

GCE

Law

H018/01: The legal system and criminal law

AS Level

Mark Scheme for June 2022

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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MARKING INSTRUCTIONS**PREPARATION FOR MARKING
RM ASSESSOR**

1. Make sure that you have accessed and completed the relevant training packages for on-screen marking: *RM Assessor Online Training*; *OCR Essential Guide to Marking*.
2. Make sure that you have read and understood the mark scheme and the question paper for this unit. These are posted on the RM Cambridge Assessment Support Portal <http://www.rm.com/support/ca>
3. Log-in to RM Assessor and mark the **required number** of practice responses (“scripts”) and the **number of required** standardisation responses.

YOU MUST MARK 10 PRACTICE AND 10 STANDARDISATION RESPONSES BEFORE YOU CAN BE APPROVED TO MARK LIVE SCRIPTS.

MARKING

1. Mark strictly to the mark scheme.
2. Marks awarded must relate directly to the marking criteria.
3. The schedule of dates is very important. It is essential that you meet the RM Assessor 50% and 100% (traditional 40% Batch 1 and 100% Batch 2) deadlines. If you experience problems, you must contact your Team Leader (Supervisor) without delay.
4. If you are in any doubt about applying the mark scheme, consult your Team Leader by telephone or the RM Assessor messaging system, or by email.
5. **Crossed Out Responses**
Where a candidate has crossed out a response and provided a clear alternative then the crossed-out response is not marked. Where no alternative response has been provided, examiners may give candidates the benefit of the doubt and mark the crossed-out response where legible.

Rubric Error Responses – Optional Questions

Where candidates have a choice of question across a whole paper or a whole section and have provided more answers than required, then all responses are marked and the highest mark allowable within the rubric is given. Enter a mark for each question answered into RM assessor, which will select the highest mark from those awarded. *(The underlying assumption is that the candidate has penalised themselves by attempting more questions than necessary in the time allowed.)*

Multiple Choice Question Responses

When a multiple choice question has only a single, correct response and a candidate provides two responses (even if one of these responses is correct), then no mark should be awarded (as it is not possible to determine which was the first response selected by the candidate).

When a question requires candidates to select more than one option/multiple options, then local marking arrangements need to ensure consistency of approach.

Contradictory Responses

When a candidate provides contradictory responses, then no mark should be awarded, even if one of the answers is correct.

Short Answer Questions (requiring only a list by way of a response, usually worth only **one mark per response**)

Where candidates are required to provide a set number of short answer responses then only the set number of responses should be marked. The response space should be marked from left to right on each line and then line by line until the required number of responses have been considered. The remaining responses should not then be marked. Examiners will have to apply judgement as to whether a 'second response' on a line is a development of the 'first response', rather than a separate, discrete response. *(The underlying assumption is that the candidate is attempting to hedge their bets and therefore getting undue benefit rather than engaging with the question and giving the most relevant/correct responses.)*

Short Answer Questions (requiring a more developed response, worth **two or more marks**)

If the candidates are required to provide a description of, say, three items or factors and four items or factors are provided, then mark on a similar basis – that is downwards (as it is unlikely in this situation that a candidate will provide more than one response in each section of the response space.)

Longer Answer Questions (requiring a developed response)













Where candidates have provided two (or more) responses to a medium or high tariff question which only required a single (developed) response and not crossed out the first response, then only the first response should be marked. Examiners will need to apply professional judgement as to whether the second (or a subsequent) response is a 'new start' or simply a poorly expressed continuation of the first response.

6. Always check the pages (and additional objects if present) at the end of the response in case any answers have been continued there. If the candidate has continued an answer there then add a tick to confirm that the work has been seen.
7. Award No Response (NR) if:
there is nothing written in the answer space.
Award Zero '0' if:
anything is written in the answer space and is not worthy of credit (this includes text and symbols).
Team Leaders must confirm the correct use of the NR button with their markers before live marking commences and should check this when reviewing scripts.

8. The RM Assessor **comments box** is used by your team leader to explain the marking of the practice responses. Please refer to these comments when checking your practice responses. **Do not use the comments box for any other reason.**
If you have any questions or comments for your team leader, use the phone, the RM Assessor messaging system, or e-mail.
9. Assistant Examiners will send a brief report on the performance of candidates to their Team Leader (Supervisor) via email by the end of the marking period. The report should contain notes on particular strengths displayed as well as common errors or weaknesses. Constructive criticism of the question paper/mark scheme is also appreciated.
10. For answers marked by levels of response:
- To determine the level** – start at the highest level and work down until you reach the level that matches the answer
 - To 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

11. Annotations

Annotation	Meaning
	Not Relevant or no response or response achieves no credit
	Correct
	Point
	Developed point
	Developed point extended
	Applied Point
	Acknowledgment of response
	Repeat
	Not answering the question
	Blank Page
	May be used to draw attention to addition material e.g. conclusion, reform, morally acceptable
	May be used to draw attention to a word or phrase which means that the statement or reasoning is inaccurate

