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Introduction

These exemplar answers have been chosen from the summer 2018 examination series.

OCR is open to a wide variety of approaches and all answers are considered on their merits. These exemplars, therefore, should not be seen as the only way to answer questions but do illustrate how the mark scheme has been applied.

Please always refer to the specification https://www.ocr.org.uk/Images/315216-specification-accredited-a-level-gce-law-h415.pdf for full details of the assessment for this qualification. These exemplar answers should also be read in conjunction with the sample assessment materials and the June 2018 Examiners’ report or Report to Centres available from Interchange https://interchange.ocr.org.uk/Home.mvc/Index

The question paper, mark scheme and any resource booklet(s) will be available on the OCR website from summer 2019. Until then, they are available on OCR Interchange (school exams officers will have a login for this and are able to set up teachers with specific logins – see the following link for further information http://www.ocr.org.uk/administration/support-and-tools/interchange/managing-user-accounts/).

It is important to note that approaches to question setting and marking will remain consistent. At the same time OCR reviews all its qualifications annually and may make small adjustments to improve the performance of its assessments. We will let you know of any substantive changes.

Information on the exemplars in this resource

This resource is styled in question number order and contains exemplars from 6 candidates. The exemplars and commentaries for each question are displayed in the order of marks credited. The overall question paper marks for these candidates are:

- Exemplar A - 56 marks
- Exemplar B - 62 marks
- Exemplar C - 48 marks
- Exemplar D - 63 marks
- Exemplar E - 29 marks
- Exemplar F - 37 marks
Question 1

1 Explain how civil cases are allocated to the three tracks.

Exemplar A Level 4

10 marks

Where a person wants to take a civil case to court, they must first complete an allocation questionnaire. The master will then allocate the claimant into one of three tracks. The first track is the small claims track for non-serious claims that are under £10,000. These will be heard in the county court by a district judge. Often the claimant will have to represent themselves as the loser will not have to pay the legal expenses of the winner. The judge, however, will attempt to guide them through the procedure.

The fast track is for claims that amount to £10,000 - £25,000. These are heard by a circuit judge in the hi or a high court judge. Claims in this track are aimed to be completed within thirty weeks, but often this increases to fifty. Those in the fast track will have to follow a strict pre-trial procedure.

Finally, the multi-track is for claims over £50,000. These will be heard by either courts depending on the high court and also follow a strict pre-trial procedure. The judge in this track will have an active role to cement the understanding and smoothness of the procedure. Claims in this track may take several years.

Examiner commentary

This response is succinct, accurate and detailed, for that reason it is credited full marks. The response demonstrates excellent knowledge and understanding of how a case is allocated and is fully developed throughout. All key elements are stated.

The candidate addresses allocation, each of the three tracks and the court process. The candidate provided additional explanation as to the role of the judge and the procedure. This response meets the Level 4 criteria.
Civil cases are allocated to a claims track based on value and complexity of a claim. The claimant will complete the online pre-trial details or fill out an N1 form which sets out basic details and value of a claim. The smallest cases are allocated to the small claims track, with those having a value of under £10,000 for all cases except personal injury, where the maximum claim is £100,000. These cases are often simple and straightforward and will be heard in the County Court by a district judge. For claims that are between £10,000 and £25,000 in value, the Fast Track will be allocated. Personal injury claims over £1,000 are also given this track. These civil cases are of higher value but are often still fairly straightforward to resolve. In are heard in the County Court by a circuit judge.

The most valuable claims are allocated to the Multi-Track. These cases are worth more than £25,000 and are heard in the County Court by a circuit judge, unless they are over £100,000 in value or involve particularly complex points.

Examiner commentary

Excellent knowledge and understanding is shown by the candidate in this response. The candidate explains how civil cases are allocated, starting with the N1 form, and how it is decided which track will be used. All required elements are included in the response, from the financial limit to correct court and the judge presiding. Additional factual information would have allowed full marks to be credited; for example, by adding that at the end adding that these high value/complex cases will be sent to the High Court. The response is accurate and detailed, it illustrates a succinct and to the point response that can achieve Level 4.
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<td>The three track system is done in civil court to classify which type of case it is and how formal it should be. The three are the small-track, the fast-track and the multitrack. The small track system is for compensation lower than £10,000. It is done informally by a district judge who has to be trained. It is for smaller less serious claims. There is no timetable to set it and the time of hearing is mutually arranged by the two parties. The decision is made by the judge and may be the final say if it is done in county court. The parties represent themselves. The fast track system is for a claim higher than £10,000 but lower than £25,000. It is done more formally than the small-claim track. It has a strict timetable set by the circuit judge which has to be strictly kept to. The judge has to be trained in that certain claim. The client will be represented by a lawyer who has legal fees. It is done in district court. Lastly, the multitrack system is for claims more than £25,000. These are for very serious claims which are in high court by circuit judge. The parties have to have a lawyer and the decision of the judge is only decision to a very strict timetable to the hearing.</td>
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Examiner commentary

This response includes an explanation of the three tracks. There is some detail, including the financial limits for each track, but the response is not fully developed in places. Further development might have been illustrated, for example, by showing the limits on personal injury and/or landlord and tenant matters in the small claims court. Whilst the response contains some inaccuracies, these do not detract from the accurate information and the response is considered to demonstrate enough understanding and knowledge for Level 3.
When a claim has been heard in the County Court and the decision of a civil claim has made a statement on all occasions of which
brach should be used to deal with the case is made by the Circuit judge. There are three branches.

The first branch is the Small Claims branch in which the claims are dealt with in the case are under £10,000. This
will usually extend if it is a personal injury claim in which the maximum is £2,000. Although this branch is cheaper, the
case is usually dealt with in the branch. Cases which suits this branch are ones in which the facts are simple and
no expert witnesses need to be called.

The second branch is for claims between £10,000 and £25,000 and is called the fast-track. Similar to the above, it
is usually considered simple cases such as negligence on the behalf of
an employer. Cases is usually dealt with in a few weeks time.

Finally, the multi-track cases is for
couples cases that may be of significant importance with the claims going above
£25,000. These will be heard in either
the County Court or the High Court and will usually take around three to five
weeks although 30 is standard.
Examiner commentary

This answer demonstrates a good range of knowledge and understanding. All three tracks are included as are the financial limits for each. Higher marks would have been achieved had additional information, for example, reference to the specific judges used and a reference to the High Court and County Court Jurisdiction (Amendment) Order 2014 been included. The script is a useful guide to illustrate the detail required for Section A questions.

