

GCSE

Law

General Certificate of Secondary Education **J485**

OCR Report to Centres June 2014

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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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B141 The Nature of Law. Criminal Courts and Criminal Processes

General Comments:

This was the fifth 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 2014 paper continued to allow differentiation to stretch more able candidates while also 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 2014 paper, the AO2 and AO3 type responses require some reflection and practice 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 again reminded: firstly to answer the question set; and, secondly, to note the mark-value of each comprehension type question and work towards making their answer reflect that number of separate points. For example, a response that is marked out of three requires three separate points of issue. Candidates would benefit from the P.E.E(point, evidence and extension) method of answering questions in, for example, questions 2(a), 2 (c)(ii) and 2(d).

This series the main questions which separated the ability of candidates were: Questions 2a, 2ci, 2cii, 2d, 3a, 4a and 4c. This was interestingly mainly a mix of AO2 and AO3 questions.

Comments on Individual Questions:

Question 1

This was a traditional two-part question that centred on the basics behind the police powers of stop and search and searches carried out at a police station. Most candidates were able to score at least 2 marks in question 1(a). Those who scored 1 or 0 marks seemed to misread the question or give vague answers. Correct responses included, for example, to refuse to remove any items of clothing other than a jacket, outer-coat or gloves. However, a minority of candidates answered by saying that the search had to be in a public place. As this was in the stem of the question such a response was awarded no marks.

Question 1(b) was well answered by candidates with nearly all achieving full marks.

Question 2

This question centred on sources of law, in particular, legislation.

The majority of candidates were able to achieve one or more marks for Question 2(a). Most candidates were able to name a stage and explain, briefly, what the stage entailed. However, many failed to capitalise on their 2 marks by either failing to expand on this or by failing to give any further elaboration. Despite the command of the question, a minority of candidates were unable to recall a stage of a bill '*...in the House of Commons*' and instead would explain, incorrectly, 'Green' or 'White Papers'.

Question 2(b) was, given its European Law basis, generally, well answered. All candidates achieved either 2 or full marks. Where full marks were not achieved, the majority of such

candidates would state, incorrectly, that a primary source was a Directive, instead of the correct response of Treaty.

Question 2(c)(i) required candidates to identify three different types of delegated legislation. Just under half of candidates were able to identify three types. Some candidates, who were unsure of the question's demands, would simply use the terms from the question list in 2(b) or state, incorrectly, 'White Paper' or 'Green Paper', or any of the stages from Question 2(a). This continues an alarming trend seen in earlier series where this has happened. It is worth noting that answers to previous questions are highly unlikely to feature elsewhere in a current paper.

In Question 2(c)(ii) those candidates who scored highly were able to explain two problems with delegated legislation following the P.E.E method identified above. For example, they would state that there is a lack of control, 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 single reason without any further elaboration achieving only one mark.

Question 2(d) produced some very mixed responses. Again, this would seem to be explained by candidates' inability to, perhaps, articulate through a discussion, a narrower part of the topic of legislation, here: private members' bills. Nevertheless, many candidates were able to discuss their thoughts on this type of bill and were able to give some excellent examples of such.

Question 3

Question 3(a)(i) produced mixed results with the majority able to explain 1 or 2 functions of the Criminal Defence Service. Where candidates failed to do this, or were unable to achieve full marks, was either in their brevity, repetition of a similar function or in their vagueness in their response.

Question 3(b) provided a broad range of marks and, on the whole, candidates were able to correctly discuss the two situations in the crown court. Given the vast material available on this area, many candidates were able to score 5 or full marks on this question. Many candidates were able to develop a good discussion on both procedures giving, in many cases, much more information than was required. This demonstrated how comfortable they were with the subject matter. However, a small minority of candidates answered this question from a trial in the magistrates court, which was surprising given the question specifically asked for the procedure in '*... the Crown Court.*'

Question 3(c)(i) was answered well by the vast majority of candidates, and nearly all achieved full marks. Where candidates failed to achieve full marks was in confusing Rehabilitation with Reparation, but this was very rare.

