

GCE

Law

H418/03: The nature of law and human rights

A Level

Mark Scheme for June 2025

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of candidates of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, Cambridge Nationals, Cambridge Technicals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

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.

© OCR 2025

**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 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 the annotation 'SEEN' to confirm that the work has been seen and mark any responses using the annotations in section 10.
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.**
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
	Very well developed point (WDP)
	Unclear
	Applied point
	Developed point (DP)
	Well developed point (WDP)
	Not answered question
	Not Relevant
	Point
	Repetition
	Sort of
	Point has been noted, but no credit has been given / blank page has been checked for response
	Correct
	Applied
	Spare 1

11. 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, concepts and issues.

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:

When there are 2 marks per level

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Consistently meets the criteria for this level	At top of level

When there are 3 marks per level

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Meets the criteria but with some slight inconsistency	Middle of level
Consistently meets the criteria for this level	At top of level

Section A

- 1* 'The problem with defining justice is that very few people agree on what justice actually means.' Discuss how the legal system defines justice given this statement.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO3 1b: Analyse and evaluate legal concepts and issues. 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:

The meaning of justice and definitions of justice.

Theories of justice e.g. Distributive justice (Aristotle, Aquinas, Marx, Perelman) and Utilitarianism (Bentham, Mill). Credit any other relevant theories of justice e.g. social and economic theories (John Rawls, Marxism) libertarian theories (Nozick).

Different types of justice: formal justice, substantive justice, distributive justice and corrective justice:

- Use examples of formal justice – legal institutions such as the police, courts, judiciary, juries, and appeals.
- Use examples of substantive justice – legal rules e.g. fault and defences in criminal law, fault in tort law, rights and freedoms in the Human Rights Act and fairness in contract law.
- Use examples of distributive justice - the fair allocation of resources e.g. wealth, power, rights, resources e.g. anti-discrimination laws, minimum wage and reallocation of wealth through taxation and the welfare state.
- Use examples of corrective justice – sentencing in criminal law e.g. retribution and remedies in tort and contract.

Credit any other relevant point(s).

AO3 Indicative content

Answers **may** include:

- The struggle to find or agree on a common definition of justice that is shared by all members of society.
- The varied theories of law and justice and the struggle to create justice in a society.
- Credit any relevant evaluation of the theories of justice.
- The different types of justice with examples from the whole course of study:
 - Formal justice: the struggles faced by the criminal justice system in the miscarriages of justice cases. The findings of the Runciman Commission and the Criminal Cases Review Commission. The Stephen Lawrence case and the findings of the McPherson Report. Criticisms could be made of the judiciary. The system of 'trial by your peers'.
 - Substantive justice: any legal rule and whether it achieves justice.
 - Distributive justice: how the law struggles to create justice for everyone regardless of class, wealth, gender, race or disability. How this can lead to inequality e.g. anti-discrimination laws for workers, tax evasion of rich corporations, blue collar crime, institutional racism in the police force following the murder of Stephen Lawrence etc.
 - Corrective justice: the high re-offending rates. Inequality of bargaining power in civil cases.
- The approach taken given the lack of a common or agreed definition.

Reach any sensible conclusion.

Credit any other relevant point(s).

	AO1	Mark	AO3 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 statutes and case law.	7–8	- 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 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 concepts and issues. - 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 concepts and issues. - 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 relevant statutes and case law is limited.	1-2	- Limited analysis of legal concepts and/or issues. - 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

- 2* 'The rule of law is a deceptive term because there is no single 'rule' to follow. It is best understood as a collection of principles designed to produce fair and just outcomes.' Discuss this view of the rule of law.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO3 1b: Analyse and evaluate legal concepts and issues. 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:

The rule of law according to Professor Dicey in 'An Introduction to the Study of the Law of the Constitution 1885' and its core elements: absence of arbitrary power, equality before the law & supremacy of ordinary law.

Key concepts:

- No punishment without law.
- No man is above the law – *R (Miller) v Prime Minister*.
- Judicial decisions of the courts protect the rights of citizens.