Exemplar E Level 3

7 marks

1. Civil cases are allocated to three tracks using the three track system. The first track is the small claims track. This hears cases that are under £10,000, and it also hears any personal injury cases under £10,000.

The next track is the fast track. This hears cases that are from £10,000 to £25,000, and it usually takes a maximum of 30 weeks for a case to go through this system.

The third track is the multi-claims track. This track hears cases that are over £25,000. But a case can also go through this track if it is lower than £25,000 but it is more complex, e.g., family disputes.

Examiner commentary

This is a short response with the candidate addressing the three tracks and making two points for each. There is some detail but a lack of development. What is written for each track indicates good knowledge and understanding resulting in a Level 3 mark. The candidate would have achieved more marks by giving detail, for example, mentioning the allocation questionnaire and/or the case management elements.
Civil cases are allocated into three separate tracks. This can be dependent on how complex the case is.

Lord Woolf created the three track system for civil cases. The first track is small claims, this is done by the district judge and in the claim only requiring a small amount of money. Parties are encouraged to represent themselves and are usually completed quickly and with ease. The next track is fast track where the circuit judge has jurisdiction. They are ideally heard in court within 12 week. Normally 20 days but usually not longer and nearer to. They only have a maximum of one day in court. The final track is multi-track which is where the case will get a judge. The judge will then try the case, and try and say to suggest other ways of resolving the dispute such as mediation. They are only allowed to call one witness.
**Question 2**

Describe the procedure for deciding where a triable either way offence should be tried.

**Exemplar A Level 3**

| 2 | Triable either way offences are those with a moderate level of seriousness. Depending on the facts of the case, the trial will be heard in either the Crown Court or magistrates' court. The mode of trial is decided by the magistrates' judge where the defendant pleads guilty. This means if they believe that they have the jurisdiction to be able to sentence them, they will do so. Where the judge doesn't have enough power, the trial will be held in the Crown Court. If the defendant pleads not guilty, they will also first be heard in the magistrates' court. If the judge decides that they do not have the jurisdiction, the case will be heard in the Crown Court. However, if they do have enough power, the defendant is allowed to choose whether or not he is sentenced in the magistrates' court or Crown Court. |

**Examiner commentary**

This response is also succinct, as per Question 1, is succinct, accurate and has some detail. The candidate describes the two courts available to hear the trial and demonstrates a good understanding of the procedure for deciding where a triable either way offence should be tried. The response would have achieved more marks had there been a greater use of the key legal terminology; for example, a reference to ‘plea before venue’ and greater accuracy in describing defendant’s choice.

**Exemplar B Level 3**

| 2 | A triable either way offence is in the middle category of offences - not the most or least serious and include offences such as theft or A&H. They can be heard in either the magistrates' court or the district Crown Court. The first pre-trial stage is the 'plea before venue' where the defendant is asked if they are pleading guilty. |

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Examiner commentary

The candidate demonstrates good understanding of the pre-trial procedure for triable either way offences. The response is concise and uses correct legal terminology. Both ‘plea before venue’ and ‘mode of trial’ are referred to. The response would have achieved higher marks had the pre-trial procedure been stated in greater detail.
Examiner commentary

The response demonstrates basic knowledge and understanding of the procedure for deciding where a triable either way offence should be tried with minimal detail. There is confusion with regards to the procedure; however, there is some accurate information for which credit was given. The inaccuracies and misunderstandings result in this script being placed in Level 2.
Examiner commentary

Good understanding of the pre-trial procedure is demonstrated in this response. The first paragraph contains very little relevant information. However, as the candidate progresses with their response there is some detail but, this detail is not fully developed in places; for example, there is only limited accurate reference to legal terminology and the defendant’s choice. The factual knowledge stated in the response is accurate and sufficient to be considered good, allowing it to be placed in Level 3.
Examiner commentary

Whilst the candidate responds to the question, the response contains no relevant creditworthy information. There are many inaccuracies, including a reference to 'both defendants'. The candidate does not appear to understand the category 'triable either way'.

Exemplar F Level 3

7 marks
Examiner commentary

This response demonstrates good knowledge and understanding of the procedure for deciding where a triable either way offence should be tried. When referring to the mark scheme the candidate includes most of the suggested information. A limited amount of key terminology is used, for example, ‘plea before venue’. The response would have gained higher marks had there been greater development of the process and greater use of terminology.
Question 3

3 Describe the types of work undertaken by a barrister.

Exemplar A Level 3

| 3 | Barristers work in chambers. Their most common work is advocacy, this is where they represent people in court. They can also interview witnesses for their case, including the witnesses of their opposition. Barristers also write opinions for cases; they will read the facts and give their opinion on how the outcome of criminal cases and likelihood of claiming damages in civil cases. Before, a solicitor's job could not be carried out by a barrister. Now, however, they may have direct access to clients to see their case from start to finish. Barristers can also work for the Crown Prosecution Service where they will typically do a lot of advocacy. If self-employed, they may choose to specialise in one area of law e.g. Immigration. |

Examiner commentary

This candidate sets out a range of different types of work. Four areas of work are addressed; advocacy, opinions, interviewing and direct access. There is a lack of detail in the descriptions and as such the candidate demonstrates basic knowledge and understanding. Unfortunately, the last paragraph explains 'where' a barrister might work. This information is not relevant to the question asked and therefore no credit is available. It is important that candidates take time to read the questions carefully.

Exemplar B Level 3

| 3. | Formostly barristers are advocates. They are employed privately by defendants, victims and claimants or by governmental legal departments or the Crown Prosecution Service to speak on behalf of and represent people in a courtroom. They are experts in cross-examination and addressing the courtroom so parties have a |
Examiner commentary

The response contains a good description of four types of work, namely: advocacy, specialist, advice to clients and paperwork/research. There is development of the descriptions and this is seen clearly where the candidate describes advocacy in detail. The last paragraph does not contain relevant information and therefore no credit can be awarded. A greater range of types of work would have moved the response from Level 3 to Level 4.
Examiner commentary

