

GCE

Law

H418/01: The legal system and criminal law

A Level

Mark Scheme for June 2025

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It is also responsible for developing new specifications to meet national requirements and the needs of students and teachers. OCR is a not-for-profit organisation; any surplus made is invested back into the establishment to help towards the development of qualifications and support, which keep pace with the changing needs of today's society.

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 available in RM Assessor
3. Log-in to RM Assessor and mark the **required number** of practice responses (“scripts”) and the **required number** of standardisation responses.

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. There is a NR (**No Response**) option. Award NR (No Response):

- if there is nothing written at all in the answer space
- OR if there is a comment which does not in any way relate to the question (e.g., 'can't do', 'don't know')
- OR if there is a mark (e.g., a dash, a question mark) which is not an attempt at the question.

Note: Award 0 marks – for an attempt that earns no credit (including copying out the question).

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. Annotations

Annotation	Meaning
Highlighter	Highlight
SEEN	Noted but no credit given
	AO1 worthy of credit
APP	AO2 worthy of credit
P	AO3 evaluative point
DEV	AO3 developed point
E	AO3 well-developed point
	AO3 very well-developed point
CON	Conclusion - where appropriate
C	Relevant case or statutory authority
A	Basic points at Level 1
NAQ	Not answered the question or issue
REP	Repetition
	Placeholder
 	Horizontal and vertical wavy line to note irrelevant or incorrect material

SUBJECT-SPECIFIC MARKING INSTRUCTIONS

Introduction

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

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

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

Information and instructions for examiners

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

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

Using the Mark Scheme

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

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

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

achievements; the co-ordination scripts then become part of this Mark Scheme.

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

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

Assessment Objectives

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

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

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

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

Levels of Response

Questions in this paper are marked using a levels of response grid. When using this grid, examiners must use a best-fit approach. Where there are both strengths and weaknesses in a particular response, particularly imbalanced responses in terms of the assessment objectives, examiners must carefully consider which level is the best fit for the performance. Note that candidates can achieve different levels in each assessment objective, for example a Level 3 for AO1, and a Level 2 for AO2.

To use these grids:

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

Determine the mark within the level: consider the following:

Descriptor	Award mark
On the borderline of this level and the one below	At the bottom level
Just enough achievement on balance for this level	Above bottom and either below middle or at middle of level (depending on number of marks available)
Meets the criteria but with some slight inconsistency	Above middle and either below top of level or at middle of level (depending on number of marks available)
Consistently meets the criteria for this level	At top of level

Answers	Marks	Guidance
1 Describe the different sources of funding for civil cases. Answers may include: Public funding - Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO 2012) • Civil Legal Advice Service (CLA): ○ offers funding for advice, assistance and legal representation ○ only available for certain cases e.g., discrimination, housing and family ○ means test - assessment of applicants' income and capital ○ merits test - based on the merits of the case including reason for the action (benefits) and likelihood of success Private funding: • Own funds: ○ client will use privately sourced funds ○ including own money/savings, loans, crowdfunding • Conditional fee agreement (CFA) (no win, no fee) ○ agreement between a lawyer and client ○ clients will only pay if the lawyer wins the case ○ success fee agreed ○ after the event insurance required • Damage based agreements (DBA) ○ lawyer and client share the risk ○ lawyers' payment is based on the damages received • Insurance ○ legal protection insurance ○ legal expense cover • Trade Unions. Trade Unions and Associations may partly fund members' legal costs. Credit any other relevant point(s)	8 AO1	Use Levels of Response criteria Level 4 (7-8 marks) • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. Level 3 (5-6 marks) • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. Level 2 (3-4 marks) • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. Level 1 (1-2 marks) • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. Citation of statutes and case law is limited. Level 0 (0 marks) No response or no response worthy of credit.