The origins of the rule of law from writers such as Aristotle and Plato.

The influence the rule of law had on other countries such as the American Bill of Rights 1791 and the French Declaration of the Rights of Man and the Citizen 1789.

Examples of cases where the rule of law was enforced e.g. *Entick v Carrington (1765)*.

Modern concepts of the rule of law, showing its specific relevance to human rights, equality, fair trials and dispute resolution as explained by Tom Bingham in 'The Rule of Law'.

Link to Articles 5 & 6 of the European Convention on Human Rights.

Credit any other relevant point(s).

AO3 Indicative content

Answers **may** include:

- The development of the concept of the rule of law: basic beginnings in Magna Carta (chapters 39 and 40) – everyone including the King is subject to the rule of law.
- No punishment without law: this links to the legal principle of *habeas corpus* which states that a person cannot be detained without the authorisation of a court. The Habeas Corpus Amendment Act 1679. Guantanamo Bay 2001 - 2009 where suspected terrorists were held without charge.
- No man is above the law: this provides a safeguard to prevent dictatorship and arbitrary use of power.
- Consider how Dicey collected and formalised the theory of the rule of law.
- The Act of Settlement 1701 protects the tenure of judges and ensures their independence from pressure when deciding cases.
- The reasons why the rule of law is seen as fundamental in the English legal system.
- Whether the rule of law is still important today e.g. the detention of suspected terrorists, Article 5 ECHR etc.
- Credit any recent relevant examples of the rule of law in practice such as *Miller v Prime Minister (2019)*.
- The extent to which the statement in the question is true.

Reach any sensible conclusion.

Credit any other relevant point(s).

	AO1	Mark	AO3 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 statutes and case law.	7-8	- Excellent analysis and evaluation of a wide range of legal concepts and issues. - The response is wide ranging and has a 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 concepts and issues. - 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 concepts and issues. - 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 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 relevant statutes and case law is limited.	1-2	- Limited analysis of legal concepts and/or issues. - 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

Section B

- 3 Advise whether Sam will be able to rely on his Article 10 rights to challenge the closure of the venue and the banning of the book and advise Yana in whether she can rely on her Article 10 rights in relation to the criminal charge for throwing the paint over Sam. Do not consider Article 11.**

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:

- Article 10 of the European Convention on Human Rights (ECHR) covers both the right to receive and impart information and ideas without interference.
- Scope of Article 10: includes artistic, political, journalistic, commercial expression. Can include newspapers, films, painting, radio and television.
- Freedom of expression by way of protest is included - *Steel v UK*, *Hashman v Harrup*.
- Article 10(2) restrictions: national security, public safety, prevention of disorder or crime, protection of health or morals, protection of reputation/rights of others, preventing disclosure of confidential information, maintaining authority and impartiality of the judiciary.
- Restrictions permitted where prescribed by law.
- High and low value forms of expression.
- Margin of appreciation - *Handyside v UK*.
- Case law examples may include:
 - Otto Preminger-Institut v Austria* - artistic expression.
 - Observer and The Guardian v UK* - national security.
 - Sunday Times v UK* – public have a right to be properly informed.
 - Mosley v News Group Newspapers* - press freedom.
 - Goodwin v UK* - journalists revealing sources.
- Under Article 10 journalistic expression is seen as vital in a democracy. Section 12(4) Human Rights Act (HRA) also places a special focus on respecting freedom of speech in relation to journalistic, artistic and literary material.
- Hate speech – the importance of Article 17 which states that nobody can use an Article of the Convention to undermine another human right so that, for example Article 10 cannot be used to promote 'hate speech' - *Garaudy v France*.

Credit any other relevant point(s).

AO2 Indicative content

Answers may include:

In relation to the closing of the venue

Sam has the right to freedom expression and this includes the right to hold controversial and shocking opinions as well.

The right to artistic/political freedom would be seen to have a high value and should be upheld if at all possible.