The candidate addresses three main areas of work: advocacy, gathering documents and the giving of advice. Whilst there is some detail in the description it is basic and is only partially developed. This candidate does not give a detailed description of the types of work. They would have achieved higher marks had they, for example, described what advocacy entails in greater detail. Much of the response was not relevant to the question and therefore not considered creditworthy; for example, the description of pupillage. Candidates are advised to read the question carefully so that they only include relevant information.
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<td>3.</td>
<td>There are 17,000 self-employed barristers practicing in the UK; a substantial number of just over 1000 are employed. They are situated in various courts across the country, often as sole practitioners or in small offices. They take on a range of types of work, from representing parties at court to advising clients on a wide range of legal matters. Some may also draft documents to be used in court as well as advising clients on their legal rights and obligations. If they are employed in the CPS, they must advocate the interests of the defendant. They may also advise clients as solicitors do on such issues as legal points of law that may arise in a case or the potential sentence the defendant may get. They may also advise the defendant on how best to prepare for their case and how to choose a suitable jury in the Magistrates Court.</td>
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**6 marks**
Examiner commentary

The response contains some detail of the work undertaken by a barrister. The candidate starts by stating the number of barristers and describing, inaccurately, where they work from; unfortunately, this information is not relevant and therefore no credit can be awarded for it. From there the candidate acknowledges four main types of work, namely: advocacy, drafting documents, writing opinions and other issues around documents. The types of work are accurately stated and credit is awarded accordingly. A greater range of types of work, as would more detail, would have allowed this response to move from Level 3 to Level 4.

Exemplar E Level 2

Examiner commentary

This candidate achieves all their marks in just five lines of writing - lines 2-6. The response addresses the giving of advice, paperwork and advocacy. The candidate ends by repeating what they have said previously. The 'Levels of Response criteria' state that where the information demonstrates basic knowledge and understanding, the correct level is Level 2. This candidate attempts to give some detail but it is basic and is only partially developed. This candidate would have achieved a greater number of marks had they explained in greater detail, for example, what all the paperwork was and what advocacy entailed.
Examiner commentary

The candidate addresses two types of work, advocacy and 'Counsel's Opinion' albeit without the use of such terminology. Both types of work are described, with advocacy being covered in greater detail. The limited number of types of work demonstrates basic knowledge and understanding.
Question 4

Discuss the challenges facing a graduate wanting to become a barrister.

Exemplar A Level 3

8 marks

Examiner commentary

This response illustrates a range of developed points which are focused on the question. The first point addresses the issue of cost. The candidate develops the discussion by explaining exactly what needs to be paid for and the problems such costs have. The issue of competition is also evaluated and the reasons why there are less places available. This is further developed by mention of the need to complete all stages of the training to qualify. The issue of the GDL/CPE is also addressed. This response would have achieved Level 4 marks had the final discussion point been fully developed.
Exemplar B Level 4

9 marks

Graduates wanting to become barristers have a long and costly process to reach their goal. Having taken on the debt of university of a minimum £9,000 per annum for only teaching the next two years. Professional Training Course - a two year process which costs around £14,000. Then they must undertake pupillage where they are paid a very small salary and have usually accumulated debts of over £50,000. This price out a lot of people, even if they have completed the law degree which means most barristers end up being the most wealth members of society as they can afford the training costs. This also means that the best people do not necessarily become barristers.

Furthermore there is still evidence of discrimination in the profession particularly as you get to the more experienced and senior barristers. Currently only 1/3 of barristers are female with reports citing long hours and wanting a family as reasons women tend to not choose the profession, however, 60% of law graduates are female. The problem worsens at QL level with only 22% of barristers being female. Once being female showing a culture struggling to move with the times. On the other hand there are so positives with ethnic minorities making up around 14% of the population and 13% of barristers being of Black origin. After completing the LPC graduates must complete a pupillage. It is fiercely competitive with very limited positions available.
Examiner commentary

This response demonstrates excellent analysis and evaluation of a wide range of challenges facing a graduate wanting to become a barrister. Starting with the cost of the process the candidate continues to develop the point by addressing the cost of the courses required and the inequality this may cause. The issue of discrimination is discussed in detail showing good use of statistical evidence to support the discussion. The issue of pupillage and competition is addressed. This candidate would have achieved full marks had they, for example, developed more fully the discussion of pupillage.

Exemplar C Level 3

6 marks
Examiner commentary

The candidate focuses on the question and starts by discussing a challenge facing a graduate wanting to become a barrister, namely cost. The response continues in the second paragraph by addressing the problems surrounding pupillage - the fact it is necessary, that there are fewer places and that those places are taken quickly due to the number applying. The continued discussion of pupillage in the third paragraph and issues surrounding the GDL fully developed the point. To achieve higher marks candidates are advised to address a range of key issues and to discuss these in detail.

Exemplar D Level 3

7 marks
Examiner commentary

From the outset the candidate demonstrates good analysis and evaluation. They start by addressing the issue of debt and the challenges that flow from this. The question is further addressed in terms of diversity with some development of this issue. The next challenge addressed is obtaining pupillage. Whilst this focuses on the question the response would have moved to Level 4 had there been a more detailed developed discussion or evaluation of the challenges of obtaining pupillage.
A graduate becoming a barrister can be very difficult. One big issue for graduates is money. Because they have just graduated, they may already owe the university money or they may just have little money in general. This can be a problem because to go down the route to train as a barrister costs a lot of money that a graduate may not be able to afford.

Another problem may be qualifications. Although becoming a barrister takes less qualifications than a solicitor, it still takes around 4 years training therefore during this 4 years it may again be hard for a graduate financially as they cannot get a full-time job. This is a disadvantage because the training is very time-consuming.

Also, because a graduate is young they will have less knowledge of the law and so it may be harder for them to become a barrister. Another thing is that before becoming a barrister the graduates need to have the correct qualifications to allow them to become one e.g. GCSE's, A levels, Diploma, and so this may hold them back.

Examiner commentary
This response is limited in its analysis as there is just one issue addressed, namely; money. There is no detailed development of a discussion. Unfortunately, the response lacks focus and much of the response does not attract credit as it is not related to the question. The cost of university, the age, levels of knowledge and the correct qualifications are not specific to a graduate wanting to become a barrister - they are general undergraduate issues. As a result, there is only one creditworthy point.
Examiner commentary

The candidate attempts to answer the question asked. However, there is only basic analysis and only partial focus on the question. The first statement made regarding the cost on top of a degree is creditworthy. The candidate is not correct in stating that there are fees in respect of different courses - there is one course. Therefore, no development marks for this issue can be credited. The issue of pupillage was considered a valid point and there was additional development. The candidate lost focus as they continued and the problems of tenancy and getting a job attracted no credit as they did not relate to the question. There were two creditworthy discussion points with partial development and as such this is a Level 2 response.
Question 5

Charlotte and Dexter are at their local supermarket. While shopping, Dexter throws a tin of beans towards Charlotte to catch. The tin hits Charlotte in the face, causing a deep cut to her cheek. When Charlotte shouts out in pain, Dexter whispers menacingly in her ear ‘Keep your voice down, or I’ll break your nose!’

