. |
| 10-12 | 10-12 | Common incorrect responses confused a solicitor with a barrister. Some responses also used the generic term 'lawyer' which could not be awarded marks. |
| 13 | 13 | This question discriminated well between candidates with the higher scoring papers focusing on the wording of the question very specifically. These candidates looked at criticisms of the legal profession generally rather than criticisms of the judiciary specifically. Those candidates who related their answers solely to the judiciary did not achieve marks even though the points that they identified could have been valid if they had been applied on a more general basis, eg arguments about the ethnicity or social class of lawyers rather than judges. The candidates that answered this question well had structured their responses using point, evidence and extension technique which enabled them to access the higher marks. |
| 14 | 14 | The majority of candidates managed to identify the first stage (adverts and applications) and the last stage (appointments) of the judicial appointment process but there was some confusion about the intervening steps. The stage of 'sifting' caused particular problems. |
| 15 | 15 | This question was generally well answered. |

| CBT Question | Question Paper | Comment |
|----------------|----------------|--|
| | | Of the incorrect responses seen the most common related to whether barristers needed a special advocacy qualification if they wanted to appear in the higher courts. |
| 16 17 18 | 16 | <p>Case 1 This question was generally very well answered with the majority of candidates identifying the right to respect for private and family life.</p> <p>Case 2 This question was also, generally very well answered by the majority of candidates who recognised the freedom of thought, conscience and religion.</p> <p>Case 3 This question caused the most confusion and was where most of the incorrect responses were given. Responses seen identified freedom of peaceful assembly and association (presumably in reliance on the word 'protest') rather than the right to liberty apart from lawful arrest. The clues were in the case study here, with reference to 'kettling' and 'containment'.</p> |
| 19 | 17 | <p>Responses to this question were mixed, in that few candidates scored well on freedom 1 whereas the majority scored well on freedom 2.</p> <p>Freedom 1 related to freedom of personal information and it tended to be confused with freedom of expression. Alternatively, candidates simply repeated the wording of the question.</p> |
| 20 | 18 | This was generally well answered with candidates showing a sound understanding of the basic freedoms and restrictions and their application to a factual scenario. The weakness lay in the third element of the question which required the candidate to relate the freedom to a specific Article. |
| 21 | 19 | As above, this was generally well answered with candidates showing a sound understanding of the basic freedoms and restrictions and their application to a factual scenario. The weakness lay in the third element of the question which required the candidate to relate the freedom to a specific Article. |
| 22 | 20 | As above, this was generally well answered with candidates showing a sound understanding of the basic freedoms and restrictions and their application to a factual scenario. If full marks were not awarded it was in most cases the incorrect identification of the relevant Article. |

| CBT Question | Question Paper | Comment |
|---------------------|-----------------------|---|
| 23 | 21 | <p>There were some very comprehensive answers to this question with candidates once again, demonstrating ability to construct a balanced argument that enabled them to access the higher marks. Pros and cons were identified; explained and then were often extended which meant that clearly structured answers were given.</p> <p>Some candidates did however; show a lack of understanding of the Human Rights Act 1998 as the UK's domestic legislation putting into effect the ECHR. Some candidates talked at length about human rights on a global scale but those answers did not attract credit as they did not address the question asked.</p> <p>Some candidates included an awareness of contemporary politics, for example the case of Abu Qutada, in their answer although such examples were not essential to gain full marks. Other responses dealt with the disadvantages of the Human Rights Act 1998 only in anecdotal terms, which meant they were unable to access the higher mark bands.</p> |

B143 Employment rights and responsibilities

General Comments:

This year's examination series shows good evidence of candidates being well-prepared and able to engage fully with the assessment, demonstrating both knowledge and the use of appropriate skills. Thorough knowledge of all the areas covered by the specification is required to perform well as there are no optional questions and candidates are advised to be sure to revise all material thoroughly. In addition they should be prepared for topic areas to appear in different parts of the examination paper.