The council may be able to justify the closure of the venue on the grounds of security or public safety as Sam may be seen to be inciting criminal acts as his book seems to encourage the commission of criminal acts against lawyers.

It may also be based on the prevention of crime under Article 10(2).

The decision of the council would need to be proportionate to be lawful.

It is likely that this would be seen as proportionate due to the seriousness of the threat made by Sam.

In relation to the banning of the book

In order to show that the banning of the book was lawful it would have to be shown to be lawful and proportionate.

On one hand, s.12(4) HRA sets a special value on journalistic expression such as the writing of a book.

s.12(4) HRA might consider whether the book was already in the public domain – as it appears to have been. This would reduce the value of banning the book. s.12(4) might also consider whether the material was in the public interest – which can be argued either way.

On the other hand, Sam should not be able to use Article 10 to promote hate speech as Article 17 states the Convention cannot be used to undermine another human right.

In relation to Yana throwing the paint over Sam

Here Yana's right to protest is being considered as an aspect of freedom of expression under Article 10 as Article 11 has been ruled out by the rubric.

Throwing paint over Sam is a battery and therefore a criminal act.

No part of Article 10 allows a person to commit a criminal act in pursuance of freedom of expression.

Yana may not rely on Article 10.

Reach any sensible conclusions.

Credit any other relevant point(s).

	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 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

- 4 Advise Sam and Amaya how the law on harassment would apply to Riley's emails, phone calls and messages and how the law on obscenity would apply to Riley's fake video material.

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:

Harassment

- Harassment is defined in the Protection from Harassment Act 1997 (PHA) and can have both civil and criminal remedies.
- s.1 PHA covers someone pursuing 'a course of conduct' amounting to harassment where he 'knows or ought to know' it amounts to.
- harassment of the other - this includes alarming or causing distress to a person.
- Course of conduct means on at least two occasions.
- s.2 PHA creates the crime of harassment which is a summary offence punishable by a fine and/or up to six months imprisonment.
- *Majrowski v Guys and St Thomas NHS Trust. Lau v DPP*
- S4 PHA covers the more serious form of harassment where the course of conduct causes someone to fear that violence will be used against them.

Obscenity

- Obscenity is defined in the Obscene Publications Act (OPA) 1959 and 1964.
- OPA 1959 s2(1) – offence to publish an obscene article 'for gain' (as amended by OPA 1964 including 'gain for another').
- Test for obscenity -s1(1) OPA- likely to deprave and corrupt.
- Wide meaning of article 'containing or embodying matter to be looked at or read or both'.
- OPA s1(2) Includes sound record, film, or other record of picture or pictures.
- Publication also has a wide meaning including publishing data on a website - *Perrin (2002)*.
- Common law position. No need to prove an intent to deprave and corrupt – *Hicklin (1868)*.
- Similar approach taken under the Act - *Penguin Books (1961)* - *Lady Chatterley case*.
- 'To deprave' meaning to make morally bad, to pervert or corrupt morally.
- The idea of what is obscene is based on the article – not on the author - *Shaw v DPP (1962)*.

Defence

- Public good – s4(1A) OPA 1959 relates to films and means in the interest of drama, opera, ballet, or any other art or literature or learning’.

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include:

Harassment and Riley’s emails, phone calls and messages

Riley’s behaviour in sending emails to Sam and his phone calls and messages to Amaya would be seen as part of a ‘course of conduct’.

They result in alarm or distress as Sam is worried about his family’s safety.

The fact that he sends the images of his home and family to Sam shows that he knows he will cause alarm and distress to Sam.

The anonymous phone calls and messages suggesting Sam is violent and abusive would cause alarm and distress to Amaya.

Riley’s actions seem to fulfil the criteria set out in the PHA and it is likely he would be guilty of harassment.

Credit any reference to stalking (or cyberstalking) under s.2A especially where linked to acts set out in s.2A(3) (a – g), although not required for full marks.

Obscenity and the fake video material posted to the website

The video clips would be regarded as ‘articles’ under s1(2) OPA ‘matter to be read or viewed including any film’. This would cover the video.