Eric, the store’s security guard, is passing and hears Charlotte shouting. He asks her to calm down. Charlotte ignores him and walks off. Angered by this, Eric pushes Dexter out of the way and then violently grabs Charlotte by her arm, dislocating it.

5 Explain what is meant by causation in criminal law.

Exemplar A Level 3

In order for a defendant to be liable for an offence, they must have been the factual and legal cause of a crime.

- Factual causation is assessed whether the defendant’s actions resulted in an unlawful consequence. To assess this, the ‘but for’ test is used. For example, in the case of Pagett, but for the man using his girlfriend as a shield, the policeman would not have shot her. This first test looks for the cause, but it is not enough.

- Legal causation uses the idea of ‘diam minimis’ a person’s actions must be more than minimal and a substantial cause of the crime. This was demonstrated in the case of Kimsey where the defendant had gotten involved in a car accident where the facts were unclear. The judge ruled that the defendant didn’t need to be the only cause, as long as she was a substantial cause.

- Where there was a separate act that was substantially separate from the crime, then the chain of causation may be broken and the defendant will not be found liable for the crime.

Otherwise, criminal liability is found.
Examiner commentary

A Level 3 response requires the candidate to demonstrate good knowledge and understanding. This candidate, whilst concise, explains in detail both factual and legal causation demonstrating good knowledge and understanding of the two. Both types of causation are accompanied by relevant authority. The detail in *R v Kimsey* is added development. There is an implied mention of intervening acts, but this is not fully developed. Had there been development of this aspect the script would have been credited higher marks.

**Exemplar B Level 3**

| 5 | Causation in criminal law is proving the defendant was the cause of the harm or damage done. There are two types of causation: factual and legal. Factual causation proves that without the defendant’s actions, the victim would not have suffered in that way. It is proved using the ‘but for’ test. An example of this in use is in *R v Kimsey* where a man tried to poison his mother and the died of a heart attack as opposed to the poisoning so ‘but for’ him poisoning her she would still have died. Factual causation would not be satisfied. In *R v Yiapp*, ‘but for’ her boyfriend using her as a shield, she would not have been shot so he was criminally liable for her death even though he didn’t fire the gun.

Legal causation proves the defendant’s actions were more than minimally cause of the consequence using the ‘but minimus’ test. An example of this is in *Cohen v HMcDermott* where he shot a man who later died due to complications with the tracheotomy. The chain of causation was not broken as the wound were substantive to the cause of death as without the surgery of treatment wouldn’t have happened, even though they were leaked and not operating. Contrastingly in *Jordan v Th..."
Examiner commentary

This candidate starts with an introduction briefly defining causation and stating that there are two types. Factual causation is explained in detail demonstrating a good understanding of this aspect. Two cases are accurately cited to illustrate the 'but for' test. In the explanation of legal causation, the candidate explains the 'de minimis rule'. There is no direct reference to 'intervening acts' but the issue of medical treatment and the chain of causation is explained using contrasting authority. This script would have moved to Level 4 had there been a more detailed explanation of intervening acts.

Exemplar C Level 3

8 marks
### Examiner commentary

The candidate starts by introducing causation. In the second paragraph they demonstrate a good understanding of factual causation, using case authority as illustration. The candidate merely mentions legal causation – greater explanation of this would have placed this response in Level 4. The candidate demonstrates a good understanding of intervening acts including mention of: third parties, the victim’s own actions, medical treatment and the victim’s negligence. The thin-skull rule is also mentioned. The explanations were considered good and for that reason the response was placed in Level 3.

### Exemplar D Level 5

<table>
<thead>
<tr>
<th>5</th>
<th>When establishing theactus reus in a crime, both factual and legal causation must be established.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Factual causation refers to whether the actions of the defendant were the cause of the crime. This requires the use of the “but-for” test: that if the defendant’s actions would have occurred, the case in which the answer was no and factual causation was established is in the case of Pagett in which but for Pagett holding the girlfriend in front of him, she could not have died. A case in which there was no factual causation is in White where a white British person was held by a white British person in his</td>
</tr>
</tbody>
</table>
Exemplar Candidate Work

Exemplar Candidate Work

AS Level Law

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The accident caused her to die from a heart attack.

The first necessary and possible is the actions of a third party. This is where the actions of the defendant were not the cause of the outcome but rather that of someone else. This was proven not to have happened in Maguire.

The second necessary and sufficient is the negligent medical treatment. This must have been the greater and substantial cause of the result and must have been truly unreasonable and serious such as in Asquith in which the ambulance given was the time reason of the victim’s death.

Thirdly, the neglect of the victim by the victim. This is often overlooked and not always heard the victim as it did not allow the victim to open the window to a Sussex child.

Fourthly, the actions of the victim were house. The cleaners who, as a result died in Redding as a result. As the supervision of rape was not supervised the doomed to have remained the victim’s actions to jump out of the windows. This cause the victim to herself caused the result.
Examiner commentary

The candidate starts with a brief introduction to causation and in paragraph two explains, in detail, factual causation. They include the ‘but for’ test and two contrasting cases used as illustration. The candidate then moves on to a brief mention of legal causation; had there been more detail at this point this response would have achieved full marks. A range of intervening acts are explained including: acts of a third party, medical treatment, the victim’s own negligence and a victim’s unreasonable response, with each aspect explained with a case illustration. Finally, the candidate deals with the thin-skull rule, supported with a case illustration. This response demonstrates excellent knowledge and understanding of causation, with the proviso above.

Exemplar E Level 3

causation in criminal law was two tests. The first test is factual causation. (the ‘but for’ test) this means that ‘but for’ B’s actions, would V have suffered harm? ’ is the answer is no, then D is liable. In the case of R v White, D attempted to poison his mother, but instead she died of a heart attack. The courts held that D was not liable because ‘but for’ his actions, she still would have died.

The second test for causation is legal causation. This means that for D to be liable, his actions must be the ‘operating and substantutive cause’ of V’s injury. In the case of R v Jordan, D was stabbed and rushed to hospital. When he got to hospital he also suffered some medical negligence. He died from loss of blood.
Examiner commentary

This candidate neatly sets out the two types of causation accompanied by some authority to illustrate. This script illustrates the need for citation to be correct as R v Jordan is not accurately stated. The issue of an intervening act is addressed but, again, the citation is inaccurate. However the inaccuracies do not detract from the accurate information. This candidate explains three key elements of causation accurately showing good rather than just basic knowledge of the topic.