At GCSE level there is no requirement for candidates to refer to decided cases, although their use can inform both knowledge and understanding. Examples can be included in answers and these are often used to good effect in extended writing questions such as 2(c) and 4(d), but such examples should not be relied on as a substitute for knowledge confidently expressed in other areas of the paper. In discussion questions many candidates showed good use of skills – beginning with a point which is then expanded and further developed with a pertinent example or considered from a different perspective. A useful tip is to underline key words to get the focus of the question exactly right.

All areas of the paper were accessible although questions such as 3(a) suggested that candidates were less confident in selecting the correct knowledge and this might be a useful area for practice as part of a candidate's revision programme. There were relatively few instances of candidates being unable to make any response at all to a given question although this was sometimes the case for 2(c), 4(a), 4(b) and 4(d).

Close reading of the rubric and the accompanying text and questions is an important skill and questions 2(a), 2(b), 2(c), 3(c), 3(d) and 4(d) 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.

Comments on Individual Questions:

Question 1

In (a) most candidates were able to select the three correct pieces of information. Candidates are reminded that in a question such as this they must make their selection from the choices provided.

In (b) those who read the question carefully so as to pick up the clues as to the correct type of employment status were able to score well.

Question 2

In (a) many candidates scored well and used the scenarios, each of which contained clues, to identify the correct type of dismissal. Some candidates did not attempt this question at all or did not read the material carefully enough to extract the information needed to work out the correct type of dismissal.

In (b) candidates, who identified whether the dismissal was fair or unfair, supported their decision with an explanation based on the scenario and then reached a conclusion as to a likely remedy scored well. The facts in the scenarios provided a useful support, for example, in (i) Michaela's incapability despite support from her boss meant that her dismissal was likely to be fair and therefore attracting no remedy. In (ii) it was important to establish that Simon had a statutory, legal or contractual right to paternity leave which meant that his dismissal was unfair and his remedy would be the granting of full paternity leave or reinstatement or compensation if

he had been sacked. In (iii) the support from Ratmir's boss and the fact that he was losing the restaurant money due to his poor English meant that his dismissal was likely to be fair with Ratmir having no remedy.

In (c) it was important to focus on the issue of redundancy from the correct perspective – that of the employer. The best answers identified a situation and then expanded it, often supporting their points by the use of a pertinent example. Other candidates simply identified situations without amplification. When candidates did not achieve higher marks it was often because they did not answer the question set and approached the issue of redundancy from the perspective of the employee.

Question 3

In (a) many candidates were able to choose some but not all of the correct words successfully. The choice between 'notice' and 'statement' and between 'practicable' and 'possible' were the ones which provided the greatest differentiation.

In (b) candidates had to use the text to work out the correct answer and many candidates scored well, often by planning their answer alongside the scenario text before placing the correct number in the appropriate space in the table. Others were able to select some of the more obvious categories correctly.

Responses to (c) showed that many candidates did not read the question carefully and answered with the duties of an employer under the Health and Safety at Work Act 1974. Those who approached the question from the correct perspective were credited for definitions or accurate summaries of those definitions.

In (d) most candidates were able to gain some marks by describing the breach of health and safety rules in the picture. The best answers scored higher marks by linking each breach to the focus of the question – common law duties. Others relied on statutory rules or those contained in the Six Pack and those answers did not attract credit as they did not answer the question accurately.

Question 4

In (a) the question stem provided an example of a type of discrimination. The best candidates used this as stimulus for their answers. Others selected information which suggested they had not read the stem to get the right perspective.

In (b) candidates needed to read the scenarios carefully to work out the most appropriate type of discrimination and responses covered the whole mark range.

In (c) many candidates were able to explain how the Race Relations Act 1976 would protect Melanie, Farouk and Tony. Others simply answered in the positive or negative, without explanation, and these answers did not attract credit.

In (d) a wide range of responses were seen. The best answers focused on the correct perspective, that of the employer, and advanced three reasons which were developed and often supported by pertinent examples. Other candidates listed reasons without development and these candidates were not able to access the higher marks. Those who considered how employees were protected against discrimination were not able to gain credit unless their responses also contained material relevant from the stance of the employer.