Material has been ‘published’. It is on a website accessible via the link sent to Amaya.

The material has been deliberately designed to cause shock and disgust in Amaya and this would qualify as material designed to deprave under the common law test – in the sense of promoting immoral images. There is no need to prove the intention to do so.

No defence is likely to apply as the images are not genuine and have no sense of being in the public good and would appear not to have any artistic justification.

Riley’s fake video material is likely to be considered an obscene publication.

Reach any other sensible conclusions.

Credit any other relevant point(s).

	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 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 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 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

5* & 8* ‘Despite its fundamental significance as a human right, the right to a fair trial under the European Convention on Human Rights has been far too frequently violated.’ Discuss whether the mechanisms to protect a fair criminal trial are effective given this statement.

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:

- Article 6 European Convention on Human Rights (ECHR) – the right to a fair trial.
- Elements of Article 6:
 - 6(1) entitlement to a public hearing within a reasonable time by an independent and impartial tribunal.
 - Justice must be done and also seen to be done – effect of secret or partially secret trials – *Incedal*.
 - No judicial bias - *R v Bow St Magistrates, ex parte Pinochet Ugarte*.
- Limitations are possible:
 - 6(2) presumption of innocence.
 - 6(3) promptly informed in a language he understands of the nature and cause of the accusation against him/her.
 - adequate time and facilities for the preparation of a defence.
 - right to defend himself/herself in person or through legal assistance (given freely when the interests of justice demand).
 - right to examine witnesses against him/her.
 - use of anonymous witnesses renders a trial unfair - *R v Davies*.
 - free assistance of an interpreter if he/she cannot understand or speak the language used in court.
- Relevant cases include *V and T v UK*.
- Other Elements of a Fair Trial:
 - trial by jury and due process.
 - rights under, e.g. the Police and Criminal Evidence Act 1984 (PACE) – including right to access legal advice, recording of interviews, exclusion of unfair evidence - *Golder v UK*.
 - the right against self-incrimination including the right to silence under the Criminal Justice and Public Order Act 1994 (although subject to limitations) - *Brown v Stott, Murray v UK*.
 - entitled to an independent and impartial judiciary.

Credit any other relevant point(s).

AO3 Indicative content

Answers **may** include:

- Article 6 ECHR is a qualified right and can be limited in several ways.
- Art.6(3) ECHR sets out only minimum guarantees and these can be limited when it is necessary to do so.
- s.34 CJPOA 1994 'right to silence' is undermined by the ability of the jury to draw adverse inferences under ss.34-37.
- Trials have been held to be unfair where witnesses were allowed to give evidence anonymously.
- Trials have been held in partial secrecy where the public has not been able to see the process.
- Access to justice has been under pressure due to cuts in legal aid especially since the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Changes in the means test have led to an increase in unrepresented defendants even in criminal courts. The Bar Council has warned of the negative consequences of such severe cuts.
- Equality of Arms: Disclosure regime has created many problems due to imbalance in power between prosecution and defence.
- Non-disclosure of evidence has resulted in many failed trials and historical miscarriage of justice cases.
- Article 6 is statistically the most consistently violated off all the Convention rights. The main violation is due to the delay of rights.
- Consider the effectiveness of the Criminal Cases Review Commission in the light of recent cases such as the unsafe conviction of Andy Malkinson which was not corrected in time.
- Consider the particular difficulties involved in terrorist cases and the particular challenge they present for human rights protection e.g. extended detention periods without charge.

Reach any sensible and reasoned conclusion.

Credit any other relevant point(s).

	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 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

6 Advise all the passengers and Jamal on the first flight, and Umi on the second flight, whether any of them have had their right to liberty breached under Article 5.

