

# Teacher Support Materials

## Exemplar Responses

**GCSE Law**

OCR GCSE in Law J485

# Contents

<b>1</b>	<b>Introduction</b>	<b>5</b>
<b>2</b>	<b>Unit B141: The nature of law. Criminal courts and criminal processes</b>	<b>6</b>
	Question 2b* (includes QWC)	6
	High Level Response	6
	Examiner's Commentary	7
	Middle Level Response	7
	Examiner's Commentary	7
	Low Level Response	7
	Examiner's Commentary	7
	Question 2e	8
	High Level Response	8
	Examiner's Commentary	8
	Middle Level Response	9
	Examiner's Commentary	9
	Low Level Response	9
	Examiner's Commentary	9
	Question 4c	10
	High Level Response	10
	Examiner's Commentary	10
	Middle Level Response	11
	Examiner's Commentary	11
	Low Level Response	11
	Examiner's Commentary	11
<b>3</b>	<b>Unit B142: Civil courts and civil processes. Civil liberties and human rights</b>	<b>12</b>
	Question 34	12
	High Level Response	12
	Examiner's Commentary	13
	Middle Level Response	13
	Examiner's Commentary	13
	Low Level Response	13
	Examiner's Commentary	13

<b>4</b>	<b>Unit B143: Employment rights and responsibilities</b>	<b>14</b>
	Question 2b	14
	High Level Response	14
	Examiner's Commentary	15
	Middle Level Response	15
	Examiner's Commentary	15
	Low Level Response	16
	Examiner's Commentary	16
	Question 2c	17
	High Level Response	17
	Examiner's Commentary	17
	Middle Level Response	18
	Examiner's Commentary	18
	Low Level Response	18
	Examiner's Commentary	18
	Question 4d * (includes QWC)	19
	High Level Response	19
	Examiner's Commentary	19
	Middle Level Response	20
	Examiner's Commentary	20
	Low Level Response	20
	Examiner's Commentary	20
<b>5</b>	<b>Unit B144: Consumer rights and responsibilities</b>	<b>21</b>
	Question 2b	21
	High Level Response	21
	Examiner's Commentary	22
	Middle Level Response	22
	Examiner's Commentary	22
	Low Level Response	23
	Examiner's Commentary	23
	Question 2c	24
	High Level Response	24
	Examiner's Commentary	24
	Middle Level Response	25
	Examiner's Commentary	25
	Low Level Response	25
	Examiner's Commentary	25

Question 4d* (includes QWC)	26
High Level Response	26
Examiner's Commentary	27
Middle Level Response	27
Examiner's Commentary	27
Low Level Response	27
Examiner's Commentary	27

# 1 Introduction

It is important to make the point that the Teacher Support Materials play a secondary role to the Specification itself. The Specification is the document on which assessment is based and specifies what content and skills need to be covered in delivering the course. At all times, therefore, this teacher support should be read in conjunction with the Specification. If clarification on a particular point is sought then that clarification should be found in the Specification itself.

OCR recognises that the teaching of this qualification will vary greatly from school to school and from teacher to teacher. With that in mind, these Teacher Support Materials are offered as guidance.

## 2 Unit B141: The nature of law. Criminal courts and criminal processes

### Question 2b\* (includes QWC)

---

Read the following scenario and answer the question which follows.

Ludmilla is walking along the High Street when PC Smythe, who is on duty but in plain clothes, grabs her aggressively. He says that he saw Ludmilla steal make-up from a shop and hide it in her sock. PC Smythe tells Ludmilla to take off her shoes but Ludmilla punches him in the face as she does not realise that he is a police officer and then she runs away. PC Smythe does not make any record of what happened in his police notebook.

Explain **two** reasons why PC Smythe's search of Ludmilla is not lawful.

[6]

*This question is taken from the specimen assessment materials.*

### High Level Response

---

This is an unlawful search because PC Smythe has not followed the rules under the Police and Criminal Evidence Act 1984.

He is not wearing a uniform so he should have told Ludmilla before he touched her why he is stopping her and given her his name and the police station he works from. He should not have grabbed her aggressively anyway and this could make the search unlawful.