In Question 3(c)(ii) the majority of candidates were able to identify at least one factor per sentence type, but failed to capitalise on this or provide a further factor for a second mark. Identifying two factors for custodial sentences seemed to not pose many problems. Here candidates would regularly score 2 marks. This was generally repeated for factors for community orders. Where many candidates failed to score any marks was in regard to discharges. It is suggested that this area could be looked at by centres in closer detail.

Question 4

Question 4(a) provided mixed results based on the demands, and specifically, the actual wording of the question. Many candidates were able to correctly identify two or three of the key qualities. However, a small number of candidates responded by incorrectly using the formal qualification of magistrates, for example, the age restrictions as their responses.

Question 4(b) was well answered suggesting that the majority of candidates knew the subject matter well. The most common incorrect response was in the answer to whether a deaf person can become a magistrate. The correct answer is that they are currently, for specific reasons, unqualified to sit as a magistrate.

Question 4(c) gave candidates an opportunity to explain simply and effectively a number of ways that magistrates are trained. Again, many candidates responded by, incorrectly, explaining the formal qualifications required to be a magistrate. Some candidates explained at length, again incorrectly, the application form part of the recruitment procedure ignoring the question. Nevertheless, many candidates did understand the process and explained in great detail many of the stages, with examples, of magistrates' training.

Question 4(d) was generally answered well. This time the topic was contextualised with a scenario which could, if required, assist the response. The main benefits were generally identified with good understanding, in particular, judged by a cross-section of Masood's peers. Again the P.E.E system was utilised by many of the candidates who scored full marks.

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

General Comments:

This is the fifth series of the B142 GCSE Law paper. This paper contributes 25% of the marks towards the full four unit GCSE course.

This paper contained a number of straightforward questions requiring candidates to demonstrate their knowledge. Those candidates who had a sound understanding of the track system and types of freedoms did well on these questions. However, there were a significant number of responses that did not clearly distinguish between different types of Articles. The training of the judiciary proved problematic as did the identification of the Legal Services Ombudsman as the final place to take a complaint against a lawyer.

The paper also included questions that required the candidates to apply their knowledge to factual scenarios. Here, good responses showed a sound understanding of the work undertaken by different courts in the civil hierarchy and the role of a civil judge. Many candidates also successfully identified the different sources of freedoms although a considerable number did confuse statutory and common law sources in the scenario. It was pleasing that many candidates were able to explain cogently reasons why restrictions may apply to certain freedoms although some candidates simply described the freedoms rather than focusing on the restrictions as required by the question.

The extended answer questions at 4 and 17 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. Most candidates answered Q4 well, showing a good evaluation of Tribunals but some candidates confused tribunals with dispute resolution by litigation which did not gain credit. Most candidate responses to Q9 dealt well with criticisms of the judiciary. To achieve full marks on Q17, candidates needed to deal specifically with Article 3 and relate any use of the mosquito, as an example, to the issue of inhuman treatment as required by the question. A considerable number did not do this and so lost marks. Candidates need to focus on relating their material specifically to the question asked. This is fundamental to their success in the extended writing questions. Those candidates who were most successful here demonstrated good examination technique by clearly identifying a point required by the question; giving an example/further detail and then offering a further point of analysis.

Comments on Individual Questions

Q1: Most candidates identified multi track but there was some confusion between fast track and small claims track.

Q2: The majority of candidates identified the Magistrates Court but identification of the venue for Judicial Review (the Divisional Court, QBD) caused problems. The final scenario acted as a good discriminator with the stronger candidates recognising the 'leapfrog' appeal process which enabled an appeal from the High Court to the Supreme Court.

Q3: The majority of candidates were able to obtain full marks on this question on legal funding.

Q4: The evaluation of tribunals was generally well answered. Many candidates showed a sound examination technique by identifying a particular disadvantage; explaining it and then extending/developing it.