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

- Article 5 – the right to liberty and security.
- Meaning of liberty – *Engel v Netherlands*.
- Meaning of deprivation: a question of degree and intensity– *Guzzardi v Italy*.
- Deprivation could take different forms other than imprisonment - *SoS for the Home Office v JJ*.
- No-one to be deprived of liberty unless for one of the lawful reasons set out in Article 5(1)(a) – (f) including, amongst others, detention after conviction, or on public health grounds, to detain persons of unsound mind 5(1)(e) - *Winterwerp v Netherlands*, detention pending asylum application 5(1)(f) – *Saadi v UK*.
- Article 5(4) Right to challenge deprivation speedily in a court.
- Article 5(5) Right to compensation.
- Cases and principles:
 - in a care setting the acid test is from - *Cheshire West and Chester Council v P* - under continuous supervision and control and is not free to leave - *HL v UK*, *LB Hillingdon v Steven Neary*, *JE v DE aka Re DE* - freedom within the care setting was not conclusive unless it included the freedom to leave.
 - in a kettling case, a containment of seven hours did not amount to a deprivation, although the particular circumstances had to be taken into account - *Austin v UK*.
 - the issue of proportionality must be taken into account.

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include:

In relation to all the passengers on the flight

First it must be decided whether there was a restriction or a deprivation and then whether it was justifiable.

Sixteen hours in a confined space such as an aeroplane could be considered a deprivation, although the seriousness of the situation – the potential spread of a serious disease - would have to be taken into account.

The confinement was likely to be considered proportionate to the risk and no more than necessary.

This would tend to suggest that the period was not excessive. The degree and intensity would not be enough for a deprivation.

This is more likely to be seen as a restriction and lawful under article 5(1)(e) to prevent the spread of disease.

In relation to Jamal's arrest and confinement

This is a clear deprivation of liberty but one which may be justified by the circumstances.

Jamal would be seen to be in breach of a clear legal order to self-isolate and this would justify his detention under Art.5(1)(b) - breach of a court order.

It would also be permissible under Art.5(1) (e) - the prevention of the spread of disease.

However, the scale of his detention may not be fully justified as we are told originally that the self-isolation only needs to last for 14 days but Jamal is kept in isolation for two months.

The extended period would be seen as disproportionate and not necessary to prevent the spread of the disease.

There appears to be no justification for the extended period of detention, and it appears to be a form of punishment, rather than on public health grounds.

In relation to Umi's detention in the asylum centre

It is lawful to detain an asylum seeker whilst their claim for asylum is being processed.

This is covered by Art.5(1)(f) but the courts have decided that a claim must be processed quickly - *Saadi v UK*.

In Umi's case it can be argued that eight months does not reveal an efficient process, and the deprivation may not be lawful.

Credit any other relevant point(s).

	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 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 Advise Hugo, Jack, and Leo on which grounds they might challenge the decisions using judicial review and, if successful, which orders each of them should seek from the court.

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:

- Judicial review involves a hearing in the Administrative Court which reviews the lawfulness of a decision taken by government ministers and their departments or by public bodies - *Council of Civil Services Unions v Minister for the Civil Services*.
- The hearing decides whether the public body is acting lawfully or *ultra vires*.
- Public bodies include local authorities, health authorities, the police and prison governors.
- The person bringing the claim must have sufficient interest (*locus standi*) in the case and there are time limits applied.
- Grounds for review:
 - illegality – decision-makers act without power, exceed powers given or misapply the law (some candidates may refer to this as substantive *ultra vires*) - *Attorney-General v Fulham Corporation*, *R (Miller) v The Prime Minister*.
 - procedural impropriety or unfairness – decision-makers failed to follow correct procedures or acted in a biased way without due impartiality (some candidates may refer to this as procedural *ultra vires*) - *Agricultural, Horticultural and Forestry Training Board v Aylesbury Mushrooms*, *R v Liverpool Corporation, ex parte Liverpool Taxi Fleet Operators Association*.
 - irrationality or unreasonableness – decision-makers make a decision which no reasonable decision-maker in the same circumstances would make (some candidates may refer to this as *Wednesbury* unreasonableness - also credit proportionality) - *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation*, *R (Rogers) v Swindon NHS Trust*.
 - incompatibility with human rights – decision-maker makes a decision which is incompatible with human rights – s.6(1) Human Rights Act, *RR v Secretary of State for Work and Pensions*.
- Orders available in judicial review cases - quashing order, prohibiting order, injunction, mandatory order, declaration and damages.