Exemplar F Level 2

5 marks
Examiner commentary

The candidate begins by stating that there are two tests. There is an overview of the ‘thin-skull’ rule with basic explanation. This script illustrates the need for accurate use of cases and case facts as there can be no credit awarded if these incorrect. Candidates should also be aware that there is minimal credit available for simply naming a case within the response. This response illustrates this point. This response is an example of basic knowledge being demonstrated due to lack of accurate explanation in places.
Question 6

Charlotte and Dexter are at their local supermarket. While shopping, Dexter throws a tin of beans towards Charlotte to catch. The tin hits Charlotte in the face, causing a deep cut to her cheek. When Charlotte shouts out in pain, Dexter whispers menacingly in her ear ‘Keep your voice down, or I’ll break your nose!’

Eric, the store’s security guard, is passing and hears Charlotte shouting. He asks her to calm down. Charlotte ignores him and walks off. Angered by this, Eric pushes Dexter out of the way and then violently grabs Charlotte by her arm, dislocating it.

6 Advise how the law relating to non-fatal offences against the person will apply to Dexter. [10]

Exemplar A Level 3

8 marks

<table>
<thead>
<tr>
<th>6</th>
<th>Dexter has committed an act that will fall under</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>s20 of the Offences Against the Person Act. He</td>
</tr>
<tr>
<td></td>
<td>caused wounding, defined as penetrating the skin in</td>
</tr>
<tr>
<td></td>
<td>Eisenhower by causing a deep cut to Charlotte.</td>
</tr>
<tr>
<td></td>
<td>While, he doesn’t seem to have the intention to harm</td>
</tr>
<tr>
<td></td>
<td>Charlotte, he was reckless in his actions. Therefore he</td>
</tr>
<tr>
<td></td>
<td>is liable for causing malicious wounding on</td>
</tr>
<tr>
<td></td>
<td>Charlotte.</td>
</tr>
</tbody>
</table>

Furthermore, he also threatened Charlotte who was in fear of unlawful immediate violence. This was also shown in the case of where a husband threatens his wife within close proximity of her and was found guilty of assault. Therefore Dexter may also liable of a the assault criminal justice act offence of common

Examiner commentary

This response might appear brief but the content is concise and detailed, showing good application of offences against the person to the given scenario. The candidate separates the two issues and begins with Dexter throwing the tin and cutting Charlotte’s cheek. They address, impliedly, both the actus reus and the mens rea and then apply the law to reach a conclusion. The same approach is taken to Dexter whispering menacingly at Charlotte. This candidate undoubtedly understands offences against the person and the application of law to the scenario is good. This response would have benefited from greater use of legal terminology and development in places.
6. The actus reus for § 20 of the Offences Against the Person Act 1861 - GBH is defined in Eisenhauer as breaking the barrier of skin which appears bleeed has done to Charlotte by causing a ‘deep cut to her cheek’

The lesser reus to this offence is intention or recklessness. Either appears reckless to the harm he has caused as he throws the tin to her ‘to catch’. This is a subjective test but it appears he would be able to foresee the risk of it causing her some harm. It seems Peter has both the actus reus and the mens rea of § 20 GBH and could be charged. However, it would be argued that the charge should be assault.

As far Lim threatening her he appears to have the actus reus for assault under section 56 of the Criminal Justice Act 1988 as he threatened her which put the victim in fear of immediate unlawful (unlawful) force. However, it was not unlawful. The mens rea for the charge is intentionally or recklessly causing the victim to apprehend immediate unlawful force. Peter does this seemingly intentionally as he describes ‘menacing’ to Charlotte. It seems he could be charged with assault but however there is a possibility his words negate the assault as he says: ‘keep your voice down or I’ll...’ This suggests she can get out of the situation and to cause escape charges or it was ruled that words can negate an assault in Turvey v. Laroe.
Examiner commentary

In the first paragraph the candidate addresses Dexter throwing the tin and cutting Charlotte’s cheek. There is an explanation of the requirements of s.20 OAPA and these are applied. The candidate addresses the breaking of two layers of skin and the fact that Dexter appears reckless. Had the candidate addressed the level of harm in slightly more detail full marks would have been credited. The paragraph ends with a conclusion as to why Dexter will be charged. This candidate then repeats the process in respect of Dexter whispering menacingly at Charlotte. Firstly, the candidate identifies an assault and then applies both the actus reus and mens rea to Dexter’s actions. This script illustrates excellent accurate application of the relevant law to the given scenario and legal terminology used accurately throughout.

Exemplar C Level 2 2 marks

Examiner commentary

The candidate starts by identifying the case of Dexter throwing the tin and cutting Charlotte’s cheek as s47 OAPA, assault occasioning actual bodily harm. The harm suffered by Charlotte, a cut, should indicate to the candidate that this is grievous bodily harm/wounding under s20 OAPA. The candidate does however correctly identify the actus reus of s.20 and credit is given for this. The candidate also identifies the mens rea of s.20 and says that there was recklessness. The candidate does not address Dexter whispering menacingly at Charlotte, resulting in the response demonstrating limited application as only 50% of the question was answered. Note that the use of cases is not a requirement for this type of question.
6. Dexter was charged with assault under the Criminal Justice Act 1988 against Charlotte alongside a charge of GBH under s20 of the Offences Against the Person's Act 1861.

The Actus reus required for assault is to present that the defendant caused the victim to apprehend immediate serious harm or harm. As rephrased in Laycock v Savage, words when amount to threats, any of which make Dexter which in order to threaten Charlotte. Charlotte was also able to apprehend the immediacy of the potential harm as proved in Smith as if he had not been quiet she would have quickly hit in the nose by Dexter. Furthermore, overt act and legal causation applies as there is no breach in

6. The chain.

The mens rea for assault is the intent or recklessness as to cause the victim to apprehend the immediate injury as was established in Savage and as Dexter was trying to get Charlotte to be quiet, he had intent.

The Actus reus for GBH is the infliction of serious, conscious, prodding harm. As discussed in Gell v Eisenhauer, this requires act of serious harm requires act of the epidermis and cleaning of the skin as the defeat in Charlotte suffering. Hence it is clear that Dexter did this.
Examiner commentary

From the beginning of this response the candidate demonstrates excellent application of the relevant offences against the person to the given scenario. In the first paragraph the candidate state what crimes ‘may’ have been committed by the defendant. In the second paragraph the candidate addresses Dexter whispering menacingly at Charlotte and begins to apply the elements of assault to the given facts, starting with actus reus. The next paragraph states the mens rea and applies it accurately. This candidate continues in the same manner when addressing Dexter throwing the tin and cutting Charlotte’s cheek. There is application when the candidate identifies that GBH can be satisfied by a ‘cut’ and that this is the type of injury Charlotte has suffered. The mens rea is stated and applied accurately and the response ends with a concise and accurate conclusion. This script is a useful in demonstrating how a candidate can approach an application question. This candidate applies legal rules and principles to the given scenario and present legal argument using appropriate legal terminology throughout. A perfect response!

