

Examiners' report

A LEVEL

LAW

OCR Level 3 Advanced GCE in Law

H418

For first teaching in 2020

H418/02 Summer 2025 series

Contents

Introduction	3
Paper 2 series overview	4
Section A overview	5
Question 1	5
Question 2	5
Question 3	7
Question 4	8
Section B overview	9
Question 5	9
Question 6	11
Question 7*	13
Question 8	15
Question 9	16
Question 10*	18

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 responses 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 [Teach Cambridge](#).

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Paper 2 series overview

This question paper is the second of three compulsory terminal papers taken by candidates after two years studying OCR GCE A Level Law. The question paper assesses two key themes – law making and the law of torts. This series was another buoyant session with very similar candidate entries to 2024. Candidate performance was less successful than last year with less successful responses to the two AO1 questions (Questions 1 and 2) in Section A.

The question paper has three assessment foci and, to do well, candidates will need to demonstrate knowledge and understanding of the relevant law (AO1), be able to apply the law to given factual scenarios to construct liability (AO2) and be able to analyse and evaluate the law (AO3). Except for the AO1 questions in Section A, the AO1 subject knowledge was reasonable but many candidates gave less successful responses through 'stating' rather than 'explaining' their AO1. AO2 was variable and depended on how secure and relevant the underpinning AO1 was. The AO3 performance was more successful in Section A but less focused in the extended response question in Section B. Some candidates' handwriting is difficult to read - centres should emphasise to students that they need to write legibly.

Candidates who did well on this paper generally:	Candidates who did less well on this paper generally:
- showed the ability to provide secure responses to questions in both Sections A and B - understood the demands of the different assessment objectives and were able to demonstrate this in appropriate responses - offered 'explained' AO1 rather than 'bald' or 'stated' AO1 demonstrating clear knowledge and understanding of legal principles - made use of the scaffolding in the scenarios of the problem questions, to link legal principles to factual circumstances when constructing liability in AO2 - were able to develop evaluation beyond making singular analytical points, to offer a critical discussion in their AO3 - demonstrated subject knowledge and citation of authorities consistent with the illumination of the specification in the planner - managed their time well and gave responses of appropriate length and focus.	- demonstrated significant gaps in their knowledge and understanding of the specification - lacked balance and relied too heavily on AO1 to carry responses which fell short on AO2 and AO3 - had gaps in their AO1 knowledge and understanding or significant misunderstandings of key content - did not make appropriate links between legal principles and the given facts in problem questions - misunderstood the demands or focus of the question when providing inappropriate evaluation - demonstrated a tenuous grasp of key legal concepts within the specification - wasted time giving exhaustive accounts of irrelevant material and writing out case facts when they had no bearing on the question.

Assessment for learning



The Teacher Guide provided by OCR includes up-to-date and relevant authorities, and teachers should advise candidates of the dangers of relying on more informal sources found on social media, many of which can be misleading at best or incorrect.

Section A overview

Section A assesses the 'law making' component of the specification. Although it is a mandatory section, candidates can choose either Question 1 or 2 (8 marks AO1) and either Question 3 or 4 (12 marks AO3).

In the AO1 section (Questions 1 and 2), there was a 55:45 split in favour of the precedent question. Despite both topics being from mainstream areas of the specification, responses to Question 1 were less successful and although Question 2 was a little better, performance was somewhat polarised. In the AO3 questions (Questions 3 and 4) there was roughly a 65:35 split in favour of the legislative process question. Both questions performed in line with expectations.

Question 1

1 Describe overruling and reversing.

[8]

Within the topic of precedent, BOP (binding, original and persuasive precedents) and FORD (following, overruling, reversing and distinguishing) are mainstream topics which have a well-established history of being assessed within this area of the OCR specification. Despite this, most candidates appeared to not be prepared for a question on this topic. Many candidates attempted to approach the question through the hierarchical mechanics of precedent but were unable to distinguish between the two practices and, importantly, the exceptions. Other candidates attempted to view the practices through the lens of the appeals system. Many candidates were unable to distinguish between changing or overturning a legal principle, law or *ratio* and overturning a decision or outcome (often by applying existing legal principles differently). Candidates were similarly unable to distinguish between a practice which arises in two different cases and one which arises in the same case. To add to the confusion, many candidates offered incorrect case examples. For example, *R v R* (rape within marriage) is not an example of reversing and *Robinson v Chief Constable of West Yorkshire* did not overrule *Caparo v Dickman*.