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include:

Felix is acting in a public capacity as the governor of the prison and his decisions may be challenged by judicial review.

Hugo, Jack and Leo all have sufficient interest in the decisions – *locus standi* – and can therefore challenge them in the court.

In relation to Hugo's cancelled parole hearing and the denial of legal assistance

Parole hearings and legal representation are fundamental rights underpinned by the principles of a fair process.

By introducing a rule which undermines prisoners' fundamental rights, Felix has gone beyond the scope of his powers and this is likely to be a case of illegality (also accept substantive *ultra vires*).

Also, the decision may be seen as one which no reasonable prison governor would make and considered irrational or unreasonable.

Credit alternative heads of review where argued with supporting reasoning.

The remedy in this case would most likely be a mandatory order that the parole hearing should take place within a reasonable time.

In relation to Jack's pay cut

This would most likely be seen as procedural impropriety (also accept procedural *ultra vires*) as Felix failed to follow a procedure in not consulting the union.

Also, unless the governor could show that there were consistent rules of application and that the rule was lawful and necessary, the linking of pay cuts to something Jack and other officers would have limited ability to control may seem arbitrary and therefore irrational or unreasonable.

Credit alternative heads of review where argued with supporting reasoning.

The remedy in this case would be a quashing order.

In relation to Leo's solitary confinement

This decision may be seen to lack sufficient regard for Leo's human rights and therefore be incompatible with the HRA – the prison would need to produce very strong evidence of Leo's potential danger to the other inmates if it wished to justify such an extreme measure.

Also, the measure may be seen as one which no reasonable prison governor would make and considered irrational or unreasonable.

Credit alternative heads of review where argued with supporting reasoning.

Damages would be the most likely outcome here as Leo's human rights have been breached by an excessive use of solitary confinement.

Credit any other relevant point(s).

	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 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

8* As per Question 5*

Assessment Objectives Grid

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

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

Need to get in touch?

If you ever have any questions about OCR qualifications or services (including administration, logistics and teaching) please feel free to get in touch with our customer support centre.

Call us on

01223 553998

Alternatively, you can email us on

support@ocr.org.uk

For more information visit



ocr.org.uk/qualifications/resource-finder



ocr.org.uk



Twitter/ocrextams



/ocrextams



/company/ocr



/ocrextams



CAMBRIDGE
UNIVERSITY PRESS & ASSESSMENT

OCR is part of Cambridge University Press & Assessment, a department of the University of Cambridge.

For staff training purposes and as part of our quality assurance programme your call may be recorded or monitored. © OCR 2025 Oxford Cambridge and RSA Examinations is a Company Limited by Guarantee. Registered in England. Registered office The Triangle Building, Shaftesbury Road, Cambridge, CB2 8EA.

Registered company number 3484466. OCR is an exempt charity.

OCR operates academic and vocational qualifications regulated by Ofqual, Qualifications Wales and CCEA as listed in their qualifications registers including A Levels, GCSEs, Cambridge Technicals and Cambridge Nationals.

OCR provides resources to help you deliver our qualifications. These resources do not represent any particular teaching method we expect you to use. We update our resources regularly and aim to make sure content is accurate but please check the OCR website so that you have the most up-to-date version. OCR cannot be held responsible for any errors or omissions in these resources.

Though we make every effort to check our resources, there may be contradictions between published support and the specification, so it is important that you always use information in the latest specification. We indicate any specification changes within the document itself, change the version number and provide a summary of the changes. If you do notice a discrepancy between the specification and a resource, please [contact us](#).

Whether you already offer OCR qualifications, are new to OCR or are thinking about switching, you can request more information using our [Expression of Interest form](#).

Please [get in touch](#) if you want to discuss the accessibility of resources we offer to support you in delivering our qualifications.