For a search to be lawful the police officer can only ask the person to remove certain items of clothing in the street and this does not include Ludmilla's shoes which he could only ask her to take off in private. He would have also had to keep a written record and he has not done so. The search also has to be done properly because he had reasonable suspicion that Ludmilla was in possession of stolen goods or prohibited items which he may have here. All these rules are in PACE or the Codes of Practice.

---

## Examiner's Commentary

---

This is an excellent response. The candidate has clear understanding that stop and search is subject to statutory rules and can cite both the Act and the Codes of Practice. The question asks for two reasons why the search is unlawful but the candidate has given more than two and developed most of them. The candidate might have identified which items of clothing an officer can ask to be removed but is clear that it does not include shoes. The candidate might also have developed the point on reasonable suspicion more. However, for six minutes of planning and writing, this is an excellent response including some good reasoning and effective communication.

## Middle Level Response

---

### Reason 1

PC Smythe should have told Ludmilla his name and station before he began to search her, particularly as he wasn't in uniform.

### Reason 2

PC Smythe can only ask Ludmilla to take off her outer coat, her jacket and her gloves. This doesn't include shoes so this is unlawful.

## Examiner's Commentary

---

The candidate has chosen a very structured approach by numbering two reasons. This is perfectly acceptable. The candidate has included two accurate pieces of information regarding stop and search and there is some development into detail. More reference to law would have led to a much higher mark but this answer still achieves a good middle ranking mark.

## Low Level Response

---

She doesn't know he's a policeman.

He can't make her take her shoes off.

## Examiner's Commentary

---

This is a very basic response. While the first comment shows a glimmer of understanding it lacks any meaningful development or explanation. The second comment is perfectly accurate but there is no reasoning given for it. These are bald comments without any reference at all to legal principles, so the candidate gains only very limited credit.

## Question 2e

---

Briefly discuss the extent to which the law succeeds in balancing individual rights with police powers.

[3]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

The police would not be able to do their job in fighting crime if they did not have power to arrest people and search them on the street, and they need to be able to detain them at the police station so that they can ask questions about the crime they are investigating. The law does create a balance because there are rules in PACE A and the Codes of Practice that say what the police have to do when they arrest, for example give the caution, or what clothes can be removed in a stop and search, or how long they can be detained at a police station without being charged. The police also cannot use evidence that they get through oppressive means. So people's rights are generally protected. Although one problem is that people do not always know what their rights are so they do not know when the police are ignoring their rights.

## Examiner's Commentary

---

This is an excellent answer for three minutes of writing, and the candidate has clear knowledge and understanding of the area. Besides this the candidate has produced a discussion and reinforced the points made with clear examples. In this sense there are elements of both breadth and depth.

## Middle Level Response

---

The police need powers so that they can do their job. The powers are identified in Acts of Parliament. There are rules about how the police exercise their powers. They can only ask for certain clothes to be removed. They can only detain you for fixed periods of time.

### Examiner's Commentary

---

There is clear knowledge and understanding in this answer and the candidate had the basis of a discussion. Unfortunately the points are made in a fairly factual and narrative way rather than as a discussion. The candidate clearly understands the point that the police need certain powers to police effectively but that these powers are constrained so that they are not exercised abusively. A narrative rather than a discursive approach is not untypical of a middle ranking candidate at this level. Candidates are more secure dealing with facts rather than arguments. This could be overcome with more attention to examination skills.

## Low Level Response

---

The police have too many powers so there isn't much balance.

### Examiner's Commentary

---

This is certainly the basis of a discussion which must gain some reward. However, without development it is mere unsupported assertion so the candidate can only gain very limited credit. Just an indication of why there are too many powers or how this means there is no balance could have significantly increased the candidate's mark.

## Question 4c

---

Fergus has been charged with an offence triable either way (one that can be tried in Magistrates' Court or in the Crown Court).

Explain **three** issues which Fergus might consider when choosing which court in which he can be tried. [3]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

Issue 1 The trial is more formal and intimidating in the Crown Court because of the judges and the barristers in their wigs and robes.