Question 2

2 Explain the controls exercised over delegated legislation by the courts.

[8]

Within the highly mainstream topic of delegated legislation, the two AO1 themes are describing the types or the controls. There are only two forms of control – parliament and the courts. Both topics have a well-established history of being assessed within the OCR specification. Despite this, performance on this question was polarised with many candidates not understanding the question and either describing the *types* of delegated legislation or explaining the parliamentary controls instead of the court controls. A few candidates who understood the question were successful and gained high marks. In the middle were many candidates who typically stated the heads of review rather than explaining them and were unable to access higher levels.

Exemplar 1

2.	A piece of delegated legislation may be challenged by a person with standing in the King's Bench Division of the High Court the through a process called judicial review. The first control the courts have is procedural ultra vires. This is where it's argued that the delegated body did not follow the required procedures laid down in the Enabling Act. In <i>ATB v Aylesbury Mushroom Ltd</i>, consultations with other mushroom growing bodies had to take place before any new training rules were brought in. Aylesbury Mushroom did not carry out the required consultation and so the rules were held to be invalid by the court. The second control is substantive ultra vires. This is where it's argued that the delegated body went beyond the powers granted to it the by the Enabling Act. This can be seen in <i>Bromley v Greater London Council</i> (GLC) where a local council attempted to raise taxes to subsidise local public transport. The third control is Wednesbury unreasonableness. This is where it is argued that the delegated body exercised their powers in a
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		way that is so unreasonable, no other
		body reasonable body would have done so.
		the same ^{point} and also deem it unreasonable.
		Its name comes from the Wednesday case
		where the council tried to restrict
		cinema opening times to improve
		school attendance. This was deemed
		unreasonable to the local business. In
		Strickland v Hayes, it was unreasonable
		to ban obscene singing on land near
		public land.

This exemplar is the complete response from a candidate who gained high marks. The candidate introduces the topic with a clear understanding of the process of court control by citing the appropriate court (the King's Bench Division) and the relevant process (judicial review). The candidate then goes on to explain the three heads of judicial review offering relevant cases to illustrate and support each one. An effective and fluent response.

Question 3

3 Discuss the disadvantages of the Golden Rule of statutory interpretation.

[12]

Most candidates performed as expected on this question. More successful responses offered some well-developed, thoughtful and intelligent discussion around themes such as unpredictability, undermining parliamentary supremacy and limitations. There was some good use of case law to illustrate points being made although this occasionally included the use of an incorrect case from another rule. Less successful responses 'described' (AO1) the Golden Rule or misunderstood/misread the question and discussed the advantages not the disadvantages. It is worth remembering that there is no need to provide a conclusion on the AO3 questions in Section A. Also, given the demands of the overall question paper, some candidates would benefit from managing their time better as there were some excessive and exhaustive responses.

Question 4

4 Discuss the disadvantages of the process by which an Act of Parliament is created.

[12]

Again, most candidates performed as expected on this question. More successful responses offered well-developed, thoughtful and intelligent discussion around themes such as the lengthy process, lack of democracy and the dominance of the executive. There were some good counterpoints around issues of speedy response in emergencies, expertise and democratic legitimacy. Less successful responses 'described' (AO1) the legislative 'process' or misunderstood/misread the question and discussed the advantages not the disadvantages. Some responses drifted off the topic of the legislative 'process' and ended up discussing disadvantages of legislation *per se*, the composition of parliament or, most commonly, 'influences' on the process. There was also some evidence of misunderstanding or over-stating the role of the House of Lords and/or the Monarch. Issues relating to conclusions and timing as above for Question 3 apply equally here.

Section B overview

This year there was almost a 50:50 split between candidates who opted for Part I and Part II. The format of the two parts was like 2024. Both parts performed broadly in line with expectations. In Part I candidates performed more successfully on Question 5 than Question 6, and similarly in Part II candidates performed more successfully on Question 8 than Question 9. Hence, the two parts represented comparable challenge and differentiation. Interestingly, candidates who opted for Part II performed slightly more successfully on the common extended response question than those who opted for Part I.

Assessment for learning



Across all Section B questions there were several consistent misunderstandings of the law and of the scope of the specification. Centres should base their teaching on the official illumination of the specification provided in the Teacher Guide published on the OCR website.