Exemplar E Level 2

4 marks
Examiner commentary

There is no requirement to start with an introduction with an overview of offences against the person. This candidate identifies that the cut to the cheek will be s.20 and then explains why the offence will not be s.18. Unfortunately, in doing so the mens rea of s.20 has been omitted from the application. Candidates are not required or expected to explain why one or more offences will not apply. They are only required to apply the law to the given scenario. As with the cut to the cheek, this candidate identifies the actus reus of assault but there is no mention of mens rea. The omissions regarding mens rea results in the response considered Level 2, as the application was basic and lacking in detail.

Exemplar F Level 2

3 marks
Examiner commentary

The response begins by stating that Dexter throwing the tin and cutting Charlotte’s cheek will be a s47OAPA offence and explaining that he was reckless - the mens rea for s.20. The fact that Charlotte’s cheek is ‘cut’ should indicate to the candidate that s.47 would not be appropriate. This candidate does recognise that the harm suffered by Charlotte was more than trifling and a significant injury. The candidate says, because of this, the actus reus is satisfied but sadly they do not use this to conclude that the correct offence would therefore be s.20 and not s.47. With regards to Dexter whispering menacingly at Charlotte, assault is correctly identified. However incorrect terminology is used, for example, ‘wanted’ rather than intended. The application of offences against the person is basic and there is a lack of accurate detail.
Question 7

Charlotte and Dexter are at their local supermarket. While shopping, Dexter throws a tin of beans towards Charlotte to catch. The tin hits Charlotte in the face, causing a deep cut to her cheek. When Charlotte shouts out in pain, Dexter whispers menacingly in her ear 'Keep your voice down, or I’ll break your nose!'

Eric, the store’s security guard, is passing and hears Charlotte shouting. He asks her to calm down. Charlotte ignores him and walks off. Angered by this, Eric pushes Dexter out of the way and then violently grabs Charlotte by her arm, dislocating it.

7 Advise how the law relating to non-fatal offences against the person will apply to Eric. [10]

Exemplar A Level 3 7 marks

By pushing Dexter, Eric unlawfully applies onto him, while he doesn’t have the intention to do so, he is reckless in his application. Therefore, he has committed an offence of battery a under s39 of the Criminal Justice Act. This was also demonstrated in the case of Collins who described the term ‘force’ as ‘the slightest of touchers.

Furthermore, Eric performs the actus reus of actual bodily harm by dislocating Charlotte’s arm. He also was angry when suggests an intention to harm her as the act. Therefore by applying unlawful force and causing an injury, Dexter is liable of a s47 of the Offences Against the Person Act.

Examiner commentary

The candidate wastes no time and immediately begins answering the question by addressing the first part of the scenario - Eric pushing Dexter out of the way. This candidate concentrates on the mens rea and correctly identifies Dexter as being reckless in his actions. With regards to Eric dislocating Charlotte’s arm, this candidate states that Eric ‘performs’ the actus reus of actual bodily harm. An explanation of the actus reus requirement e.g. the need for an assault or battery and in this situation, battery, would have attracted more marks. The mens rea is correctly identified and applied. This response was brief but to the point and demonstrated good application of legal rules to Dexter’ actions. Had the detail been developed more fully, Level 4 would have been achieved.

Exemplar B Level 4 9 marks

Firstly Eric’s offences against Dexter seem to be battery. The actus reus for this is application of unlawful force which in Collins x Wilcock.
Examiner commentary

The response begins by making a judgement regarding the first offence Eric has committed. The candidate then proceeds to explain their reasoning using correct legal terminology. For each offence the candidate starts by addressing the *actus reus* and applying this to Eric’s actions. The *mens rea* is then applied accurately. In the second paragraph the candidate repeats the process in respect of Eric dislocating Charlotte’s arm. This response would have achieved full marks had the candidate clearly decided which offence Eric would have been charged with. The response fulfils the Level 4 criteria.
<table>
<thead>
<tr>
<th></th>
<th>Exemplar Candidate Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>AS Level Law</td>
<td>© OCR 2018</td>
</tr>
<tr>
<td>Exemplar C Level 3</td>
<td>8 marks</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Eric has caused two offences: the b. has caused battery to Dexter, and G149 to Charlotte, the other v.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The first offence of Battery towards Dexter (u) is unlawful physical act. It is defined by the application of unlawful force immediate unlawful force. The application imposed by the direct force applied to poor Dexter. We know from Bullock v Wilmot, when wrong be claimed an unlawful force as Lord Gott [\text{Code example}] 20 as it would be lawful for, for example, stalk a house. In this case, Dexter has caused the unlawful force. In this case it is direct intention which is defined in Mohan as 'to mean or want, will and desire.' This means b. has committed the offence.</td>
</tr>
<tr>
<td></td>
<td>The second offence of GBH against Charlotte can be GBH wounding of flesh. We know for it to be wounding from Exten-Florey it will be a 'break in the continuity of the skin.' That means it must be GBH 'serious harm' which is defined in savage, and permanent. Dislocated arm is serious harm. The mens rea (MR) can be from 5.18 or 5.22 offence against a person. In this case (b) it is direct intention, known from Mohan. He has harm, aim, want, desire, won't grab her this</td>
</tr>
<tr>
<td></td>
<td>Mean it will be S.125</td>
</tr>
<tr>
<td></td>
<td>In conclusion: the b. is guilty for both offences of GBH and Battery to the v of Charlotte and Dexter.</td>
</tr>
</tbody>
</table>
Examiner commentary

The candidate starts with a conclusion. This is perfectly acceptable. In the second paragraph the candidate addresses battery. A definition of battery is given. A range of cases and examples are given. These add little to the response and are not required as this is an application question and the candidate is only required to apply legal rules to the given scenario. The candidate demonstrates a good understanding of the required *mens rea* for battery. The third paragraph addresses the dislocation of Charlotte’s arm. The candidate spends precious time giving a range of examples and authority on what would be considered wounding. The candidate does state, near the end, that the dislocation is serious. As with the battery, the *mens rea* requirement is applied in detail. This script indicates how a candidate can reach Level 3, and more, with concise application. This is shown by the brief but accurate application of *mens rea* to both issues but the cases and examples are superfluous and are not required in this question.