No marks could be awarded where there was a repeat of the question regarding the formality of tribunals and the complex rules and procedures. Candidates must carefully read the question and not repeat information in the stem.

There was also a tendency to set out the disadvantages more traditionally associated with litigation in terms of the expense and length of time for disputes to be resolved. These answers were not awarded marks. The question was clearly focused on tribunals and many of the better responses focused on disadvantages in terms of privacy and inconsistency.

Q5: Many candidates answered this question on legal professionals correctly. Those who did not tended to confuse legal executives and solicitors.

Q6: The majority of candidates were able to obtain full marks on the first part of this question on regulation but the second part caused problems with only the highest scoring candidates identified the Legal Services Ombudsman.

Q7: There was some confusion on this question about the role of a civil judge. Those candidates that struggled with question 1 also struggled with this question

Q8: Very few candidates successfully identified the Judicial College and the benefit of doubt was given to those who set out 'Judicial Studies Board' even though this changed in 2011. Most candidates did however, pick up at least 1 of the 2 marks available for giving examples of the way that the judiciary are trained.

Q9: The majority of responses accessed the higher marks available on this question which showed a good understanding of the usual criticisms made of the judiciary. This question tended to be well answered with good arguments about the ethnicity or social class of judges and the lack of diverse representation. Some candidates made vague points about judges being 'too rich' or 'too lazy' or 'paid too much'. These did not gain credit. Again, the candidates that answered this question well had structured their responses using the technique of point, evidence and extension which enabled them to access the higher marks.

Q10: Most candidates had no problem identifying European law as the appropriate source but some did confuse statutory and common law sources. This is an issue that candidates appear to have problems with and it is a fundamental point that they need to understand.

Q11: This question on different types of freedoms was generally well answered.

Q12: Most candidates were able to gain some marks on this question with the strongest giving very good explanations of restrictions with pertinent examples to support their argument. Those candidates that scored less well tended not to answer the question but to simply give a description of the relevant freedom.

Q13: This was well answered although some candidates confused Greeks and Romans in terms of the original idea for human rights.

Q14 & 15: These two questions proved very effective discriminators with only the highest scoring candidates achieving 2 marks. An understanding of the Articles under the ECHR is necessary to attain maximum marks on this paper.

Q16: Most candidates did well on this question showing very good skills in terms of applying law to factual scenarios. Most successfully identified the right to a fair trial in the Brady case although there was some confusion with the right to liberty. The majority had no problem identifying the right to life and the right to freedom from slavery in the other case scenarios.

Q17: This was a challenging question and responses were mixed, in that many candidates failed to address the material they knew to the specific question asked about inhuman treatment. Some candidates failed to consider Article 3 at all and gave a critique of the mosquito which was **not** the question set. In order to attract credit, answers to this question had to relate to inhuman treatment and if they did not, then no credit was given.

There were some very comprehensive answers to this question with candidates constructing good arguments around inhuman treatment that enabled them to access the higher marks. Good answers showed an awareness of the relationship between different rights under the Human Rights Act 1998. Less strong responses talked in anecdotal terms about the mosquito; simply repeating the information set out in the case example without relating it to human rights law which meant they were unable to access marks.

B143 Employment rights and responsibilities

General Comments:

This year's examination shows continuing evidence of candidates being well-prepared for the challenge, demonstrating both knowledge and the use of appropriate skills. Candidates are reminded that all questions are compulsory and the whole specification can be covered in the examination and so selective preparation is not advised. In addition topic areas can move around the paper and candidates need to read the questions carefully before they start to write to ensure relevant material is used to answer the questions.

This Unit does not require candidates to use decided cases although they can, alongside relevant examples, support both knowledge and understanding, especially in questions such as 2(c) and 4(d) which call for evaluative writing. Throughout the paper a useful tip is to highlight key words so as to focus on the correct material: in knowledge based questions candidates need to be both specific and careful in their writing whilst in application questions there is a need to choose and apply relevant material and discussion questions reward candidates who make, then expand and further develop a point.