			Levels are accessed based on the completeness of the response. Level 4 responses will demonstrate an excellent description of a range of funding types for civil cases. A list with no description will demonstrate no more than basic knowledge.
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	Answer	Marks	Guidance
2	Explain the community sentences available to an adult offender. Answers may include: s201 Sentencing Act 2020: Community Order requirements for example: ● Unpaid work requirement: ○ 40-300 hrs ○ completed within a 12-month period ○ work in the community e.g., litter picking, clearing graffiti ● Curfew requirement (Police, Crime, Sentencing and Courts Act 2022) ○ between 2-20 hrs per day ○ max 112 hours per week ○ Completed within a 2 year period ● Rehabilitation activity requirement: ○ offender will be required to participate in rehabilitative activities ○ offender will be required to attend supervision appointment with Probation ○ court will specify the maximum number rehabilitative activity days the offender must complete ● Exclusion requirement: ○ order prohibiting an offender from going into a particular place(s) or area(s) ○ will be accompanied alongside an electronic compliance monitoring requirement (electronic tag) unless there is a good reason not to ○ Maximum 2 year exclusion period ● Drug rehabilitation requirement: ○ duration set by the court ○ treatment can be residential or non-residential	8 AO1	Use Levels of Response criteria Level 4 (7-8 marks) ● Excellent knowledge and understanding of the English legal system, rules and principles. ● The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. Level 3 (5-6 marks) ● Good knowledge and understanding of the English legal system, rules and principles. ● The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. Level 2 (3-4 marks) ● Basic knowledge and understanding of the English legal system, rules and principles. ● The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. Level 1 (1-2 marks) ● Limited knowledge and understanding of the English legal system, rules and principles. ● The response will have minimal detail. Citation of statutes and case law is limited. Level 0 (0 marks) No response or no response worthy of credit.

	○ offender needs to agree to comply with the order ● Alcohol treatment requirement: ○ provides treatment to an offender who is dependent on alcohol ○ treatment can be residential or non-residential ○ offender needs to agree to comply with the order Other examples include; Supervision requirement, Residence requirement, Programme requirement, Prohibited activity requirement, Foreign travel prohibition requirement, Mental health treatment requirement, Alcohol abstinence and monitoring requirement, Attendance Centre requirement, Electronic compliance monitoring requirement (electronic tag) Credit any other relevant point(s)		Levels are accessed based on the completeness of the response. Level 4 responses will demonstrate an excellent explanation of at least 3 community sentences. A list with no explanation will demonstrate no more than basic knowledge
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Answer	Marks	Guidance
3 Discuss the disadvantages of the judiciary. Answers may include: • Approximately 80% of superior judges are over 50. This creates an age imbalance that may hinder modern perspectives and limit younger legal professionals from aspiring to judicial roles. • Lack of gender equality in the superior courts. 70% senior judges are male. Gender imbalance suggests barriers to women's progression and reduces diversity in decision-making, especially on gender-related issues. • The percentage of ethnic minorities in the judiciary is approximately 10%. In the superior courts it is 5%. This can diminish public confidence in the judiciary among certain communities. • In the superior courts approximately 69% of inferior judges and 90% of superior judges were previously barristers. This preference limits professional diversity and may exclude other qualified legal professionals, like solicitors, from top judicial roles. • Approximately 66% of superior judges attended private school and over 70% graduated from Oxbridge. This concentration of elite educational backgrounds reinforces class privilege and undermines the judiciary's image as open and a merit based profession. • Reports of judges acting in a racially biased manner are mostly directed towards Asian and Black males. It suggests unequal treatment, reinforces harmful stereotypes, and damages confidence in the justice system, particularly among minority communities.	12 AO3 1b	Use Levels of Response criteria Level 4 (10-12 marks) • Excellent analysis and evaluation of a wide range of legal concepts and issues. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed. Level 3 (7-9 marks) • Good analysis and evaluation of a range of legal concepts and issues. • The response has mainly consistent focus on the question. • Most of the key points are well discussed and well developed. Level 2 (4-6 marks) • Basic analysis and evaluation of legal concepts and issues. • The response partially focused on the question. • Some of the key points are discussed and partially developed. Level 1 (1-3 marks) • Limited analysis of legal concepts and/or issues. • The response has limited focus on the question. • Discussion of any key points is minimal. Level 0 (0 marks) No response or no response worthy of credit.