Exemplar D Level 4

9 marks
Examiner commentary

The candidate demonstrates excellent application of legal rules to both parts of the given scenario. In the first paragraph they begin by stating which offences Eric ‘may’ be charged with. The candidate then takes each of the two suggested offences and applies them to Eric. Starting with Eric pushing Dexter out of the way this candidate addresses the *actus reus* of battery and applies this to the pushing. A point to note is that the candidate uses precious time unnecessarily citing cases and giving examples; this questions only requires application of relevant legal rules to the given scenario. Next, the candidate moves to the *mens rea* and after stating what is required they apply this to Eric, stating that he had intention. The candidate then moves to the next issue, Eric dislocating Charlotte’s arm. Again, the candidate starts by addressing the *actus reus*; they state what is needed and then apply it to the scenario, although it is a little unclear which non-fatal offence would be best. They then move on to the *mens rea*, which is skilfully stated and applied. The application was accurate and, in most places, fully developed.
7. Non-fatal offences can include s.47 and battery. Section 47 can be defined as ‘assault occasioning actual bodily harm’ — assault meaning assault or battery. Also, battery can be defined as ‘inflicting unlawful force either intentionally or recklessly’.

In this scenario, Eric could be liable for battery when he ‘pushes Dexter out of the way’ this could be a battery because even lightly touching someone unlawfully can be battery (R v Thomas). He also applied the force intentionally which makes him liable. On the other hand, Eric is also liable for section 47 when he ‘violently grabs Charlotte by her arm, dislocating it’ this is s.47 because he assaulted Charlotte and he dislocated her arm — assault which is occasioning actual bodily harm.

Because Eric is liable for s.47, he could face up to 6 months imprisonment. He could also face up to 6 months imprisonment for the assault on Charlotte as well.

Examiner commentary

The candidate starts by explaining that the offence of s.47 is assault occasioning actual bodily harm and what it includes; in addition they give a definition of battery. In the second paragraph the candidate begins to apply the law. They explain why Eric ‘could’ be guilty of battery but fail to fully address the key elements i.e. *actus reus* and *mens rea*. The application to the dislocation of Charlotte’s arm lacks detail and is only partially developed. The response demonstrates basic application of offences against the person to the given scenario. This candidate needed to apply legal rules in a more structured and detailed way to move up through the Levels.
Examiner commentary

Whilst this response appears, to begin with, to be on the wrong track the candidate concludes that Eric has committed battery. They also state that the dislocation may be one of two offences, s47 or s20 OAPA. In paragraph two the candidate gives the statutory definition of the two offences but there is very limited application of the key elements. The assessment objective for this question states that the candidate is to apply legal rules and principles to the given scenario in order to present a legal argument using appropriate legal terminology. There is no mention of actus reus and mens rea and as a result only basic application of legal rules is demonstrated. The use of appropriate legal terminology would have seen this script placed in Level 3.
Question 8

Charlotte and Dexter are at their local supermarket. While shopping, Dexter throws a tin of beans towards Charlotte to catch. The tin hits Charlotte in the face, causing a deep cut to her cheek. When Charlotte shouts out in pain, Dexter whispers menacingly in her ear ‘Keep your voice down, or I’ll break your nose!’

Eric, the store’s security guard, is passing and hears Charlotte shouting. He asks her to calm down. Charlotte ignores him and walks off. Angered by this, Eric pushes Dexter out of the way and then violently grabs Charlotte by her arm, dislocating it.

8* Discuss the problems with the offence of s47 Offences Against the Person Act 1861, and the extent to which reform of the law would make it more morally justifiable. [10]

Exemplar A Level 2

<table>
<thead>
<tr>
<th>Exemplar A Level 2</th>
<th>5 marks</th>
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</thead>
<tbody>
<tr>
<td><strong>Question 8</strong></td>
<td></td>
</tr>
</tbody>
</table>

| 8 | A problem with s47 OAPA is that it has the same mens rea as s20: intention or recklessness. This creates inconsistency as, even though it’s a less serious crime, it is on-par with and confusion is the law as the two sections overlap, even though one is more serious than the other. Furthermore, the same a small cut could move an offence from s47 to s20 which is unjust since the serious sentencing powers are greater in one. The Law Commission (2018) report suggests that the offences are split into 3 clauses: serious injury with intention, serious injury with recklessness, and injury with intention or recklessness. This will make the law morally just as the actual reus and mens rea are proportionate. Another problem is that the act is statute is outdated. This means it doesn’t include injury through disease or mental health, and the levels of these are not classified, due to this, judges have to rely on common law to decide whether the psychiatric harm or the transmission of HIV is a s47 offence or s20 offence. To reform this, the Law Commission report also suggests the inclusion of such injuries in statutes. This will make the law morally just as it will be consistent and clear for such cases. Furthermore, the language language is also |

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### Examiner commentary

The candidate begins by discussing, in detail, the issue of s.47 having the same mens rea as s.20 OAPA. They develop the discussion by addressing the issue of inconsistency and confusion. This point is further developed by addressing the injury difference. To conclude this discussion, the candidate refers to the Law Commission Report 2015 in respect of reform which would make the law more 'morally justifiable'. The next issue addressed is that the Act is outdated, and the problems associated with this, in particular, new types of 'injury'. Again, this candidate uses the Law Commission Report 2015 when they conclude this point and suggest reform.

The final paragraph addresses the issue of language and the need for this to be made clearer. Unfortunately, despite a range of well developed points and developed points being discussed and a sustained focus on the question, this response was capped at Level 3. The specification states that 'Question 8 is to be treated as a mini essay with a conclusion'. Whilst this candidate concludes at the end of each point there is no clear overall conclusion. The implied conclusions at the end of each point were considered enough to be considered ‘basic’ conclusions and for that reason the response was placed in Level 2. The quality of discussion indicated that this response should be placed at the top of Level 2.