Question 5

Amir is a builder who was an employee of Bigbildz Construction. Bigbildz asked Amir to fit some upstairs windows in a new house. Amir had to use scaffolding provided by Bigbildz to do the work. While Amir was lifting the window into place, the scaffolding broke and he fell to the ground. He suffered serious injuries and property damage. Investigations showed that Bigbildz had used sub-standard scaffold boards to save money and had not conducted a safety inspection of the scaffolding. Amir was unaware of this.

As a result of Amir's fall, his £1000 mobile phone was broken beyond repair. He sustained serious leg injuries and has been left with a permanent disability. Amir can no longer work as a builder and has been unemployed since the incident. He used to earn £1000 a week. Amir also enjoyed playing amateur football but can no longer play. Bigbildz claim that at the time of the incident, Amir was wearing his own trainers instead of the work boots they provide. They suggest that his leg injuries would not have been as bad if he had worn them.

- 5 Advise Amir whether Bigbildz would be liable if he sues them in negligence.
Do **not** discuss occupier's liability, defences or remedies.

[20]

This was a straightforward negligence problem based on an employer-employee relationship. Candidates had to construct liability based on duty, breach and causation of foreseeable damage as applied to Amir and Bigbildz. Most candidates performed well although there were several areas for improvement. More successful responses described and applied duty, breach and causation of damage with accurate and relevant law supported by appropriate case citation (AO1). They also made thoughtful and relevant use of the given facts provided in the scenario to reach an appropriate conclusion (AO2).

Less successful responses shared several common features:

Candidates lost AO1 marks for 'stating' rather than 'explaining' key issues like, duty breach and causation. For example, 'the Robinson rule looks at previous cases' does not explain how a duty is established under Robinson; 'D will be compared to the reasonable man' does not explain breach; and 'factual causation is done through the 'but for' test' does not explain factual causation.

Duty of care

AO1: Candidates were not up-to-date on the relevant law on duty of care as set out in *Robinson v Chief Constable of West Yorkshire* or had fundamental misunderstandings about it. Most concerning, a few candidates thought that a duty of care was established through the tripartite *Caparo* test which no longer exists.

AO2: An employer-employee relationship is a well-established duty situations in negligence. There is nothing novel about it and candidates should not assert otherwise.

Breach (the objective standard)

AO1: Candidates wrote out the breach provisions as they apply to irrelevant categories of defendant, namely professionals, children and learners, which was not necessary.

AO2: Many candidates seemed to have missed the point that having established that the duty is based on an employer-employee relationship, it follows that the breach would be falling below the standard of the reasonable 'employer'. Some candidates seemed determined to fit breach within the category of professionals. This led to such candidates analysing the breach through the inappropriate lens of *Bolam/Bolitho/Montgomery*.

Breach (risk factors)

AO1: Many candidates did not understand the impact of a risk factor on the standard of care, and also wrote about every risk factor (including at least two that are not in the specification), whether they were relevant or not.

AO2: Candidates were unable to single out an appropriate risk factor and apply it, with the result that some candidates wrote extensive accounts of risk factors which were irrelevant.

Causation (factual)

AO1: Candidates lost AO1 marks through failing to explain the actual operation of the 'but for' test instead of simply 'name-dropping' it. There is also no credit for citing criminal cases here.

Causation (legal)

AO1: Candidates cited the rules and cases of criminal causation here. Others wrote out every *novus actus interveniens* option and the thin-skull rule when none were relevant.

AO2: Candidates who did less well suggested that the defendants themselves (*Bigbildz*) must foresee the harm, not the reasonable man – foresight of harm is an objective test.

Question 6

- 6** Advise Amir what remedies he might expect if successful in his claim and whether Bigbildz has any defences available. **[20]**

This was a linked continuation of Question 5 which focused on remedies and defences in negligence as they applied to Amir and Bigbildz respectively. Candidate responses were less successful than Question 5 for the principal reason that while most candidates were able to come up with the relevant defence of contributory negligence, few candidates had a sound legal understanding of damages. So, with no underpinning AO1, the AO2 was purely anecdotal advice with no legal basis. This was usually presented in the form of a narrative and entirely common sense reading of the source facts which was uninformed, legally speaking. Because any student could produce such a response as a comprehension exercise, only application linked to law was given marks. More successful responses included well-informed and thoughtful accounts of the different types of damages available to Amir as well as the forms of payment available before considering the likely defence of contributory negligence which could be argued by Bigbildz. Some less successful responses unfortunately got general and special damages the wrong way around and discounted otherwise creditworthy reasoning and the least successful responses were, as described above, entirely anecdotal. Some candidates seemed confused between pecuniary and non-pecuniary losses and special and general damages. There was also some confusion between mitigation of loss (which was not relevant here anyway) and contributory negligence. Typically, such candidates would argue that by not wearing the boots provided, Amir had not mitigated his losses when mitigation is only relevant after the harm has happened.