Issue 2 The magistrates have limited sentencing powers unlike the judge in the Crown Court who has unlimited sentencing powers up to the maximum for the particular offence. So you can get a harsher sentence in the Crown Court.

Issue 3 In the Crown Court you have a jury and the figures show that they give more acquittals than magistrates do. So you might feel that you have a better chance of getting off in the Crown Court.

## Examiner's Commentary

---

These are excellent answers. Not only has the candidate selected three legitimate issues which Fergus might consider, but also the candidate has explained in each case what factors might influence Fergus' decision.

## Middle Level Response

---

Issue 1 Juries are more sympathetic.

Issue 2 Magistrates can only give six months.

Issue 3 Magistrates like the police.

### Examiner's Commentary

---

The candidate here has some awareness of factors that may influence Fergus' choice. Unfortunately the candidate is able to categorise but not explain the factors and so gains only limited marks.

## Low Level Response

---

Issue 1 The jury

Issue 2 The court

Issue 3 The locality

### Examiner's Commentary

---

This is very limited information and the examiner has to imply heavily what the candidate is indicating. Clearly the jury could be an issue if higher acquittal rates were referred to. Also the court may be relevant if the candidate linked this to the formality of the process. However, it is uncertain why locality is an issue. The candidate can gain only very limited marks.

# 3 Unit B142: Civil courts and civil processes. Civil liberties and human rights

## Question 34

---

Between 1996 and 1998, 75% of the Home Office's crime prevention was spent on installing CCTV equipment. It is suggested that we live in the most 'watched' society in Europe with an estimated 4.2 million cameras – that's one CCTV camera for every 14 citizens! If you live in London you are likely to be filmed 300 times in a single day. Some people believe that this is a significant interference with our civil liberties. Others believe that the use of CCTV only presents a threat to those who have something to hide. They point to successes like the capture of the failed suicide bombers of July 2005 where CCTV footage proved critical.

Using the information above, and your own knowledge, discuss the advantages of CCTV. [6]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

A lot of people argue that the use of CCTV is against our civil liberties but in actual fact the use of CCTV probably has more good points than bad and if we are innocent then we should have no problem with what we do being seen on TV.

Having CCTV cameras is going to make us safer because criminals and people breaking the law are going to know that their crimes are recorded on TV. This will make it easy for the police to find the criminals afterwards and it will provide evidence to make it easier to convict them. This can be seen in the capture of the failed suicide bombers in 2005 where they were able to be caught because of the CCTV films of their movements.

If there is one CCTV camera for every 14 citizens then this means we are very safe because it is almost like having your own private policeman. Normally policemen would have to look after a much bigger area and a lot more people so would not always be there to protect them.

Knowing that there are CCTV cameras might also deter some criminals from committing crimes and this would help to reduce crime and make people safer.

## Examiner's Commentary

---

This is an extensive and well developed discussion for six minutes of writing. The candidate has made good use of information in the source materials but has built this into bigger arguments. There are a range of points and the candidate has done well not only to expand on each point with some practical considerations and exploration of various consequences, but also in showing how the various points also link together. This is a very thoughtful answer.

## Middle Level Response

---

CCTV helps to catch criminals in the act. This could include terrorists like those in 2005. CCTV also helps to prevent crime because 75% of the Home Office's crime prevention money was spent on installing CCTV equipment between 1996 and 1998.

## Examiner's Commentary

---

The candidate has not written extensively but there are a few good points here. The candidate might have done more to show how CCTV helps to catch criminals and terrorists. However, the candidate has clearly read the source and made some use of it, understanding the significance of the arrest of the failed suicide bombers in 2005. The candidate has also made an interesting reference to crime prevention using the source and with more detailed discussion this could have been a high scoring point. As it is the candidate has not explained how money spent on CCTV cameras helps crime prevention. A little attention to detail and deeper discussion and this could have been a high level rather than a middle level answer.

## Low Level Response

---

Some people believe that the use of CCTV only presents a threat to those who have something to hide. They point to successes like the capture of the failed suicide bombers of July 2005 where CCTV footage proved critical.