	• Whilst judges are given some training the training courses are short and not always face to face. Lack of training may mean that judges are not prepared fully for the role they undertake. • There is no career judiciary in the UK. To become an inferior judge, the applicant must have previously been a practicing lawyer/academic. A career judiciary would allow for consistently high judicial expertise where judges are specially trained and gain extensive experience over time, leading to more consistent, efficient, and impartial decision-making • Judges may become case-hardened after repeated exposure to distressing cases, leading to a lack of empathy or emotional detachment. This can affect the fairness of their decisions and reduce public confidence in the justice system. Credit any other relevant point(s)		Excellent analysis will require at least one well-developed point among a range of relevant evaluative points Good analysis will require at least one developed point No conclusion is necessary.
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Answer		Marks	Guidance
4	Discuss the benefits of using the civil courts to solve a dispute. Answers may include: • Legally binding decision. At the end of a court case the parties are guaranteed a legally binding decision which can be enforced if a party fails to comply • Clear procedures. The court process is formal with clear procedures. Parties must follow rules on evidence and conduct, which maintains order and fairness throughout the case. • Use of judges. Civil cases are heard by Judges. Judges are qualified professionals with extensive legal knowledge and experience, ensuring that complex legal issues are properly understood and applied. • Independent judiciary. Judges are impartial and independent from the parties, providing a fair and unbiased hearing that protects the integrity of the legal process. • Appeal routes. All tracks and civil courts have a clear and structured appeal route, allowing parties to challenge decisions if there are legal errors or unfairness. • Allocation and case management: Cases will be allocated to the correct track and court based on the financial value of the claim, the complexity and need for witness/expert evidence. This reduces delays, and matches cases to the right level of judge and court. • Funding. While limited, some civil cases (e.g. housing or family matters) remain eligible for legal aid, offering support to those who cannot afford legal representation. • Judicial precedent. The use of judicial precedent means past decisions guide current ones, helping lawyers predict likely outcomes and judges make consistent, reasoned rulings.	12 AO3 1b	Use Levels of Response criteria Level 4 (10-12 marks) • Excellent analysis and evaluation of a wide range of legal concepts and issues. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed. Level 3 (7-9 marks) • Good analysis and evaluation of a range of legal concepts and issues. • The response has mainly consistent focus on the question. • Most of the key points are well discussed and well developed. Level 2 (4-6 marks) • Basic analysis and evaluation of legal concepts and issues. • The response partially focused on the question. • Some of the key points are discussed and partially developed. Level 1 (1-3 marks) • Limited analysis of legal concepts and/or issues. • The response has limited focus on the question. • Discussion of any key points is minimal. Level 0 (0 marks) No response or no response worthy of credit.

	Credit any other relevant point(s)		Excellent analysis will require at least one well-developed point among a range of relevant evaluative points Good analysis will require at least one developed point No conclusion is necessary.
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Section B**5 Advise whether Casey is criminally liable for any attempted crimes. Do not discuss the specific crimes.**

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.
Additional Guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative content

Answers **may** include:

Definition and explanation of s1 Criminal Attempts Act 1981: 'if, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.'

Actus Reus:

- s1(1) – whether the defendant has performed an act which is 'more than merely preparatory' i.e. an act that is more than simply preparation for the main crime
- Tests used in court to explain more than merely preparatory
 - in the executory phase, *Geddes*
 - embarking on the crime proper, *Gullefer*
 - trying to commit the crime
 - cases where D has gone beyond mere preparation *Boyle & Boyle, Jones, Tosti*
 - cases where D has not gone beyond mere preparation *Campbell, Geddes, Gullefer*

Mens Rea:

- s1(1) CAA, intention to commit a crime, *Widdowson, Whybrow, Mohan, Walker and Hayles*

Attempting the impossible:

- s1(2), s1(3) it is possible to be guilty of attempting the impossible
 - legal impossibility; D's attempt is impossible because, contrary to their belief, what they are attempting is not an offence known to law, *Taaffe*
 - factual impossibility; D's attempt is factually impossible where what they attempt is a crime known to law, but the circumstances surrounding the attempt make it impossible to commit *Shivpuri, Jones*

Credit any other relevant point(s)

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully explain the actus reus and mens rea and address attempting the impossible and include at least two relevant cases/authorities/statutes

AO2 Indicative content

Answers **may** include:

In the case of trying to buy the acid from the hardware shop:

- Casey left the acid at the checkout and walked away when he noticed the CCTV meaning his act is probably mere preparation
- His act is unlikely to be one which is 'more than merely preparatory' since he hadn't got close enough to put his plan into operation.
- Casey has not 'embarked on the crime proper'
- His intent was to commit the full offence
- Casey's act would not fall under s1(1) Criminal Attempts Act and he is not criminally liable