Exemplar 2

6	Amir, if successful, may be expect remedies in the form of damages. There are two types of damages - special and general. Special damages are damages that are given ^{of costs} calculated before a trial. These are pecuniary costs that C will lose out on while waiting for the trial. These are financial and easily calculated, including things like money lost if they aren't working and medical costs. // Here, Amir could be awarded special damages. Before the trial, costs like the repair of his £1,000 mobile phone and loss of £1,000 of earnings per week until the trial may be calculated a special damages. // General damages are damages that are calculated of costs after a trial. These can be pecuniary like loss of earnings and further medical bills that may be needed after the trial. There can also be non-pecuniary. These are things that can't easily be calculated as they don't affect C financially. Things like something interfering with enjoyment or loss of amenity and the ability to do things. The value of these are estimated and can be part of the general damages D pays. // Here, Amir could be awarded general damages. After the trial, any pecuniary costs of loss of £1,000 income a week and any further medical bills due to his permanent disability will be calculated. Also, his inability to continue to play amateur football is a loss of amenity meaning he may be awarded damages to compensate his lack of playing ability. Amir could
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This extract features a nicely worked section of the law and application of damages. The candidate starts with an explanation of special damages (AO1) which are then accurately applied to Amir's property damage (his phone) and his pre-trial loss of earnings (£1,000 a week) making appropriate links with the information in the scenario (AO2). The candidate then goes on to explain general damages (AO1) which are then accurately applied to Amir's future loss of earnings, disability related medical costs and loss of amenity in no longer being able to play football, once again, making appropriate and relevant links with the information in the scenario (AO2). A thoughtful and well-executed excerpt from a successful response.

Question 7*

7* Discuss whether the Occupiers' Liability Act 1957 is fair on adult visitors.

[20]

This extended response question is common to both Part I and II. The question required candidates to explain the law under the Occupiers' Liability Act 1957 (AO1) and to evaluate the extent to which it is fair on adult visitors (AO3). It performed in line with expectations and slightly better than last year's essay question.

More successful responses demonstrated a clear and confident understanding of the breadth of the law on OLA 1957 covering the definitional prerequisites, the nature of the duty owed to adults, limitations on the scope of the duty and possible defences (AO1) and were able to make well-developed evaluative points focused on the spin of the question (AO3). Most of the evaluation focused on common themes such as the fair and unfair aspects of key terms used in the Act and their interpretation, the fair and unfair aspects of an objective standard and the fair and unfair way the courts have interpreted various limitations on the scope of the duty.

Less successful responses shared a number of common features: responses which offered little or no AO1 and treated the task as an AO3 only exercise in pure discursive evaluation; responses which missed the point of the question and evaluated the Act in general; responses which compared and contrasted the 1957 and 1984 Acts; responses which evaluated fairness on the occupier, not the lawful adult visitor; responses which evaluated the fairness on children or trespassers, not adults or visitors; responses where the development relied on a *non sequitur*; responses which offered AO1 as AO3 without any actual evaluation (for example, commonly, candidates would say that 'it is fair on adult visitors that the Act means occupiers owe visitors a duty of care and must pay compensation if they breach it' which is a purely AO1 statement with the word 'fair' attached to it – it does not qualify why it is fair or unfair); misunderstandings of the law, especially relating to warnings, skilled visitors, independent contractors and their impact on the scope of the occupier's liability.

Exemplar 3

		The OLA 57 is arguably fair on
		adult visitors due to it's clear
		and simple definitions of occupiers
		and visitors. Wheat v Lacon states
		how an occupier can be more than
		one person. This can ensure that
		liability is imposed fairly and
		correctly to ensure that the
		claiming visitor receives justice.
		However, there is no legal statute
		regarding these definitions. The fact
		that it is precedent means it could
		potentially be changed which
		provides little certainty and consistency
		within the law.