## Examiner's Commentary

---

There are two valid points here which were contained in the source materials. There could be obvious credit where the candidate extracts, expands on and explains the points. The candidate here has merely copied out this part of the source showing only very limited understanding of its significance and can only receive a low mark as a result.

# 4 Unit B143: Employment rights and responsibilities

## Question 2b

---

Read each of the following three situations and complete activity **b)** which follows them.

(i) Ann, a woman, and Brian, a man, are employed in the same restaurant by the same employer. Ann is a waitress and Brian is a waiter. They both work exactly the same hours and do exactly the same work but Ann is paid only half the wage that Brian is paid.

(ii) Claude is employed by Derek who hates all gay people. Recently Claude has been dismissed by Derek who has found out that Claude is gay.

(iii) Fatima, a clerical worker, has developed severe arthritis in her knees and now has to use a wheelchair. Fatima used to work on the second floor and has requested an office on the ground floor as the controls in the only lift in the building are too high for Fatima to reach from her wheelchair. Her employers have refused.

(b) Give reasons why the party in each situation **(i)**, **(ii)** and **(iii)** will be able to show that they have in fact been discriminated against. [9]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

Situation (i)

Ann and Brian are doing the same work and are working the same hours. There is no obvious difference between them so why Brian should receive more money? Ann should be able to have equal pay with Brian.

Situation (ii)

Claude has been dismissed unfairly. Derek hates all gay people and this is why he has dismissed Claude. Claude has been discriminated against because he is gay and this is illegal. It is direct discrimination because Derek would not have treated a person who was not gay in the same way. So Derek could not legally dismiss Claude in this way.

### Situation (iii)

Fatima has a long term disability which means she is not able to use the lift. The controls on the lift in any case should be within the reach of a person in a wheelchair. Fatima's employer has a duty to take reasonable steps to make adjustments so that she can still work. There seems no reason why she should not be able to work on the ground floor so she has been discriminated against and her employer has failed to carry out his duty to her.

## Examiner's Commentary

---

This is a very good response across all three situations. The candidate has identified the specific breach of rights in each case and explained also the critical issue e.g. that there is no difference in the work done by Ann and Brian, that Claude has been treated less favourably than Derek would have treated a heterosexual person, and that Fatima's employer has failed to make reasonable adjustments. The candidate has then threaded this reasoning into a logical conclusion in each case and demonstrated very good application skills.

## Middle Level Response

---

### Situation (i)

If Ann is doing the same work as a man then she is entitled to the same pay as him unless he has different responsibilities.

### Situation (ii)

This is discrimination and gay people are now covered by discrimination.

### Situation (iii)

Fatima has a disability so her employer should make reasonable adjustments to help her. Working on the ground floor would be a reasonable adjustment. So she has been discriminated against because of her disability.

## Examiner's Commentary

---

This is a reasonable answer and there is understanding which could have possibly been developed for a higher mark. The answer to (ii) is quite terse and needed more detailed application but there is understanding that sexual orientation is an area covered by anti-discrimination law. (i) hints at the concept of equal pay and also points at the possibility of different responsibilities justifying different pay. (iii) shows good understanding of the basic duty in the Disability Discrimination Act and needed only a little more to be a high level response.

## Low Level Response

---

Situation (i)

They should have the same pay.

Situation (ii)

Derek can't treat Claude badly just because he's gay.

Situation (iii)

Fatima could have worked on the ground floor.

## Examiner's Commentary

---

Each answer has merit in the sense that each could be justified with some reasoning. However, the statements come over as bald unsupported assertions and there is little evidence of application skills here so the candidate gains only minimal credit.

## Question 2c

---

(c) Without anti-discrimination laws in (b)(i) Ann would be doing the same job as a man for half the pay, in (b)(ii) Claude would lose his job just because he is gay, and in (b)(iii) Fatima would not be able to carry on with her job.

Discuss **three other reasons** why it is important to have laws preventing discrimination at work. [6]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

If there were no equality laws then an employer could employ who he wants based on his prejudices not because of the person's qualifications for the job. So if he was a racist he could say that he wasn't going to employ any black people and then if other employers could do this it would make it hard for black people to get a job at all.