All areas of this year's examination were accessible although questions such as 3(b) and 3(d) required candidates to be clear in their application of relevant law, rather than simply being able to rely on selecting the correct answer. This would be a fruitful area for practice as part of a candidate's revision programme. There were few instances of candidates making no response at all to a question.

Comments on Individual Questions:

Question 1

In (a) many, but not all, candidates were able to identify at least one correct piece of information. Relatively few candidates were able to identify all three.

In (b) a good number of candidates achieved full marks – those who did not appeared to have read the information incorrectly or been unsure as to the basic difference between express and implied terms in an employment contract – an important distinction which can be practised using both quiz and application type questions to consolidate knowledge.

Question 2

In (a) many candidates scored well, although (i) caused the most difficulty.

In (b) candidates had to explain the type of discrimination and support their answer using the scenario and then reach a conclusion as to whether discrimination had occurred. There was no need to discuss remedies and candidates who did so appeared to be following a format sometimes seen in previous papers. The facts in the scenarios provided a useful support, for example, in (i) Claire's age would probably not be a barrier to employment although the counter argument that the school was making use of a genuine occupational requirement was credited as long as an appropriate conclusion as to whether discrimination existed or not was reached. In (ii) it was important to establish that Dmitry had been discriminated against on the ground of gender and that there was no genuine occupational requirement to the contrary. In (iii) the scenario encouraged candidates to explore the fact that reasonable adjustments had not been made by Mike's boss and so he had been discriminated against on the basis of his disability.

In (c) it was important to focus on the issue of protection from discrimination from each of two different perspectives. The best answers did this clearly and did more than simply repeat the same point twice.

Question 3

In (a) most candidates were able to choose some but not all of the correct words successfully. The choice between 'Committee' and 'Commission' and between 'Prescription' and 'Prohibition' were the ones which provided the greatest differentiation.

In (b) candidates had to apply their knowledge of health and safety law to scenarios. The best answers identified whether the duty lay with the employer or the employee and then used the scenario to explain how this happened – for example in (i) a good answer might have said that there was a breach of duty because Akbar had a duty to take care of his own health and safety by wearing the boots provided by his employer and he deliberately chose not to do as he had been told. Practising application of this kind develops skills and also helps candidates to reinforce their knowledge. Many candidates found this question challenging although most were able to apply some knowledge accurately.

Responses to (c) showed that many candidates did not read the question carefully and answered using the words from the stem rather than identifying the two other requirements of a safe place of work and safe competent employees.

In (d) a good number of candidates gained some marks by naming the correct regulation from the Six Pack – most often this was the Personal Protective Equipment Regulation. Candidates were rewarded for giving the essence of the regulation, especially if it was linked accurately in terms of how it would affect the situation illustrated in the picture. In these cases the annotation BOD (benefit of doubt) was used and again this would be a useful area of the specification for candidates to consolidate their knowledge and then practice applying the material they have learnt although there is no requirement for candidates to know every single detail of each of these regulations in depth.

Question 4

In (a) the question stem provided a clue in the form of summary dismissal and the best candidates used this as a stimulus for three pieces of information linking this to gross misconduct and what has to be shown by the employer. Some candidates simply gave variations on the same point and such variations could not be credited.

In (b) many candidates scored full marks although some were vague in their answers – referring simply to civil courts rather than the County Court and High Court and tribunals in general rather than Employment Tribunals.

In (c) many candidates were able to identify several categories of those who have no right to receive redundancy payments. Again there was sometimes a tendency to name each of the armed services separately but credit could only be gained for one reference to the armed services and the best answers moved on to consider other categories.

In (d) a wide range of responses were seen. The best answers followed the rubric of the question and considered three separate situations – beginning with identification of a reason which was then expanded and the steps needed on the part of the employer to ensure that such a dismissal was fair. Some candidates listed reasons without development and so were not able to access the higher mark bands whilst others gave multiple examples of the same situation, often giving for example three different types of gross misconduct, and again these candidates could not access the higher mark bands. The quality of written communication was assessed in this question and so it was important for candidates to show good skills of evaluative writing to develop and amplify their points.