In the case of throwing the liquid at Heidi:

- Casey's act is one capable of being 'more than merely preparatory'
- His act is 'more than merely preparatory' as he throws the liquid at Heidi
- He has passed the preparatory phase and 'embarked on the crime proper'
- The fact that the liquid is harmless will not allow him to escape liability
- Casey can still be liable even though the offence he is committing is one of attempting the impossible
- The crime was factually impossible as the liquid was harmless and missed
- The crime is not legally impossible
- His intent was to commit the full offence – a decision to disfigure Heidi with acid
- Casey's act would fall under s1(2), s1(3) Criminal Attempts Act and he is criminally liable

Credit any other relevant point(s)

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully apply the relevant law on attempts to the two incidents making good use of the facts provided in the scenario.

	AO1	Mark	AO2 1a/1b	Mark
Level 4	- Excellent knowledge and understanding of the English legal system, rules and principles. - The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant case law	7-8	- 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.	10-12
Level 3	- Good knowledge and understanding of the English legal system, rules and principles. - The response is detailed, but not fully developed in places. There will be good citation of mostly relevant case law.	5-6	- 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.	7-9
Level 2	- Basic knowledge and understanding of the English legal system, rules and principles. - The response may lack detail in places and is partially developed. There will be some reference to case law	3-4	- 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.	4-6
Level 1	- Limited knowledge and understanding of the English legal system, rules and principles. - The response will have minimal detail. Citation of case law is limited.	1-2	- 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.	1-3
Level 0	No response or no response worthy of credit	0	No response or no response worthy of credit	0

6. Advise whether Jane has the required *actus reus* for the murder of Beth and of the baby. Do not discuss the *mens rea* of murder.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.
Additional Guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative content

Answers **may** include:

Definition: Murder is the unlawful killing of a reasonable person under the King's peace with malice aforethought express or implied. Lord Coke

Define and explain the actus reus for murder:

- Killing - death
- Unlawful killing - no defence
- Of a 'human being', *Poulton, A-G Ref. No.3 of 1994, Malcherek & Steel, Bland*
- Under the King's Peace, *R v Blackman*
- Within any country of the realm

Define and explain the two types of causation:

- Causation in fact
 - 'but for the D's' actions, V would have lived, *White, Pagett*
- Causation in law
 - D is more than a minimal contribution to the death of the victim – *Kimsey*.
 - Defendant's act must be the operative and substantial cause of harm – *Smith, Cheshire*.
- Chain may be broken by an intervening act (*Novus Actus Interveniens*):
 - 3rd party intervention, *R v Pagett, R v Rafferty*

Credit any other relevant point(s)

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully explain actus reus and the two types of causation and include at least two relevant cases/authorities/ statutes.

AO2 Indicative contentIn the case of the Beth:

- Beth dies as a result of being pushed down the stairs
- Jane has no defence in pushing Beth down the stairs so has unlawfully killed her
- Beth is a human being
- Jane is not acting in a military capacity therefore is under the King's Peace
- The act appears to have taken place within a country of the realm
- But for Jane's actions, Beth would not have died - causation in fact
- Jane's actions are more than a minimal contribution to the death of Beth - causation in law
- The injuries sustained by Beth in the fall are the operative and substantial cause of her death
- Conclude Jane has the required actus reus for murder.

In the case of the baby:

- The boy dies in the fall from the trolley
- Jane acted unlawfully when she pushed Beth down the stairs
- The boy is a human being capable of an independent existence as he has been born and is breathing independently
- Jane is not acting in a military capacity therefore is under the King's Peace
- The act appears to have taken place within a country of the realm
- But for Jane's actions of pushing Beth down the stairs, the baby boy would not have been born prematurely and died - causation in fact
- Jane's actions are more than a minimal contribution to the death of the baby boy - causation in law
- The act of the porter is not unreasonable and is unlikely to break the chain of causation as he was rushing to get to the operating theatre
- Conclude Jane has the required actus reus for murder

OR

- The porter is going so fast that the trolley crashes and this could be considered an unreasonable intervening act which breaks the chain of causation
- Conclude that Jane does not have the required actus reus for murder

Credit any other relevant point(s)

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully apply actus reus and causation to the two incidents making good use of the facts provided in the scenario.