This extract could be written more clearly but it is still a neat and effective response of a nicely developed AO3 point. The candidate addresses the question head on by asserting that the Act is fair to adult visitors because of its 'clear and simple' definitions and qualifies this by referring to the principle from *Wheat v Lacon* that there can be more than one occupier. The candidate then develops the argument further by suggesting that, as a result, this ensures that the visitor receives justice. The candidate then offers a counterpoint that when dealing with judicial interpretation of statutory terms, there is always the potential for 'little certainty and consistency in the law'. The point might have been expressed more fluently that (1) the interpretation of the term occupier in *Wheat v Lacon* is fair on adult visitors as it provides clarity which (2) means the claimant has a choice of defendant and can pursue the one best placed to pay any damages, but (3) this is constrained by the possibility of inconsistent judicial interpretation. However, the points are clear enough to be worthy of credit as a well-developed point.

Misconception



One of the common misconceptions referred to above relates to warnings. Many candidates asserted that there is a requirement under the Occupier's Liability Act 1957 (presumably based on a misreading of s.2(4)(a)), that occupiers *must* provide a warning – there is no such provision. It may be wise for an occupier to provide a warning but there is no legal obligation to do so. Indeed, in cases where the risk was obvious, the courts have ruled that an occupier will owe no duty in the absence of a warning (*Staples v West Dorset & Darby v National Trust*). What s.2(4)(a) says is that if an occupier provides a warning, it will only discharge their duty to the extent that it is effective, which is interpreted by the courts. Many candidates see warnings (which might not even be a 'sign') in absolute terms.

Question 8

Charlie owns a car repair garage on an industrial estate. When he replaces a car battery, he is supposed to recycle the used batteries as they are. However, Charlie has been draining the acid from them into an old oil drum outside his garage. He intends to use the acid as a weedkiller and pesticide in his garden at home. One night some local teenagers are filmed on CCTV messing around outside the garage. One of them pulls the oil drum of acid over. The acid runs into a neighbouring property where Dev operates a garden centre. His entire stock of plants are killed by the acid.

Sam, Tom and Yana all work under a contract of service for Crowan Computers.

- Sam works on the customer service desk at Crowan Computers. A customer, Heidi, asks Sam a number of questions and Sam responds rudely and aggressively ordering Heidi to leave the store. Sam follows Heidi out to the car park and assaults her.
- Tom is the manager of Crowan Computers. Ivan works in the warehouse. After the staff Christmas meal, Tom invites Ivan and a group of other employees back to his hotel for more drinks. An argument develops between Ivan and Tom over differences in rates of pay. Tom becomes angry and assaults Ivan.
- Yana works in the IT department at Crowan Computers. She is so angry about Ivan's treatment that she wants revenge. She uploads personal details of Crowan Computers' customers on social media and is charged with data protection and breach of confidence offences. One of the customers, Mia, now wants to sue Crowan Computers for the breach of her personal data.

- 8 Advise Dev whether he will be successful if he sues Charlie in *Rylands v Fletcher*.
Do **not** discuss any remedies.

[20]

Rylands is always a popular topic, and this was the best performing single question on the paper. This is despite the extra requirement of picking up a defence. More successful responses 'explained' the key legal requirements of a case in *Rylands v Fletcher* as well as the act of a stranger defence (AO1) and went on to apply them to the scenario making appropriate and relevant links to the facts given in the scenario (AO2) before reaching a conclusion on liability. This was a dual route question depending on how the candidate interpreted the defence. So, Charlie could have been liable or not liable depending on whether the candidate viewed the escape as being due to the act of a stranger 'that Charlie could not have anticipated or guarded against'.

Less successful responses shared a number of common features: responses which 'stated' the law instead of 'explaining' it (AO1); responses which did not make appropriate links between legal principles and the given source facts (AO2); responses which included detail which falls outside the specification (see planner); responses which featured misconceptions or misunderstandings of the law, for example, (a) confusing something which accumulates naturally with non-natural use of land, and (b) confusing foreseeability as an aspect of the 'likely to do mischief if it escapes' element, and foreseeability as an aspect of the 'escapes and causes foreseeable damage' element.

Question 9

- 9 Advise Crowan Computers whether they will be vicariously liable for the torts of Sam, Tom and Yana.

Do **not** discuss employment status or remedies.

