

A LEVEL

Examiners' report

LAW

H418

For first teaching in 2020

H418/01 Summer 2024 series

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Introduction

Our examiners' reports are produced to offer constructive feedback on candidates' performance in the examinations. They provide useful guidance for future candidates.

The reports will include a general commentary on candidates' performance, identify technical aspects examined in the questions and highlight good performance and where performance could be improved. A selection of candidate answers is also provided. The reports will also explain aspects which caused difficulty and why the difficulties arose, whether through a lack of knowledge, poor examination technique, or any other identifiable and explainable reason.

Where overall performance on a question/question part was considered good, with no particular areas to highlight, these questions have not been included in the report.

A full copy of the question paper and the mark scheme can be downloaded from OCR.

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Paper 1 series overview

Overall, candidates appeared well-prepared for this exam and utilised their time effectively. The paper provided ample opportunity to demonstrate knowledge, application, and evaluation of key specification areas. Candidates who thoroughly revised all areas were able to recall, apply, and evaluate effectively. However, there is clear evidence of 'topic spotting' indicating that not all candidates were prepared for every topic. It is crucial to deliver the entire specification to allow candidates to achieve high marks. While candidates demonstrated improved technique by setting out AO1 before application or evaluation, they must avoid including excessive case facts and focus on the legal principles.

Candidates who did well on this paper generally:	Candidates who did less well on this paper generally:
<ul style="list-style-type: none">• spent time revising all parts of the specification• were able to utilise relevant areas of topics to respond to questions• demonstrated up to date topic knowledge including very recent changes• understood the assessment objectives for each question and the different sections• focused on the key evaluation areas• managed their time effectively	<ul style="list-style-type: none">• did not revise all areas of the specification• did not focus on the command words in the questions• tried to include all aspects of a topic, particularly in scenario questions, resulting in time wasted or irrelevant content• lacked focus

Section A overview

Most candidates complied with the rubric and demonstrated a strong ability to produce a wide range of AO1 points, showing detailed understanding. However, there was evidence of 'topic spotting,' leaving some candidates unprepared for the questions on the examination paper. Few candidates attempted the questions on civil courts and criminal funding, leading most to attempt questions 2 and 4. When question 1 was attempted, several candidates applied incorrect financial limits, highlighting the importance of staying up to date. Some students did not read questions carefully, often drifting into unrelated parts of a topic, for example, the process of selecting a jury and detailed discussion of the benefits of only one type of Alternative Dispute Resolution. While most candidates could separate AO1 from AO3, many included AO3 in their responses to questions 1 and 2, and overly detailed AO1 in questions 3 and 4.

Option overview

Very few candidates attempted Questions 1 and 3.

Question 1

1 Explain how civil cases are allocated to the appropriate track.

[8]

Candidates who had prepared well for this question, demonstrated good recall of the three tracks and financial limits, earning marks for this basic knowledge. It was pleasing to see mention of the Intermediate Track although this was not required. However, the question was unpopular with very few candidates attempting it. Overall, candidates struggled to get beyond the basics. Very few candidates mentioned the allocation questionnaire and defended the claim. Overall, few answers reached Level 4 indicating limited depth of understanding.

Question 2

2 Describe the role of juries in criminal courts.

[8]

This popular exam question on the role of juries saw many students demonstrating strong knowledge, effectively explaining responsibilities like deciding verdicts, listening to evidence, and deliberating. However, common mistakes included irrelevant points about jury selection and focusing on the democratic aspect or evaluations, which did not earn credit. Many students also did not specify the criminal courts where juries are used. Despite these issues, those who correctly addressed the role typically scored well, achieving Level 3. Overall, the question was well-answered but required more focus on relevant details.

Exemplar 1

2.		<p>Juries are randomly selected by the Court clerk and 12 of them sit and hear indictable or more serious triable either way offences. The the The jury's must only Jury Act 1976 says that jurors should only make a verdict on the case evidence presented and are not allowed to use technology like in no cases.</p> <p>The jury must listen to the judge's advice and explanations on points of law, if the jury don't understand, they can write their question down and a court usher will take it to the judge. The jury must also follow the judge's orders on acquittal but the jury shouldn't be influenced by the judge, like in <i>Bushell's</i> case. They must also be impartial and not have any connections to anyone on the case like in <i>R v Wilson and Spradon</i>.</p> <p>The Contempt of Court Act 1981 makes it so that juries have to make their decision in secret and that they aren't allowed to discuss the case without anyone on the outside. The spokesperson is selected from the jury and is responsible for conversation controlling conversation in the jurors room. The Juries Act also makes it so that the spokesman/woman has to announce the amount of ^{jurors} people disagreeing/agreeing on a verdict. It is the Unanimous verdict is when all 12 agree, but if the jury is taking too long to discuss, then the judge can accept a legal majority 10-2, anything lower will lead to a hung jury like in <i>R v Jenkins</i>.</p>
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Exemplar 1 illustrates a response achieving full marks. This candidate concentrated on the question asked and states all the key elements of the role of the jury including the types of cases in which they sit.