	AO1	Mark	AO2 1a/1b	Mark
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Level 4	- Excellent knowledge and understanding of the English legal system, rules and principles. - The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law	7-8	- 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.	10-12
Level 3	- Good knowledge and understanding of the English legal system, rules and principles. - The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law.	5-6	- 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.	7-9
Level 2	- Basic knowledge and understanding of the English legal system, rules and principles. - The response may lack detail in places and is partially developed. There will be some reference to statutes and case law	3-4	- 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.	4-6
Level 1	- Limited knowledge and understanding of the English legal system, rules and principles. - The response will have minimal detail. Citation of statutes and case law is limited.	1-2	- 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.	1-3
Level 0	No response or no response worthy of credit	0	No response or no response worthy of credit	0

7* and 10* 'The current law relating to assault occasioning actual bodily harm, charged under s47 Offences Against the Person Act 1861 is easily criticised and needs to be reformed urgently.' Discuss the extent to which this statement is accurate.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO3 1a: Analyse and evaluate legal rules and principles. 12 marks
Additional Guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative Content

Answers **may** include:

Actus Reus

- Common assault (assault and/or battery) - AR of the offence
- Common assault which occasions actual bodily harm
- Actual bodily harm - the harm must interfere with the health and comfort of the victim, *Chan Fook, Miller*
- The injury does not have to be permanent e.g. temporary injuries like bruises, cuts, or swelling, *Donovan*
- The injury must be more than trivial or fleeting, *Chan-Fook*,
- It can be momentary eg loss of consciousness, *T v DPP*
- Harm can be:
 - direct when the defendant's assault or battery causes the injury immediately
 - indirect when the injury results from a chain of events set in motion by the defendant's actions, *DPP v K, Halstead*
- Harm can be physical including cutting hair, nails, *Smith*
- Harm can be psychological, *Chan-Fook, Constanza*

Mens rea

- Intention: direct *Mohan*, indirect, *Matthews and Alleyne*
- Recklessness - subjective recklessness
- D need not foresee the level of injury, *Roberts, Savage*.

Credit any other relevant point(s).

Levels are assessed based on the completeness of the response.

A level 4 excellent response will fully explain the actus reus and mens rea of s47 and include at least two relevant cases/authorities/statutes.

AO3 Indicative content

Answers **may** include:

Discuss any or all of the following areas in the context of is easily criticised and needs to be reformed urgently:

- s47 is criticised as it is part of the OAPA 1861 which is often called a 'rag bag of offences' due to its outdated, disorganised, and inconsistent provisions, making it difficult for legal professionals and the public to distinguish offences like s.47, causing confusion, inconsistent outcomes, and reduced confidence in the justice system
- s47 lacks a statutory definition of actual bodily harm (ABH), so courts rely on case law, leading to varying interpretations and inconsistent judgments. The actus reus of s47 provided by common law is 'any hurt or injury calculated to interfere with the health or comfort of the victim' is vague, with hurt and comfort covering a broad range of physical and psychological harm, allowing flexibility but causing legal uncertainty and inconsistent application
- The sentence of five years could be unjust in comparison to the six months given for assault and battery. Likewise, the sentence is the same as that given for S20 where the injuries could be much more significant. The sentence for these offences should match the severity of the injuries
- 'Occasioning' is undefined which can either clarify or complicate proving a conviction depending on how clearly the defendant's actions caused the injury
- ABH is broadly interpreted to include minor and serious injuries, even damage to hair, which blurs offence boundaries and risks disproportionate charging
- Drafted over 160 years ago, the OAPA, s47 refers only to bodily harm, excluding psychological injury, failing to reflect modern mental health understanding. Although case law includes recognised psychological harm, this inconsistency between common law and statute causes confusion
- The mens rea for s47 matches that of assault or battery, requiring intention or recklessness only as to the assault, not the actual harm, risking convictions where injury was unforeseen, breaching the principle that mens rea should correspond to the seriousness of the actus reus
- Heavy reliance on case law to define s47 elements reflects the statute's vagueness; while judicial interpretation aids clarity, it can cause inconsistency. Clearer, precise statutory definitions would improve the criminal justice system's credibility by ensuring fairer, more consistent outcomes
- The Law Commission has criticised s47 and the OAPA for being unclear, inconsistent, and outdated, calling for reforms that reflect modern understandings of injury and fair sentencing principles
- Proposed reforms include a new 'aggravated assault' offence for minor injuries in magistrates' courts, a clear definition of 'injury' to include physical and mental harm, aligning mens rea with the harm caused, updating outdated terminology, and introducing a structured sentencing framework.