[20]

In a similar pattern to Part I where Question 6 performed less successfully than Question 5, Question 9 performed less successfully than Question 8. It also performed slightly less successfully than the similar question on unintentional torts last year (Question 6 2024) indicating a less secure and confident grasp of vicarious liability for intentional torts. Like the 2024 question, employment status was discounted so candidates only had to focus on describing and applying the close connection test as it applies to intentional torts. Candidates needed to explain the definition or basis of vicarious liability, the two-part test, the close connection test and the possibility of the tortfeasor being on a frolic of their own. Knowledge of some leading close connection test cases would also prove useful (AO1). Candidates had to then apply these principles to the three employees of Crowan Computers (Sam, Tom and Yana) making appropriate and relevant links with the facts in the given scenarios in order to determine whether Crowan Computers would be vicariously liable for each (AO2). Each scenario was based on a leading case taken from the planner and, like Question 6 2024, recognising the similarity should have assisted candidates in identifying the relevant principles to apply.

More successful responses generally did well with the AO1, although many disregarded the rubric instruction not to cover employment status. The best responses demonstrated an up-to-date and clear understanding of recent case law on the close connection test as set out in the planner. It was essential to the question to understand concepts such as whether a tortfeasors' acts fell within the field of activities associated with their employment, and that intention and motive are key elements in determining if a tortfeasor is on a frolic of their own. Most successful responses also established at least one reasoned correct outcome but very few got all three with Tom proving the most elusive of the three (AO2).

Less successful responses shared several common features: responses which stated rather than explaining the law; responses which relied on the principles associated with unintentional torts based on the Salmond test; responses which had fundamental misunderstandings (AO1); responses which offered anecdotal application; responses which used Salmond principles in their application (AO2).

Assessment for learning



Many candidates focused their application of the close connection test too narrowly. They excluded vicarious liability because of the torts not taking place 'on the employer's premises' for Sam or 'during working hours' for Tom. Mere opportunity is not sufficient to prove a close connection. The fact that someone was employed by the defendant at the same time and in the same location as the claimant, giving them opportunity for wrongdoing, is not enough to prove a close connection (*BXB v Jehovah's Witnesses*).

This reasoning is nothing new. It can be traced back to *Lister v Hesley Hall* where the House of Lords said (considering the abuse of children in care) that while there would be a sufficiently close connection for a warden, there would not be a close enough connection for a groundsman. Both would be employed by the defendant in the same place and time, but only one was entrusted to care for children. In other words, where the warden was authorised to care for and be around the children, the groundsman's employment only gave the mere opportunity for abuse.

When considering the close connection test, candidates should assess whether there is a sufficient connection between the fields of activities entrusted to the employee and the tort committed. This is a broad test, and issues such as place and time are relevant considerations, but they are not conclusive factors. Other considerations include: What was the tortfeasor's role? What were their 'field of activities' (expected tasks) within that role? Did they take off their metaphorical hat/uniform (i.e. step outside their role) to commit the tort? Did their role only give them mere opportunity?

Question 10*

10* Discuss whether the Occupiers' Liability Act 1957 is fair on adult visitors.

[20]

This extended response question is common to both Part I & II. The question required candidates to explain the law under the Occupiers' Liability Act 1957 (AO1) and to evaluate the extent to which it is fair on adult visitors (AO3). It performed in line with expectations and slightly better than last year's essay question.

More successful responses demonstrated a clear and confident understanding of the breadth of the law on OLA 1957 covering the definitional prerequisites, the nature of the duty owed to adults, limitations on the scope of the duty and possible defences (AO1) and were able to make well-developed evaluative points focused on the spin of the question (AO3). Most of the evaluation focused on common themes such as the fair and unfair aspects of key terms used in the Act and their interpretation, the fair and unfair aspects of an objective standard and the fair and unfair way the courts have interpreted various limitations on the scope of the duty.

Less successful responses shared a number of common features: responses which offered little or no AO1 and treated the task as an AO3 only exercise in pure discursive evaluation; responses which missed the point of the question and evaluated the Act in general; responses which compared and contrasted the 1957 and 1984 Acts; responses which evaluated fairness on the occupier, not the lawful adult visitor; responses which evaluated the fairness on children or trespassers, not adults or visitors; responses where the development relied on a *non sequitur*; responses which offered AO1 as AO3 without any actual evaluation (for example, commonly, candidates would say that 'it is fair on adult visitors that the Act means occupiers owe visitors a duty of care and must pay compensation if they breach it' which is a purely AO1 statement with the word 'fair' attached to it – it does not qualify why it is fair or unfair); misunderstandings of the law, especially relating to warnings, skilled visitors, independent contractors and their impact on the scope of the occupier's liability.

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