Question 3

3 Discuss the problems with government funding of criminal cases.

[12]

Few candidates answered the question on funding for criminal cases. Those who did, generally performed well, identifying key points such as government cutbacks. However, some responses lost focus and drifted off-topic. This question was much less popular compared to Q4. Stronger responses discussed the strict application of means and merits tests and the resulting 'advice deserts and, issues surrounding taxpayers' money. Unfortunately, very few students achieved Level 4 marks, and overall performance on this question was not particularly strong.

Question 4

4 Discuss the benefits of using ADR to solve a civil dispute.

[12]

The question on the benefits of Alternative Dispute Resolution (ADR) was very popular and generally well-answered. Students made strong arguments, for example, about ADR being cheaper, faster, and fostering better relations. However, many students incorrectly focused on specific types of ADR rather than the general benefits missing the emphasis of the question. Some responses also drifted into highlighting the benefits to the court system rather than ADR. When students correctly discussed ADR as a whole, they typically achieved Level 4. A notable issue was the unnecessary inclusion of introductions explaining ADR and the types. There are only AO3 marks available in Question 3 and 4.

Section B overview

Overall, candidates performed well in Section B, demonstrating an ability to separate AO1 from AO2/AO3. These candidates were able to identify the key areas required for questions 5, 6, 8, and 9 and used their knowledge effectively to apply to the given scenarios. A key skill is to identify a relevant area of a topic and apply only this to the scenario. However, there is still evidence of students writing everything they know about a particular topic and then trying to fit that information into the scenario. Candidates engaged with all the questions, although there was an obvious preference for Part 1. There were occasions where candidates answered the question they wanted rather than the question asked. Some candidates struggled with Questions 7 and 10 and how to separate AO1 from AO3, often simply discussing the topic generally without demonstrating an understanding of the relevant Law or the ability to use this to form discussion points.

Question 5

- 5 Advise whether Kobe and Heidi are criminally liable for any non-fatal offence against the person. Do **not** discuss any defences. [20]

The question on non-fatal offences against the person was generally well-answered. Many students demonstrated strong AO1 knowledge, correctly identifying assault and s.20 GBH, although battery was less frequently recognised, with ABH often incorrectly mentioned instead. Students who organised their points clearly tended to have better application. Common mistakes included unnecessary details on causation. A significant number discussed ABH erroneously and overlooked the specific offences relevant to the scenario. Candidates also spent considerable time including irrelevant defences. Many candidates did not reach definitive conclusions. Overall, the actus reus elements were applied effectively to the situations, the MR was frequently misidentified as recklessness for all possible offences.

Question 6

- 6 Advise whether Ryan is criminally liable for burglary. [20]

Responses to this question demonstrated strong knowledge (AO1) from students, with clear understanding of the entry and building elements. However, application (AO2) was generally less successful. Many candidates did not treat the three instances (laptop, wallet, GBH) separately which resulted in missed marks. There was confusion over whether the laptop was stolen, and many incorrectly concluded that Ryan was not a trespasser due to his permission to enter. Students often went into unnecessary detail on theft and robbery, missing the focus on burglary. Misunderstanding of trespassing, especially the concept of exceeding permission, were common. While many identified the GBH, they struggled with its application. The strongest answers addressed each element separately, correctly applying the law to each incident and concluding. Overall, students showed strong theoretical knowledge but struggled with application.

Exemplar 2

		Ryan is initially not a trespasser as he has been given a key to Sam's house. However, Ryan knows becomes a trespasser as he has the intent to steal the laptop. (John & Smith). He has permission to go into the bedroom but exceeds this permission by deciding to steal it. When he comes down, Ryan knock Sam unconscious by punching him in the head. This is GBH (DPP v T). Ryan then goes into Sam's office, where he does not have permission, which he trespasses. He grabs Sam's wallet and steals it.
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Exemplar 2 illustrates a response that achieved 5 out of the 12 AO2, Level 2 marks demonstrating basic application of the legal rules. The candidate addresses the three issues but in one paragraph rather than treating each of the three instances separately. This demonstrated lack of detail and development. Accurately applying the elements of burglary to each incident would achieve Level 4 marks.

Question 7*

7* 'The defence of intoxication strikes a fair balance between clear legal principle and public policy.'

Discuss the extent to which this statement is accurate.