B144 Consumer rights and responsibilities

General Comments:

This entry for this series demonstrated the full range of ability. There was evidence of an appropriate level of preparation by a range of candidates. Application skills in some questions were often good. But to reach the highest marks it is necessary to fulfil all the demands of the question. In the questions necessitating extended writing, such as 2(c) and 4(d) there was evidence of some well-structured, articulate and fluent answers using material in a thoughtful and relevant 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; 2(c), 3(a), 4(c), and 4(d) being examples of this. It is essential on this paper that candidates read the question carefully; draw attention to the key words in the question to ensure they follow the rubric accurately. This together with an appropriate selective use of material should allow for better candidate responses. Previous exam papers are useful tools for practice and preparation purposes but it is essential that candidates are able to follow the rubric accurately and become more proactive in selecting what they have to do. 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.

Comments on Individual Questions:

Question 1

Many candidates were confident in 1(a) in their identification of all three rules of contract formation.

In question 1(b) candidates needed to correctly identify (ii), (iv) and (vi) to achieve all three marks. Where full marks were not achieved in the main candidates had correctly identified (iv) and (vi) only as the correct answers.

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 defendant. The majority were successful in identifying two out of three correct answers. Candidates often incorrectly identified the type of defendant in 2(a) (i).

It is necessary for candidates to read the question thoroughly rather than just focus on the key word in the question. This had implications for marks in 2(b) as the type of defendant was confused in 2(b) (i) and (ii). Some excellent answers were evident for 2(b) however some candidates appeared not to read the question carefully and seemed unable to grasp what the question was looking for. Answers were often vague and many answers were without reference to negligence but contained references to the Sale of Goods and/or Sale of Goods and Services Acts instead.

Question 2(c) produced some reasonable answers but quite often candidates listed issues rather than developing their points and consequently failed to get beyond Level one. Some did not follow the rubric and discussed more than two limitations or answered on the basis of benefits rather than limitations.

Question 3

Question 3(a) weaker responses often incorrectly identified elements of negligence.

Answers to parts of 3(b) varied. For 3(b) (i) and (ii) many candidates were able to successfully obtain at least either one mark or both marks. Generally candidates struggled with 3 (b) (iii) but some very good answers appeared. Again candidates did not follow the rubric and tended to provide a remedy which was not asked for so did not go beyond Level 1 in discussing how and why the law should protect the consumer.

Responses to 3(c) did vary with some candidates unable to identify the three key elements. In particular, the concept of 'reasonable skill and care' and some candidates not referencing the word 'reasonable' when discussing care and skill yet using it for other parts of the question.

Question 3(d) provided candidates with the opportunity to demonstrate good application skills. However, many were unable to apply the correct section of the Supply of Goods and Services Act (1982). As in other questions candidates need to ensure they follow the rubric of the question and avoid simply restating the terms they had given in 3(c). Good responses explained in context the facts and gave explicit remedies.

Question 4

This question focused on the issue of exclusion clauses; a topic that perhaps many candidates had not prepared for as evidenced by a good number of responses based on material inappropriate to the question.

In question 4(a) candidates were able to select at least one of the appropriate words, though a significant number confused references to judges and parliament.

Many candidates were clear, accurate and provided well written reasoning in question 4(b).

In question 4(c) many candidates were able to identify correctly some types of relevant exclusion clauses, though often candidates made reference to death and personal injury as alternatives which could not be awarded marks.

In 4(d) a few candidates wrote extensively and insightfully. Many did not focus on the rubric and the requirement to discuss the limitations of the protections offered to the consumer arising from Unfair Contract Terms Act (1977) and the regulations in Unfair Terms in Consumer Contracts Regulations (1999). Many wrote about the Consumer Protection Act, often in the context of protection not limitations. This resulted in limited answers lacking appropriate development and would not allow candidates to demonstrate detailed analysis and evaluation of the question and the skills necessary to access the higher mark bands.

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