	Answer	Marks	Guidance
1	<p>Describe the role of a Legal Executive.</p> <p>Answers may include the following:</p> <p>Role may include:</p> <ul style="list-style-type: none"> • Litigation • Providing legal advice to clients • Researching and preparing legal documents/cases • Dealing with legal matters e.g. as wills and probate, conveyancing, divorced, custody cases, criminal matters • Attending court to assist with the presentation of cases • Working with and assisting solicitors • Upon successful completion of an advocacy course, Legal Executives can obtain wider rights of audience in the Magistrates' Court, County Court and High Court. • CILEx Fellows may become; District Judge, District Judge (Magistrates' Courts), Judge of the First Tier Tribunal, Member of Panel of Chairman of the Employment Tribunal. <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
2	<p>Describe the qualifications and selection of lay magistrates.</p> <p>Answers may include the following:</p> <p><u>Qualifications</u></p> <ul style="list-style-type: none"> • aged between 18-65 upon appointment • live/work within the local justice area • prepared to sit at least 26 half days per year <p><u>Selection</u></p> <ul style="list-style-type: none"> • Local Advisory Committee review applications • Advertisement - aim is to select a good cross-section of society • those selected undertake two interviews: <ul style="list-style-type: none"> ○ Interview One looks at the candidate's general character, personal attributes and whether they possess the six key qualities: <ul style="list-style-type: none"> ▪ good character ▪ social awareness ▪ understanding and communication ▪ maturity and sound temperament ▪ sound judgement ▪ commitment and reliability ○ Interview Two assesses the candidate's judicial aptitude and qualities <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>Explain the jurisdiction of the High Court.</p> <p>Answers may include the following:</p> <p><u>Queen's Bench Division</u> - claims may include:</p> <ul style="list-style-type: none"> ▪ contract matters including breach of contract ▪ tort matters including, for example, negligence/ personal injury, defamation ▪ non-payment of a debt ▪ possession of land or property ▪ applications for judicial review ▪ Includes, for example, the Commercial Court and Admiralty Court <p><u>Chancery Division</u> - claims may include:</p> <ul style="list-style-type: none"> ▪ competition ▪ insolvency ▪ probate ▪ intellectual property claims <p><u>Family Division</u> - claims may include:</p> <ul style="list-style-type: none"> ▪ matrimonial matters ▪ child abduction cases ▪ child custody cases ▪ Children Act cases ▪ Family Law Act cases ▪ Court of Protection work <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
4	<p>Discuss the advantages and disadvantages of using the civil courts to solve a dispute.</p> <p>Answers may include the following:</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • The civil court has a wide range of remedies available • If the losing parties fails to fulfil the court order enforcement proceedings can be initiated • Both parties will be treated equally by an impartial judge. The judge will be an expert in law. • There will be a decision made - one party will win; one party will lose. • A claimant or defendant may appeal in certain circumstances • The Civil Procedure Rules have improved access to justice making it easier and cheaper to bring a case to court. <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • Court hearings are expensive and there is limited legal aid available • Court hearings are formal and intimidating • Despite the introduction of Civil Procedure Rules there are still delays in cases coming to court • Court hearings are complex. A lawyer is often required adding to the cost • Civil Courts are adversarial - a winner and a loser. There will be no compromise and the loser will have to pay all the costs <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>

	Answer	Marks	Guidance
5	<p>Explain what is meant by intention in criminal law</p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Definition of intention – highest level of fault in relation to <i>mens rea</i>, the ‘guilty mind’ • Explain the two main types or definitions of intent – <i>direct</i> and <i>indirect</i> intent • Direct intent is a person’s aim, purpose or decision to bring a consequence, <i>Mohan</i> • Indirect (or oblique) intent has two elements: the prohibited consequence (<i>actus reus</i>) is virtually certain and the defendant realises this, <i>Woollin</i> • A jury can infer indirect intent if the <i>Woollin</i> tests are satisfied, but are not obliged to do so, <i>Matthews and Alleyne</i> • Foresight of consequence by the accused is merely evidence from which the jury may find that a consequence was intended, s.8 Criminal Justice Act 1967, <i>Walker v Hayles</i> • Intention is relevant in relation to specific intent crimes. <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
6	<p>Advise how the law relating to non-fatal offences against the person will apply to Anika.</p> <p>Answers may include the following:</p> <p>Anika: In the case of Anika shouting at Beth</p> <ul style="list-style-type: none"> • Charged as assault under s39 CJA 1988 • Apply <i>actus reus</i> - this may be committed by words alone. Shouting could put Beth in fear of immediate and unlawful personal violence • Apply <i>mens rea</i> - Anika appears to have intention <p>In the case of Beth collapsing and being taken to hospital</p> <ul style="list-style-type: none"> • Accept s47 or s20 OAPA 1861 with justification. • Apply <i>actus reus</i> - shouting at Beth leads to her collapsing. A medically recognizable psychological injury can amount s47 or if severe, s20 • Apply <i>mens rea</i> - Anika is likely/unlikely to have intended Beth to suffer such serious harm <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 Tom</p> <p>Answers may include the following:</p> <p>In the case of Tom holding Sarah’s neck</p> <ul style="list-style-type: none"> • Charged as battery under s39 CJA 1988 or s47 OAPA 1861 with justification • Apply <i>actus reus</i> - holding the neck firmly could be battery or ABH • Apply <i>mens rea</i> - holding of the neck to stop her moving was intentional/unintentional • Level of harm that justifies the candidate’s argument <p>In the case of Tom cutting off Sarah’s ponytail</p> <ul style="list-style-type: none"> • Charged under s47 OAPA 1861 • Apply <i>actus reus</i> - cutting off the ponytail would amount to a hurt or injury which interferes with her health and comfort. This include damage to a person’s physical image. • Apply <i>mens rea</i> - there is clear evidence that Tom acted intentionally and subjective recklessness is irrelevant. <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 constitutes a wound remains complex • GBH has perhaps not been clearly interpreted by judges • GBH is outdated in that historically has focused on bodily harm rather than psychological harm and development in the later 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 sentencing for 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 	<p>8 AO3 1a</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 on 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 on 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 on 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 basic structure. The information is supported by limited evidence.</i></p>

	<ul style="list-style-type: none">• Better defined 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>		<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)</p> <p>No response or no response worthy of credit.</p>
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