

AS Level Law

H018/01 The legal system and criminal law

Sample Question Paper

Date – Morning/Afternoon

Time allowed: 1 hour 30 minutes

You must have:

- Printed Answer Booklet



INSTRUCTIONS

- Use black ink
- Answer **all** questions.
- Write your answers in the Answer Booklet. The question number(s) must be clearly shown
- Do **not** write in the bar codes.

INFORMATION

- The total mark for this paper is **64**.
- The marks for each question are shown in brackets [].
- Quality of extended response will be assessed in questions marked with an asterisk (*).
- This document consists of **4** pages.

SECTION A

The legal system

Answer **all** questions

- 1 Explain mediation **and** conciliation as forms of Alternative Dispute Resolution. **[8]**

- 2 Describe the role of lay magistrates in criminal matters. **[8]**

- 3 Describe the types of work undertaken by a barrister. **[8]**

- 4 Discuss the advantages of using a jury in criminal cases. **[8]**

SECTION B
Criminal law

Read the scenario and answer **all** the questions.

Adam, Brian and James are footballers in an amateur cup final. As they wait to go onto the pitch, Brian shoves James from behind. Adam, James' teammate, swears at Brian and shouts, 'You won't be walking off that pitch, pal!'

Once the match is underway, Adam and Brian both jump for the ball. Adam's elbow hits Brian in the eye, causing it to swell so Brian cannot see very well for a few minutes. Near the end of the match, Adam trips and falls. Brian runs over to where Adam is lying on the ground and stamps on his leg, breaking it.

- 5** Explain what is meant by *actus reus* in criminal law. **[8]**
- 6** Advise how the law relating to non-fatal offences against the person will apply to Brian. **[8]**
- 7** Advise how the law relating to non-fatal offences against the person will apply to Adam. **[8]**
- 8*** Discuss the problems with the offence of s20 Offences Against the Person Act 1861, and the extent to which reform of the law would make it more morally acceptable. **[8]**

END OF QUESTION PAPER

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...day June 20XX – Morning/Afternoon

AS Level Law

H018/01 The legal system and criminal law

SAMPLE MARK SCHEME

Duration: 1 hour 30 minutes

MAXIMUM MARK 64

This document consists of 16 pages

SUBJECT–SPECIFIC MARKING INSTRUCTIONS

Introduction

Your first task as an Examiner is to become thoroughly familiar with the material on which the examination depends. You should ensure that you have copies of these materials:

- the specification, especially the assessment objectives
- the question paper and its rubrics
- the mark scheme.

You should ensure also that you are familiar with the administrative procedures related to the marking process. These are set out in the OCR booklet **Instructions for Examiners**. If you are examining for the first time, please read carefully **Appendix 5 Introduction to Script Marking: Notes for New Examiners**. Please ask for help or guidance whenever you need it. Your first point of contact is your Team Leader.

Information and instructions for examiners

The co-ordination scripts provide you with *examples* of the standard of each band. The marks awarded for these scripts will have been agreed by the Team Leaders and will be discussed fully at the Examiners' Co-ordination Meeting.

The specific task-related indicative content for each question will help you to understand how the band descriptors may be applied. However, this indicative content **does not** constitute the mark scheme: it is material that candidates **might** use, grouped according to each assessment objective tested by the question. It is hoped that candidates will respond to questions in a variety of ways. Rigid demands for 'what must be a good answer' would lead to a distorted assessment. Candidates' answers must be relevant to the question. Beware of prepared answers that do not show the candidate's thought and which have not been adapted to the thrust of the question. Beware also of answers where candidates attempt to reproduce interpretations and concepts that they have been taught but have only partially understood.

Using the Mark Scheme

Please study this Mark Scheme carefully. The Mark Scheme is an integral part of the process that begins with the setting of the question paper and ends with the awarding of grades. Question papers and Mark Schemes are developed in association with each other so that issues of differentiation and positive achievement can be addressed from the very start.

This Mark Scheme is a working document; it is not exhaustive; it does not provide 'correct' answers. The Mark Scheme can only provide 'best guesses' about how the question will work out, and it is subject to revision after we have looked at a wide range of scripts.