It's the same thing in work. The employer might be sexist and only promote men to high paying jobs. This would then make it even more difficult for women to get high wages.

This type of thing then encourages racism and sexism in other ways. For example if there were some women who were not promoted even though they were qualified enough it might allow male employees to call them thick or untalented. So they could be harassed more easily.

## Examiner's Commentary

---

This is a very good response. The candidate has given the required three reasons but has also thought out the consequences of discrimination each case. The points are well developed and the implications clearly explained.

## Middle Level Response

---

To stop racism and sexism and to stop people being bullied by their employers or by other workers.

### Examiner's Commentary

---

This possibly divides into three or four points if racism and sexism and bullying by employers and by other employees are accepted as two different sets of two points. However, more expansion would really be needed to show why they might be. There is clear merit in the reference to all but a for a higher mark more development or explanation would be required. Nevertheless there is sufficient scope for the candidate to just gain a middle ranking mark.

## Low Level Response

---

Fairness.

Justice.

### Examiner's Commentary

---

There is certainly the basis of an argument here (although it is questionable whether the candidate has identified three reasons – fairness and justice would seem to be the same – so there appears to be only one). However, these are mere labels and there is no indication of any reasoning so the candidate can only secure minimal marks.

## Question 4d \* (includes QWC)

---

Discuss some reasons why it is important for employers to have the right to dismiss employees, giving examples of situations in which dismissal would be necessary. [9]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

There are only limited situations identified in law where an employer can dismiss employees. These are called potentially fair dismissals and for the dismissal to be lawful it must be actually fair.

One of these is where the employee has to be disciplined quite severely or has a very poor disciplinary record. An employer has to be entitled to respect and obedience from his employees otherwise the work may not get done and the lack of discipline might have a bad effect on other employees. You can't expect the employer to have to keep an employee who never does what he's told to do.

Sometimes poor discipline might even involve violence against other employees. Sometimes an employer could dismiss the employee on the spot. This is called summary dismissal and it could be when the employee is drunk or violent or refuses to carry out instructions, or even is dishonest and steals from his employer.

An employee might have lied about his qualifications when he applied for the job and then the employer only finds out after he realises that the employee can't do his job properly even though he's tried to train him to do it. He should be able to sack him then because of his dishonesty in his application so the employer can get a properly qualified employee.

Also there are those situations when the company is going through a bad patch and doesn't have as much work so they have to be able to make some employees redundant to try and protect the business.

## Examiner's Commentary

---

The candidate has written quite extensively here and in a reasoned way. It might also be argued that the candidate has explored a wide range of reasons so that there is both breadth and depth in the answer. The candidate shows good understanding of the law on dismissal but also thinks out the implications of different situations in a very practical way and develops each of the points made. There is also effective communication of information and analysis with, in general, good spelling, punctuation and grammar.

## Middle Level Response

---

You should be able to sack somebody who steals from you. Otherwise all employees would think they could get away with it. You should be able to sack someone who doesn't do what you tell them to do. Otherwise you aren't going to get the work done. You should be able to sack someone who comes to work drunk because they might start a fight.

### Examiner's Commentary

---

There are three good points made here with some limited reasoning attached as to why they should justify dismissal. The candidate has answered quite simplistically and could have developed each response further but there is some breadth and depth and the candidate shows sufficient practical understanding to gain a good middle level mark.

## Low Level Response

---

Bad discipline.

Always late to work.

Can't do the job properly.

### Examiner's Commentary

---

The candidate has answered in a very curt style with no attempt to discuss, as the command in the question required. Clearly all three possibilities identified by the candidate have merit and could have led to high marks with appropriate discussion. Arguably the second could be seen as an example of the first in which case there is some expansion, but then the candidate has only identified two reasons, which is very limited in scope. Otherwise, as mere labels, the answer in any case gains only minimal marks.

## 5 B144: Consumer rights and responsibilities

### Question 2b

---

Read each of the following three situations and complete activity **a)** and activity **b)** which follow them.