B144 Consumer rights and responsibilities

General Comments:

The entry for this series demonstrated the full range of ability. There was evidence of an appropriate level of preparation by a range of candidates. In some questions application skills were often demonstrated well. 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(b), 2(c), 3(d) and 4(d) there was evidence of some well structured, articulate and fluent answers using material in a thoughtful and relevant way. It is essential that candidates are able to follow the rubric accurately and there were examples of candidates selecting carefully and demonstrating their skills of analysis and application well, such as 2(bi), 2 (bii), 2 (biii) and 4(d). 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 a limited response; 1(b) and 4(bi) being examples of this. It is essential on this paper that candidates read the question carefully and pay attention to the key words in the question to ensure they follow the rubric accurately. This together with an appropriate selective use of material allows for better candidate responses. Previous exam papers remain useful tools for practice and preparation purposes.

Comments on Individual Questions:

Question No 1

Many candidates were confident in their identification of three types of contract term and it was common to see full marks. However, candidates were less confident in having to identify three things necessary to prove liability. Many candidates were only able to correctly identify the third type.

Question No 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 statutory implied term from the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 – the majority were successful in identifying the correct answers though some candidates struggled to identify all three correctly as many candidates incorrectly identified the implied term of “as described” for part iii) In 2(bi) and 2(bii) there were some excellent answers with the correct implied term being identified as being breached, why it had been breached together with the appropriate remedy. Some candidates did misunderstand 2(biii) where in fact the implied term had not been breached which therefore necessitated a different identification and explanation. In 2ci) and 2cii) many candidates appeared not to fully understand the nature of the implied term and did not grasp that if a specified time or price had not been mentioned during the contract negotiations then a reasonable one would be inserted. Candidates were often able to effectively use examples as required by the questions.

Question No 3

3(a) saw a range of answers but few with full marks. Answers to parts of 3(b) varied with few candidates successfully identifying products or goods not covered by the Consumer Protection Act 1987. There were many candidates obtaining full marks for 3(c) where they had to select the category of people who could be sued as a producer. The area of uncertainty arose in parts A and E, however many candidates were able to successfully obtain at least one mark. In 3(d)

candidates generally produced well written answers for Kathy and Emily with the second scenario causing the greater difficulty as candidates needed to realise that neither area of law could be used by Roberto. Some candidates also tended to include terminology for negligence in an answer regarding the Consumer Protection Act and vice versa, therefore reducing their marks. Responses to 3(c) also varied with some candidates not being able to identify that, for negligence, a breach of duty resulting in foreseeable damage had occurred and for the Consumer Protection Act it was necessary to identify that there was a faulty product.

Question No. 4

This question focused on the issue of exclusion clauses and unfair terms. In 4(a) candidates were required to select three clauses considered as part of a contract and a significant number of candidates obtained either 2/3 or full marks. 4(bi) caused the greatest difficulty for candidates and they were uncertain how to phrase an answer without repeating the question and instead of providing a definition as required simply included an example. However, 4(bii) saw candidates providing some good examples of unfair terms and often obtained at least 1/2 marks. In 4(c) many candidates were able to identify correctly when the Unfair Contract Terms Act applied or didn't with many of them obtaining full marks or at least 2/3 marks. Candidates wrote effectively and extensively in 4(d) and successfully explained why exclusion clauses were developed by the courts and Parliament. There were many examples of candidates obtaining L2 marks with some candidates moving into L3 and obtaining full or nearly full marks. There were few examples of candidates simply listing exclusion clauses as most used them effectively in supporting their explanations. Some candidates were also able to use cases to illustrate the points they were making. This question resulted in a range of good answers where candidates demonstrated detailed analysis and evaluation of the question and the skills necessary to access the higher mark bands.

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