The Examiners' Standardisation Meeting will ensure that the Mark Scheme covers the range of candidates' responses to the questions, and that all Examiners understand and apply the Mark Scheme in the same way. The Mark Scheme will be discussed and amended at the meeting, and administrative procedures will be confirmed. Co-ordination scripts will be issued at the meeting to exemplify aspects of candidates' responses and achievements; the co-ordination scripts then become part of this Mark Scheme.

Before the Standardisation Meeting, you should read and mark in pencil a number of scripts, in order to gain an impression of the range of responses and achievement that may be expected.

Please read carefully all the scripts in your allocation and make every effort to look positively for achievement throughout the ability range. Always be prepared to use the full range of marks.

Assessment Objectives

Three Assessment Objectives are being assessed across the questions: **AO1**: Demonstrate knowledge and understanding of the English legal system and legal rules and principles, **AO2**: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology, **AO3**: Analyse and evaluate legal rules, principles and concepts.

For **AO2**, there are two elements to the assessment objective:

- Apply legal rules and principles to given scenarios
- Present a legal argument using appropriate legal terminology

These two elements should have equal weighting and be awarded jointly according to the guidance given in the level descriptors and indicative content. For example, to achieve level 4, an answer should include excellent application of legal rules and principles and excellent presentation of legal argument. Further guidance will be given in the standardisation meeting when there is an uneven performance across the elements.

Levels of Response

Questions in this paper are marked using a levels of response grid. When using this grid, examiners must use a **best-fit** approach. Where there are both strengths and weaknesses in a particular response, examiners must carefully consider which level is the best fit for the performance.

To use these grids:

Determine the level: start at the highest level and work down until you reach the level that matches the answer.

Determine the mark within the level: consider the following:

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Consistently meets the criteria for this level	At top of level

ASSESSMENT OBJECTIVES: BREAKDOWN BY QUESTION**Section A**

Questions 1–3

Assessment Objective:	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.
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Questions 4

Assessment Objective:	AO3 1b: Analyse and evaluate legal concepts. 8 marks.
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Section B

Question 5

Assessment Objective:	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.
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Questions 6 and 7

Assessment Objective:	AO2 1a/1b: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 8 marks.
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Question 8*

Assessment Objective:	AO3 1a: Analyse and evaluate legal rules and principles. 8 marks.
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Questions that have an asterisk (*) assess the quality of a candidate's extended response. Levels descriptors are identified in the AO3 column in italics.

Section A

	Answer	Marks	Guidance
1	<p>Explain mediation and conciliation as forms of Alternative Dispute Resolution.</p> <p>Answers may include the following:</p> <p>Mediation</p> <ul style="list-style-type: none"> • Neutral person helps parties reach a compromise solution acting as a facilitator • Parties have control over the resolution process • Parties may withdraw at any time • Mediator does not offer an opinion unless asked • Parties may choose the method of mediation • Parties must agree to the compromise • Formal mediation – a formal settlement conference is like a mini trial but there are no binding results. <p>Credit examples e.g. Relate.</p> <p>Conciliation</p> <ul style="list-style-type: none"> • Neutral person helps parties reach a compromise solution • Conciliator plays an active role suggesting grounds for compromise or settlement • Parties have control over the process • Parties may withdraw at any time • Parties must agree to the compromise. <p>Credit examples e.g. ACAS.</p> <p>Credit any other relevant point(s).</p>	8 AO1	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. <p>Level 0 (0 marks) No response or no response worthy of credit.</p> <p>To attain levels 3 and 4, candidates need to deal with both aspects of the question.</p>