Credit any other relevant point(s).

Excellent responses will cover a range of evaluative points focused on the question including at least one well-developed point and a conclusion.

	AO1	Mark	AO3 1a	Mark
Level 4	- Excellent knowledge and understanding of the English legal system, rules and principles. - The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law	7-8	- Excellent analysis and evaluation of a wide range of legal rules and principles. - The response is wide ranging and has a well sustained focus on the question. - The key points are fully discussed and fully developed to reach a valid conclusion. <i>There is a well-developed line of reasoning which is clear and logically structured. The information presented is relevant and substantiated.</i>	10-12
Level 3	- Good knowledge and understanding of the English legal system, rules and principles. - The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law.	5-6	- Good analysis and evaluation of a range of legal rules and principles. - The response has a mainly consistent focus on the question. - Most of the key points are well discussed and well developed to reach a valid conclusion. <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>	7-9
Level 2	- Basic knowledge and understanding of the English legal system, rules and principles. - The response may lack detail in places and is partially developed. There will be some reference to statutes and case law	3-4	- Basic analysis and evaluation of legal rules and principles. - The response is partially focused on the question. - Some of the key points are discussed and partially developed to reach a basic conclusion. <i>The information has some relevance and is presented with a basic structure. The information is supported by basic evidence.</i>	4-6
Level 1	- Limited knowledge and understanding of the English legal system, rules and principles. - The response will have minimal detail. Citation of statutes and case law is limited.	1-2	- Limited analysis of legal rules and principles. - The response has limited focus on the question. - Discussion of any key points is minimal. <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>	1-3
Level 0	No response or no response worthy of credit	0	No response or no response worthy of credit	0

8 Advise whether Amos is criminally liable for burglary.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.
Additional Guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative content

Answers **may** include:

Burglary - s9 Theft Act 1968

- S9(1)(a) – entry of a building or part of a building as a trespasser with the intention to commit any such offences mentioned in subsection s9(2)
- S9(2) offences: steal, inflict GBH or cause unlawful damage
- S9(1)(b) – having entered as a trespasser the defendant commits or attempts to commit theft or GBH

Actus Reus

- Entry does not have to be effective or substantial, *Ryan*
- Building or part of a building, Walkington, *B&S v Leathley*
- Trespasser beyond lawful permission, *R v Jones & Smith*

Mens rea:

- For s9(1)(a) - intention to steal, inflict GBH or cause unlawful damage at point of entry
- For s9(1)(b) - intention to steal/attempt to steal or intention to inflict GBH/attempted GBH having entered the building (i.e., the MR of the offence)

Mens rea for trespass:

- D knows he is a trespasser, or D is reckless as to whether he is a trespasser, *Jones and Smith*

Credit any other relevant point(s)

Levels are assessed based on the completeness of the response.

A level 4 excellent response will fully explain s9(1)(a), s9(1)(b), actus reus and mens rea and include at least two relevant cases/authorities/statutes.

AO2 Indicative content

Answers **may** include:

In the case of trying to take the money from the cash till:

- Amos enters the chip shop
- He is not a trespasser when he enters the chip shop as he has implied permission to be in the customer area in front of the counter
- He goes behind the counter which is part of the building (part of the chip shop)
- He is a trespasser when he goes behind the counter in order to steal some money from the cash till, as he doesn't have permission to be there
- Amos has the mens rea for trespass - intention or at least subjectively reckless as to being a trespasser
- He intends to steal when he goes behind the counter which is sufficient for s9(1)(a)
- Amos will be guilty of s9(1)(a) burglary

In the case of the bottle of water in the fridge:

- Amos enters the chip shop
- The chip shop is a building
- He is a trespasser as he has been banned from going inside
- His original intention was simply to retrieve his wallet but the decision to steal the bottle of water was made after entry
- Amos has the mens rea for trespass - intention or at least subjectively reckless as to being a trespasser as he would realise that he should not be in the chip shop
- This is likely to be considered an attempted theft because the fridge is locked
- Amos will be guilty of s9(1)(b) burglary

Credit any other relevant point(s).