### Exemplar B Level 4

<table>
<thead>
<tr>
<th>S. 47 offence</th>
<th>9 marks</th>
</tr>
</thead>
</table>
| The first problem with this is that the actus reus and mens rea do not correspond as there needs to only be the mens rea of assault or battery, a much lesser charge and require no foresight of the injury. In Savage he intended the battery but didn’t foresee the cat resulting in the face but still faced the more serious charge. The suggested reform from the 1980s and 2015 would mean the actus reus and mens rea of an injuring offence would correspond with the offence split in two with intention and recklessness. This would make the law more clear and more moral as people who intend no damage face lesser charges and sentences.
| Another issue is with sentencing. It is a huge step up from the 1989 Criminal Justice Act maximum sentence of 6 months being a maximum... |
Examiner commentary

The candidate starts by discussing the problem of the *actus reus* and *mens rea* not corresponding as there is no requirement for foresight of the injury. They develop this discussion by addressing reform from 1998 (Draft Bill) and 2015 (Law Commission Report). They conclude this point by stating that this reform would bring clarity and make the law more ‘moral’, thus attempting to refer back to the question although it would have been beneficial to make a specific reference to being ‘morally justifiable’. The next issue addressed is sentencing the sentencing and the difference between the sentences available for s.47 and s.39 CJA. They discuss this point in detail and suggest reform, concluding that it would provide more justice and peace of mind to victims and dependents.

The language is very detailed, meaning the law is hard for lay people to understand. Changes such as ‘occasioning’ changing to ‘causing’ would make it a lot more clear and allow people to understand the place.

I think law reform would be very helpful for lay people if it were passed as both from 1980 and 2015 are yet to be - showing slow progression in the law.

Exemplar C Level 3

8 marks
It also knew of a clear definition to what would be morally of the definition.

One get confused between physical and battery and assault. This is justified on people who have prevented for an enemy from what it should be the other due to poor definition.

Another issue surrounding it is the insanity. This get put in the middle and can only be very similar battery or minor assault. Two multiple actions make a akin, known from Brown v. District. This mean there is uncertainty as to which should be known.

For reformation, the law common has divided and confused the destruction of harm from nest will be clear and will remove if the way it will be clear on the wrong type.

Of which they had committed that it more justifiable as it mean harm is more equally throughout law and there is a clear description for it.

Another reform would be having a clear hierarchy between all the people and no meaning that give to a clear structure of law. This makes it more justifiable as it mean people will be more engaged with the right type of crime. The mean morally pairing for the defendant.

In conclusion, § 47 of the modified has a lot of better issues present modern been with wording and hierarchy, however the law commission has proposed best for reform.
Examiner commentary

The candidate begins by stating that they consider the main problem with s.47 to be the lack of definition of what is to be considered actual bodily harm, taking account of both assault and battery. They develop this discussion by addressing the confusion this causes. To conclude the candidate points out how this is not justified if people ‘possibly’ can be sentenced for the wrong offence. The second paragraph is on a similar theme and addresses the fact that there is uncertainty when dealing with the range of injuries. Addressing the question and the issue of reform, the third paragraph looks at the Law Commission Report and its definition of harm and how reform is justifiable if it means equality. The last discussion point relates to the issue of the hierarchy of offences and how this would make it morally fair for the D. To end the candidate reaches an overall conclusion. There is good evaluation throughout the response and the candidate addresses a range of issues. There is focus on the question and both reform and morality are addressed. Most of the points made were discussed in detail. The script would have benefited from using the term ‘morally justifiable’.

Exemplar D Level 4

9 marks
Exemplar Candidate Work

AS Level Law

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Finaly, s. 47 requires the presence of the need for more 'reasoned' in s. 3A of the Criminal Justice Act 1988. No bond does this require the need for clear. However, it also means the defendant need not have even intended or have been reckless to have caused any harm. Therefore, the argument is made of whether the two claims should be charged as a result, which could nullify the actual harm or misconduct. A flurry pen for harm is placed in order to make it difficult for the defendant to be protected from unjustified.

In conclusion, the reformation of the law regarding s. 47 such as the Trespassous Scheme, in which RRA and RPA were merged into one charge would be morally unjustified. As although it is not as much as an assault on authority, it is still more minor than GBH so should be treated as such to allow mitigating factors on dependents who are actually aware of the harm they could have. 
Examiner commentary

In the first paragraph the candidate begins by making a statement regarding two issues: those of 'similarity' and being 'outdated.' In the second paragraph one of these points, namely the issue of being outdated, is discussed in detail by addressing the problems with wording and the change in meaning of words over time. The candidate also suggests a way of reforming this to make it more 'morally justifiable' and this is an example of a very well developed discussion point. The third paragraph deals with the similarity point, concentrating in the first instance on the maximum sentence and its similarity to that of s.20. The discussion is developed further by comparing the two offences in terms of the different requirements regarding harm and how this is 'morally' incorrect. To conclude this paragraph the candidate suggests a possible way of reforming this to make the sentencing fairer. The fourth paragraph looks at the issue of needing to cross reference two Acts when addressing s47 and the mens rea issues. Again, the candidate refers to the question and addresses the issue of 'morally justifiable' and suggests reform. To end their response the candidate summarises their discussion points in a conclusion. Whilst there is no additional credit for repeating previously stated points the specification states that Question 8 requires candidates to consider the law in relation to morality or justice; in addition the question is considered an extended response question and, as such, should be treated as a mini essay with a conclusion. The candidate fulfils this criteria. There is excellent analysis and evaluation of a range of issues relevant to the question. This candidate had one detailed, well developed discussion point and two developed discussion points. Had there been another substantiated, well developed discussion point this candidate would have achieved full marks.

Exemplar E Level 2

3 marks
Examiner commentary

The response starts well as the first paragraph discusses the issue of the definition of actual bodily harm and how different definitions cause confusion. To conclude this discussion point they refer to how the offence would be 'more justifiable' if the definition were to be made clear. The second paragraph suggests confusion - the word inflict is not relevant to s.47. The final paragraph addresses the issue of sentencing. Unfortunately, the sentence stated and discussed is incorrect therefore no credit can be awarded for this paragraph. The candidate does use the words 'morally justifiable' but in an inaccurate paragraph. As a result, this response can only be considered basic evaluation with a partial focus on the question. To achieve higher marks the response required discussion of a wider and more accurate range of points and a greater focus on the question.

Exemplar F Level 2

5 marks

The candidate offers some reasonable discussion points, starting with the issue of the ambiguity in the wording and the fact that the result of this is that judges interpret the law differently. There is also mention of the Law Commission Report. The next issue to be
addressed is the issue is the age of the Act and the fact it does not take account of a range of injuries - ‘modern problems’. Reform by virtue of the 1998 Draft Bill is addressed. Some of the key points relating to the question are raised by but only partially developed. There is a partial focus on the question and no mention of ‘morally justifiable’. In addition, the response lacks a clear conclusion.
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