	Answer	Marks	Guidance
2	<p>Describe the role of lay magistrates in criminal matters.</p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Lay magistrates try approximately 97% of all criminal cases • They undertake Early Administrative Hearings, which may include: <ul style="list-style-type: none"> ○ remand hearings ○ bail applications ○ committal proceedings. • They deal with summary matters from start to finish • They deal with plea before venue and mode of trial hearings in respect of triable-either-way matters • They issue both search and arrest warrants • They allow extensions to custody time • Specially trained panels of magistrates deal with young offenders aged 10–17 years in Youth Court • They sit with a judge in the Crown Court to hear appeals from the Magistrates' Court. <p>Credit any other relevant point(s).</p>	<p>8 AO1</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
3	<p>Describe the types of work undertaken by a barrister.</p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Specialise in specific areas. Examples may include: <ul style="list-style-type: none"> ○ criminal law ○ family law ○ commercial law ○ personal injury • Give advice – meet with clients to assist with legal issues • Hold case conferences – meet with clients and any other relevant parties involved • Draft documents for use in court – ensure necessary documentation is produced • Accept and undertake work through Public Access (unless publicly funded) • Where appropriate they negotiate settlements • Undertake legal research • Write Counsel’s opinion – producing a written opinion on a case or an aspect of a case • They prepare cases for court • Advocacy – representing clients in court. This may include presenting arguments, examining and cross examining witnesses and summing up the case <p>Credit any other relevant point(s).</p>	8 AO1	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
4	<p>Discuss the advantages of using a jury in criminal cases.</p> <p>Candidates may develop the following points. Marks will be awarded on the basis of the quality of analysis and evaluation, given in the levels of response criteria in the guidance column.</p> <p>Advantages include:</p> <ul style="list-style-type: none"> • The public have confidence in the jury system – the right to be tried by one’s peers. The jury is regarded as one of the fundamental indicators of a democratic system. • The jury is selected at random from the electoral role. A representative sample of local area will be selected. This promotes diversity amongst the jury. • An advantage of using a jury is that the selection process gives the ordinary person the opportunity to take part in the administration of justice and as such provides an open system of justice. Justice is seen to be done. • Jury equity is a major advantage of using juries. They are not bound by precedents or Acts of Parliament and can instead base their decisions on their own idea of fairness • As 12 random people with no connection to the case are selected to sit they are likely to be impartial as they are not connected with anyone involved in the case. • Most members of the jury will have no legal qualifications. This means that legal personnel are required to explain matters simply and clearly for the jury. This also means that the defendant is better able to follow the proceedings and they become more accessible to the public. • When jurors retire to discuss the case and reach a verdict they do so in secret. This means that jurors are protected from outside pressures. They are free to bring verdicts that may be unpopular with the public and which they may not be so willing to reach if deliberations were in open court. <p>Credit any other relevant point(s)</p>	<p>8 AO3 1b</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent analysis and evaluation of a wide range of legal concepts. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good analysis and evaluation of a range of legal concepts. • The response has a mainly consistent focus on the question. • Most of the key points are well discussed and well developed. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic analysis and evaluation of legal concepts. • The response is partially focused on the question. • Some of the key points are discussed and partially developed. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited analysis of legal concepts. • The response has limited focus on the question. • Discussion of any key points is minimal. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