(i) Danielle bought a new pair of trainers from a shoe shop. Danielle told the assistant that she would use the trainers to train for, and to run in, cross-country races. The assistant assured Danielle that the trainers were suitable for such use. The trainers fell apart the first time that Danielle wore them for training but the shoe shop is refusing to give Danielle her money back.

(ii) Enrique contracted with a building firm to build a small extension on the back of his kitchen. The contract made no mention of the price of the building work but the building firm has now presented Enrique with a bill for £50,000. The usual price for this type and size of extension is £15,000.

(iii) Françoise bought a car from a motor dealer which was described as 'mechanically perfect'. The first time Françoise drove the car it broke down and she has now discovered that the engine in fact needed replacing when she bought the car.

(b) Explain how the implied term has been breached in each situation **(i)**, **(ii)** and **(iii)** and say what right(s) each person now has. [9]

*This question is taken from the specimen assessment materials.*

### High Level Response

---

(i) Danielle:

Danielle told the shop assistant what she wanted the trainers for so she is entitled to rely on what the shop assistant said. If the trainers were no good for running in then the assistant should have said so. The trainers should be fit for the purpose that Danielle stated. They were not so Danielle can get her money back.

(ii) Enrique:

Here the builders should have told Enrique the price before they started so he could have gone to another builder if he did not like the price. Because extensions like this are usually £15,000,

£50,000 is too much and Enrique only has to pay a reasonable price. The court would probably say this is £15,000.

(iii) Francoise:

Goods should be how they are described. Here the car has been described as mechanically perfect but it is not. In actual fact it is far from perfect. So there is a breach of contract and Francoise can get her money back from the dealer. She does not have to keep the car even if it can be repaired.

## Examiner's Commentary

---

This is an excellent answer full of practical understanding and showing good application skills. The candidate understands the appropriate law and is aware of the appropriate remedies for the breaches involved.

## Middle Level Response

---

(i) Danielle:

The trainers are not of satisfactory quality. They should not fall apart the first time they are worn so Danielle can get her money back.

(ii) Enrique:

£50,000 isn't a reasonable price so Enrique doesn't have to pay it.

(iii) Francoise:

The goods aren't mechanically perfect as they should be so Francoise can have her money back.

## Examiner's Commentary

---

The candidate clearly has some understanding in all three cases. For (i) the candidate has chosen satisfactory quality rather than fitness for the purpose but there is clearly still some merit in the answer. For (ii) the candidate shows understanding of the principle but needed more explanation for a higher mark. For (iii) the candidate could easily have gained the highest mark with the additional mention of the word 'description'. Everything else is there for (iii). More development of answer in each case would have produced a higher level mark.

## Low Level Response

---

(i) Danielle:

She can have her money back.

(ii) Enrique:

He doesn't have to pay that price.

(iii) Françoise:

She can get her money back.

## Examiner's Commentary

---

The answers amount to correct conclusions and so must gain some limited credit. However, there is no reasoning at all so credit is very limited. The candidate needed to reason why there was a breach and why the remedy was such as the candidate stated.

## Question 2c

---

c) The Sale of Goods Act 1979 (as amended) requires that goods should be of 'satisfactory quality'. It also goes on to give some definitions of the meaning of 'satisfactory quality':

a) fitness for all purposes for which the goods are usually supplied

b) appearance and finish

c) freedom from minor defects

d) safety

e) durability

Briefly explain **two** ways in which these definitions of satisfactory quality help to protect consumers.

[6]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

Way 1: Safety is important. You would not be satisfied if you bought unsafe goods. If you buy goods and they are unsafe then the goods could cause injury, for example a toaster blowing up when you switch it on. Because of the definition in the Sale of Goods Act, if the goods are not safe then the consumer can get compensation if he does get injured. In any case if he discovers that they are unsafe he can take them back and get his money back.

Way 2: Durability is another important part of the definition of satisfactory quality. If the goods are not durable this means that they do not last as long as they should do or they stop working too early. This would not be satisfactory. A consumer must expect normal wear and tear but if say clothes fall apart the first time you wear them, or a piece of machinery breaks down after only a few uses then he can take them back. He could then have a replacement but he may not wish to have the same again in case it falls apart again. So he could have his money back instead.