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully determine if the two incidents constitute burglary making good use of the facts provided in the scenario.

	AO1	Mark	AO2 1a/1b	Mark
Level 4	- Excellent knowledge and understanding of the English legal system, rules and principles. - The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant case law	7-8	- 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.	10-12
Level 3	- Good knowledge and understanding of the English legal system, rules and principles. - The response is detailed, but not fully developed in places. There will be good citation of mostly relevant case law.	5-6	- 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.	7-9
Level 2	- Basic knowledge and understanding of the English legal system, rules and principles. - The response may lack detail in places and is partially developed. There will be some reference to case law	3-4	- 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.	4-6
Level 1	- Limited knowledge and understanding of the English legal system, rules and principles. - The response will have minimal detail. Citation of case law is limited.	1-2	- 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.	1-3
Level 0	No response or no response worthy of credit	0	No response or no response worthy of credit	0

9 Advise whether Rishi and Felix can avoid liability for any offences using the defence of intoxication. Do not discuss the specific crimes.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.
Additional Guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.
AO1 Indicative content Answers may include: Explain voluntary intoxication: - Defendant chooses to take a substance knowing it can cause intoxication - There is a distinction between basic and specific intent crimes, <i>Majewski</i>, <i>Heard</i> - There is no defence to crimes of basic intent - the intoxication provides evidence of the mens rea for basic intent crimes, <i>Majewski</i> - It can negate mens rea for specific intent offences where the defendant is so intoxicated that they do not form the mens rea, <i>Beard</i>, <i>Sheehan and Moore</i>, <i>Lipman</i> - It is only a partial defence for most specific intent offences - fall back offences - A drunken intent is still intent, <i>Sheehan and Moore</i> - It does not work if intoxication is due to 'Dutch courage', <i>Gallagher</i> Explain involuntary intoxication: - This occurs when the defendant is not at fault for the intoxication - It is a complete defence - Defendant must show that they were so intoxicated that they could not form the required mens rea - It can apply when prescribed medication is taken as directed and has an unpredictable effect – <i>Majewski</i>, <i>Bailey</i>, <i>Hardie</i> - It is no defence if there is any awareness of intoxication, <i>Allen</i> - It is no defence where the defendant formed the mens rea, despite being intoxicated. A drunken/drugged intent is still an intent, <i>Kingston</i> Credit any other relevant point(s) Levels are accessed based on the completeness of the response. A level 4 excellent response will fully explain both voluntary and involuntary intoxication and include at least two relevant cases/authorities/statutes.	

AO2 Indicative content

Answers **may** include:

In the case of Rishi consuming alcohol:

- Rishi has intentionally consumed 'several beers' and will be deemed voluntarily intoxicated through alcohol
- He is committing theft, a specific intent crime
- He will only have a defence if he is extremely intoxicated to the point of not knowing what he is doing
- Rishi decided to steal the video game before consuming several beers therefore forming the necessary *mens rea* before he entered the shop
- Rishi drank the beer in order to gain 'Dutch courage'
- Rishi not knowing the strength of the beer would not provide a defence of intoxication
- Rishi will be unable to use the defence of voluntary intoxication

In the case of Felix taking the prescribed sedative drug:

- Felix has intentionally consumed a prescribed drug to control his insomnia
- However, the prescribed drug has had an unpredictable effect on him
- Felix will be deemed involuntary intoxicated
- Felix did not form the required *mens rea* as he cannot remember the incident
- Felix will be able to use the defence of involuntary intoxication

OR

- Felix did form the necessary *mens rea* for the crime as he decides to chase him when he saw Rishi steal the game
- Felix will be unable to use the defence of involuntary intoxication

Credit any other relevant point(s)

Levels are accessed based on the completeness of the response.

A level 4 excellent response will fully determine whether or not Rishi and Felix can use the defence of intoxication in the two incidents making good use of the facts provided in the scenario.

10* As per question 7*

Assessment Objectives Grid

Questions	AO1	AO2 1a/1b**	AO3 1a	AO3 1b	Total
1–2	8	0	0	0	8
3–4	0	0	0	12	12
5 or 8	8	12	0	0	20
6 or 9	8	12	0	0	20
7* or 10*	8	0	12	0	20
Total	32	24	12	12	80

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

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