Section B

	Answer	Marks	Guidance
5	<p>Explain what is meant by <i>actus reus</i> in criminal law.</p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Definition of <i>actus reus</i> – physical element of a crime, ‘doing part’ • Conduct element to be proved first and creating criminal liability if accompanied by relevant <i>mens rea</i> • Conduct – all that matters is what D does, e.g. perjury, failing to stop at the scene of an accident and to report an accident to the police within 24 hours – s170 RTA 1988 • Being there/state of affairs – circumstances in which <i>actus reus</i> occurs are most important, e.g. <i>Larsonneur</i>, <i>Winzar</i> • Result – harm that occurs is the most important but if there is no <i>actus reus</i> there can be no crime, e.g. <i>Marchant and Muntz</i>. <p>Credit any other relevant point(s).</p>	8 AO1	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. Citation of statutes and case law is limited. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
6	<p>Advise how the law relating to non-fatal offences against the person will apply to Brian.</p> <p>Answers may include the following:</p> <p>Brian: In the case of Brian shoving James</p> <ul style="list-style-type: none"> • Identify battery under s39 CJA 1988 – define <i>actus reus</i> and <i>mens rea</i> • Level of harm could satisfy battery as a shove is an unwanted touching • The shove was unlawful as it was intentional. <p>In the case of Adam’s broken leg</p> <ul style="list-style-type: none"> • Identify s18 OAPA 1861 – define <i>actus reus</i> and <i>mens rea</i> • Broken bones usually constitute GBH making a charge of s18 or s20 likely • Brian acts maliciously and intentionally as he runs over to Adam so s18 applies. <p>Credit any other relevant point(s).</p>	<p>8 AO2 1a/1b</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent application of legal rules to a given scenario. • Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good application of legal rules to a given scenario. • Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic application of legal rules to a given scenario. • Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited application of legal rules to a given scenario. • Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
7	<p>Advise how the law relating to non-fatal offences against the person will apply to Adam.</p> <p>Answers may include the following:</p> <p>Adam: In the case of Adam shouting at Brian</p> <ul style="list-style-type: none"> • Identify assault under s39 CJA 1988 – define <i>actus reus</i> and <i>mens rea</i> • Swearing and shouting could put Brian in fear of immediate and unlawful personal violence • Adam appears to have intention or at least subjective recklessness. <p>In the case of Adam hitting Brian in the eye</p> <ul style="list-style-type: none"> • Identify s47 OAPA 1861 – define <i>actus reus</i> and <i>mens rea</i> • Brian’s eye swelling up, so it is hard to see, interferes with his health and comfort • There is no evidence that Adam acted intentionally and as both players were jumping for the ball within the rules of the game, he may not be subjectively reckless. <p>Credit any other relevant point(s).</p>	<p>8 AO2 1a/1b</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent application of legal rules to a given scenario. • Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good application of legal rules to a given scenario. • Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic application of legal rules to a given scenario. • Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited application of legal rules to a given scenario. • Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
8*	<p>Discuss the problems with the offence of s20 Offences Against the Person Act 1861, and the extent to which reform of the law would make it more morally acceptable.</p> <p>Candidates may develop the following points:</p> <ul style="list-style-type: none"> • The 1861 Act is complex and outdated in its language • The question of what is a wound is complex • GBH has not been clearly interpreted by judges • GBH is outdated in that it focused on bodily harm and development has been piecemeal • The use of the word ‘inflict’ is old-fashioned and does not reflect what happens in court • The <i>mens rea</i> is complex • The mode of trial is the same as for s47, which seems illogical • The maximum sentence is the same as for s47, which is also illogical • There is a large gap between s20 and s18 • Plans to codify and update the law have not been implemented but re-drawing the definitions and sentences would make the law more morally acceptable in the 21st century • This would be because the new law would better reflect issues connected to both physical and mental health • Good offences and sentencing would give the criminal justice system greater credibility as it would have a clearer moral basis <p>Credit any other relevant point(s).</p>	8 AO3 1a	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent analysis and evaluation of a wide range of legal rules and principles. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed to reach a valid conclusion. <p><i>There is a well-developed line of reasoning which is clear and logically structured. The information presented is relevant and substantiated.</i></p> <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good analysis and evaluation of a range of legal rules and principles. • The response has a mainly consistent focus on the question. • Most of the key points are well discussed and well developed to reach a valid conclusion. <p><i>There is a line of reasoning presented with some structure. The information presented is in the most-part relevant and supported by some evidence.</i></p> <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic analysis and evaluation of legal rules and principles. • The response is partially focused on the question. • Some of the key points are discussed and partially developed to reach a basic conclusion. <p><i>The information has some relevance and is presented with a basic structure. The information is supported by basic evidence.</i></p> <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited analysis of legal rules and/or principles. • The response has limited focus on the question. • Discussion of any key points is minimal. <p><i>The information is limited and communicated in an unstructured way. The information is supported by limited evidence and the relationship to the evidence may not be clear.</i></p> <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

Assessment Objectives Grid

Questions	AO1	AO2 1a /1b**	AO3 1a	AO3 1b	Total
1–3	24	0	0	0	24
4	0	0	0	8	8
5	8	0	0	0	8
6	0	8	0	0	8
7	0	8	0	0	8
8*	0	0	8	0	8
Total	32	16	8	8	64

**AO2 elements 1a and 1b will be awarded jointly

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