[20]

The evaluation question on the defence of intoxication showed varied performance. While most students demonstrated AO1 knowledge, explaining voluntary and involuntary intoxication, many did not provide basic definitions, missing key marks. Strong answers began with a clear explanation of the rules before moving to evaluation. Some students mixed AO1 and AO3 in the same paragraph and did not gain marks as examiners are unable to award double credit. There was also confusion over legal principles and public policy, leading to weak and repetitive AO3 points. Some students spent too much time on detailed case facts, which did not gain much credit. Despite this, many candidates identified key evaluative points and demonstrated good knowledge of case law. There were several responses including irrelevant points, such as those related to drink driving, and lengthy introductions or conclusions often repeating information. A few students confused intoxication with other defences like diminished responsibility. Overall, while the quality of responses has improved, many students struggled with structuring their answers and understanding core evaluative concepts.

Question 8

- 8 Advise whether Dev can avoid liability for the murder of Yana by using the defence of loss of control. Do **not** discuss the offence of murder.

[20]

This application-style question on loss of control was generally well-answered, with many students demonstrating strong AO1 knowledge by accurately citing relevant subsections of the Coroners and Justice Act 2009. However, some students included unnecessary details about murder, wasting valuable time. While most knew the statute and could recite the test, there was little application of 'circumstances' and examples of possible loss of control. AO2 responses were less strong, with many students only applying either the fear or things said or done triggers without recognising both could apply. Additionally, a significant number of responses incorrectly applied old case law on provocation instead of focusing on modern cases. The weakest area was where candidates did not fully explore measures of loss of control or the normal person test, particularly in relation to the defendant's panic attacks. Overall, while the AO1 knowledge was strong, the AO2 application needed improvement, particularly in addressing all relevant aspects of the defence.

Exemplar 3

8	2	as a defence. After Hugo was alarmed at her behaviours and sends her home for the day, Annika he took double her normal doses of medication. The overdose shows that her drowsy feeling when driving is caused by this misuse misuse rather than external factor, meaning that it was internal factor causing the defect of reason. Since the disease of mind is caused by the overdose of medication, Annika became very drowsy especially indicating that there was a defect of reason especially when she was driving. As she has crashed into a neighbour's parked car and badly damaged it, she must have not known what she was doing the nature of her conduct but cannot control herself. Since all elements satisfied, she is still likely to claim if defence of insanity for this crime.
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Exemplar 3 illustrates an extract of a Question 7 and 10 responses. The candidate begins by setting out some of the general rules including the Majewski rule and the difference between voluntary and involuntary intoxication. They then introduce AO3. They utilise the AO1 to respond to the question explaining why, in their opinion, there is a good balance between legal principle and public policy and why. This candidate took the same approach throughout their response.

Question 9

- 9** Advise whether Annika can avoid liability for any criminal offences by using the defences of insanity or automatism.

[20]

This question was generally not well-answered with many candidates failing to correctly apply the law of insanity and automatism to the given scenario. The presence of epilepsy in the scenario seemed to confuse students, leading many to mistakenly classify a sneezing fit as an internal cause and apply the insanity defence. This confusion led students to prematurely link the first incident to the defendant's medical condition. Candidates struggled to address the three separate instances but there were some strong responses with candidates demonstrating an ability to handle each incident separately and correctly identify the appropriate defence. Some candidates misunderstood the question, addressing only one defence instead of both, or incorrectly merging the requirements for insanity and automatism, and sometimes, diminished responsibility. While there was good AO1 knowledge demonstrated in the explanations of the tests for each defence, the AO2 application was notably weak. Overall, improved clarity and structured analysis in future responses would enhance performance on such questions.

Question 10*

- 10*** 'The defence of intoxication strikes a fair balance between clear legal principle and public policy.'

Discuss the extent to which this statement is accurate.

[20]

The evaluation question on the defence of intoxication showed varied performance. While most students demonstrated AO1 knowledge, explaining voluntary and involuntary intoxication, many did not provide basic definitions, missing key marks. Strong answers began with a clear explanation of the rules before moving to evaluation. Some students mixed AO1 and AO3 in the same paragraph and did not gain marks as examiners are unable to award double credit. There was also confusion over legal principles and public policy, leading to weak and repetitive AO3 points. Some students spent too much time on detailed case facts, which did not gain much credit. Despite this, many candidates identified key evaluative points and demonstrated good knowledge of case law. There were a few responses including irrelevant points, such as those related to drink driving, and lengthy introductions or conclusions often repeating information. A few students confused intoxication with other defences like diminished responsibility. Overall, while the quality of responses has improved, many students struggled with structuring their answers and understanding core evaluative concepts.

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