## Examiner's Commentary

---

This is a good developed answer. The candidate has selected two definitions from the list, explained why they are significant, and explained some consequences of the buyer being able to rely on the definition. The candidate shows a clear understanding of the two areas selected and of the remedies available under the Sale of Goods Act.

## Middle Level Response

---

If the goods do not match any of these then it means that the consumer has remedies. If he wanted he could change the goods for new ones. He could also have his money back and go elsewhere.

### Examiner's Commentary

---

This is a candidate who has clear understanding of the consequences of goods not being satisfactory. The possibilities are clearly explained and well expressed. This achieves a reasonable mark but could have been improved by more specific detail and explanations of various aspects of the definition.

## Low Level Response

---

It means the goods will be free from minor defects.

It means the goods will be safe.

### Examiner's Commentary

---

This is a very limited answer. The candidate is making an assumption which is not necessarily true and ignores the ways in which these aspects of the definition could help if there is a breach by the seller. The candidate needed much more development and explanation to get other than a very low mark.

## Question 4d\* (includes QWC)

---

Both the courts and Parliament have introduced controls on exemption clauses. Consumers are particularly protected because they contract on unequal terms with businesses.

Explain some of the possible consequences for consumers if they did not have these protections when it comes to exemption clauses. [9]

*This question is taken from the specimen assessment materials.*

## High Level Response

---

Controls on exemption clauses have been created by both the courts and Parliament because consumers have weaker bargaining strength than businesses. The whole reason for controls is so that consumers will be treated fairly and protected from unfair business practices and being taken advantage of by unscrupulous businessmen. The general rule of contracts is 'let the buyer beware' but the buyer does not always have the same knowledge that the seller has.

If there were no controls then businesses could put in whatever type of exclusions they liked and get away with it. For example there would be no liability if a defect in the goods killed or injured the consumer if they had a clause covering this in the contract. This would be very unfair, particularly if the consumer had a family who then lost his income as a result and had no way of getting compensated. This might apply with places like theme parks and funfairs also. If you thought that you could get injured but not be compensated if it was the owners' fault then you would probably stop using them and that would be no good for the business either.

If we did not have these controls then a businessman could sell you any old rubbish and when it fell apart you would not be able to take it back and even get an exchange, let alone get your money back. This would make people lose trust in businesses and people would buy fewer things and again the businesses could then lose money. So really it is in everybody's interest for businesses to sell well made goods and not to have exemption clauses in their contracts. The clauses only help in the short term and people would rather go to a business without these clauses in the contracts.

In some ways it makes no sense if there are other laws like negligence which the businesses are supposed to keep if they can then get away with their negligence through having exclusion clauses in their contracts. This makes the other laws pointless if they cannot be enforced.

## Examiner's Commentary

---

This is very extensive for a nine minute response. The candidate shows clear understanding and develops each point in a very practical way. The candidate has clearly thought about the topic and has made some interesting and creditworthy points on how use of exemption clauses could also in the long run work against the business using them. The answer is very perceptive with well developed points very clearly communicated with good use of spelling punctuation and grammar.

## Middle Level Response

---

If there were no controls on exemption clauses then consumers would not be able to return goods that are not satisfactory.

If there were no controls on exemption clauses consumers would not be able to complain about a service that was carried out badly.

If there were no controls on exemption clauses then businesses could get away with being negligent and even hurting people.

## Examiner's Commentary

---

There are some good points here and the candidate has shown reasonable breadth to achieve a middle level mark. With more development and attention to detail the candidate could easily have secured much higher marks by expanding on each point. Communication was generally effective with no spelling, punctuation and grammatical errors.

## Low Level Response

---

They would be bound by the clauses whatever they were.

## Examiner commentary

---

A very relevant point, but it is only a single point with no further discussion or explanation. Only a very limited mark is therefore available. Even without any breadth higher marks might still be available but only with great depth of discussion. There is neither here.