

GCE 2003
January Series



Mark Scheme

Law – Unit 5 *(LAW5)*

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

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Dr Michael Cresswell Director General

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of candidates, mainly 18 years old, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive Marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.

Mark Range

You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.

Levels of Response for Essay Marking

When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?

Citation of Authority

Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.

Assessment Objective Three

Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- | | | |
|----------------|---|-------------------|
| Level 3 | Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling. | 8-10 marks |
| Level 2 | Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning. | 4-7 marks |
| Level 1 | Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning. | 1-3 marks |
| Level 0 | Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning. | 0 marks |

Criminal Law (Offences against Property)

1

Total for this question: 75 marks

(a) Discuss Arlo's criminal liability arising out of the incidents in Brendan's Superstore. (25 marks)

Potential Content

- (A) Explanation of the offence of theft, in particular, of appropriation. Possible discussion of robbery
- (B) Brief explanation of possible offence of gbh, and of the defence of self-defence
This could be introduced separately or in the context of Theft Act offences
- (C) Explanation of the offence of burglary, both under s9(1)(a) and s9(1)(b)

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows clear understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
explains and applies (C) with some hesitation in explanation and application of (A) or (B).
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies (C) without properly integrating explanation and application of (A) and/or (B)
or
explains and applies (A) (**max 12**) or (B) (**max 12**)
or
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- | | |
|---|------------|
| (b) Discuss Arlo's criminal liability arising out of his visit to the restaurant. | (25 marks) |
|---|------------|

Potential Content

- (A) Explanation of the offences of ‘basic’ and ‘aggravated’ criminal damage
- (B) Explanation of the offence of making off without payment
- (C) Explanation of the plea of voluntary intoxication

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows clear understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
explains and applies **two** of (A)-(C) (**max 18**) and attempts some explanation and application of the other.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C) (**max 13** for any **two**), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies any one of (A)-(C) (**max 11** for (C) only)
or
there is a more balanced approach in which explanation, analysis and application are present in **at least two** of (A)-(C) but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

(c) In your view, how satisfactory is the current law of theft?

(25 marks)

Potential Content

(A) Explanation and evaluation of *actus reus* aspects of theft

(B) Explanation and evaluation of *mens rea* aspects of theft

NB the answer does not require suggestions for reform but any such suggestions should be given credit where they contribute to the discussion required

Mark Bands

- 21 - 25 The candidate demonstrates the ability to explain and evaluate the elements of the law of theft as in (A) and (B), so that a clear, properly grounded argument emerges about whether the current law is satisfactory.
- 16 - 20 The candidate demonstrates the ability to explain and evaluate as in (A) or (B) (**max 17**) but is more tentative in explanation and/or evaluation of the other
or
 presents strong explanation of both (A) and (B) with weaker evaluation
or
 presents strong evaluation of (A) and (B) which is not fully grounded in explanation
or
 deals with both explanation and evaluation of (A) and (B) but with some hesitation or failure to establish fully coherent arguments.
- 11 - 15 The candidate demonstrates the ability to engage in perceptive explanation of (A) and (B) (**max 12** for one only) but is unable to engage in significant evaluation
or
 develops perceptive evaluation of (A) or (B) but with a weak explanatory framework
or
 attempts to deal with both explanation and evaluation in (A) and (B) but the answer is a little superficial or confused.
- 6 - 10 The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A)-(B) but the explanations and/or suggestions are limited and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge
or
 though the candidate attempts to introduce explanation and evaluation, they are so fundamentally undermined by error and confusion that they remain substantially incoherent.
- 0 The candidate presents no information relevant to the question.

2

Total for this question: 75 marks

- (a) Discuss Craig's criminal liability in connection with the incidents involving Erin's car. (25 marks)

Potential Content

- (A) Explanation of the offences of obtaining property by deception (possible obtaining of services by deception) and of theft
- (B) Explanation of the offences of 'basic' and 'aggravated' criminal damage
- (C) Explanation of the defence of duress

21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.

16 - 20 The candidate shows clear understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required **or** explains and applies two of (A)-(C) (**max 18**) and attempts some explanation and application of the other.

11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C) (**max 13** for any two), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies any one of (A)-(C) (**max 11** for (C) only)
or
 there is a more balanced approach in which explanation, analysis and application are present in at least two of (A)-(C) but the answer is a little superficial or suffers from some confusion.

6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.

0 The candidate presents no information relevant to the question.

- (b) Discuss Erin's criminal liability in connection with the car tyres and the incident involving the flowers. (25 marks)

Potential Content

- (A) Explanation of the offences of obtaining services by deception and evading liability by deception (offences of obtaining property by deception and of theft could also be applied, relying on explanations presented in answer to (a)). In any of these offences, dishonesty is a key issue
- (B) Explanation of the offence of theft, emphasising the meaning of ‘property’, as well as *mens rea* issues. Possible alternative in criminal damage
- (C) Explanation of the offence of robbery (utilising the discussion in (B))

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows clear understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required **or** explains and applies (A) and (B) (**max 18**) or (A) and (C) (**max 18**) and attempts some explanation and application of the other.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C) (**max 13** for any two), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies any one of (A)-(C) (**max 13** for (B) or (C))
or
 there is a more balanced approach in which explanation, analysis and application are present in at least two of (A)-(C) but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

(c) In your view, how satisfactory is the current law on the deception offences? (25 marks)

Potential Content

- (A) Explanation and evaluation of common *actus reus* elements in deception offences
- (B) Explanation and evaluation of common *mens rea* elements in deception offences
- (C) Explanation and evaluation of elements specific to particular deception offences

NB the answer does not require suggestions for reform but any such suggestions should be given credit where they contribute to the discussion required.

Mark Bands

- 21 - 25 The candidate demonstrates the ability to explain and evaluate the elements of the deception offences as in any two of (A)-(C), so that a clear, properly grounded argument emerges about whether the current law is satisfactory.
- 16 - 20 The candidate demonstrates the ability to explain and evaluate as in one of (A)-(C) (**max 17**) but is more tentative in explanation and/or evaluation of one other
or
presents strong explanation of any two of (A)-(C) with weaker evaluation
or
presents strong evaluation two of (A)-(C) which is not fully grounded in explanation
or
deals with both explanation and evaluation in two of (A)-(C) but with some hesitation or failure to establish fully coherent arguments.
- 11 - 15 The candidate demonstrates the ability to engage in perceptive explanation of two of (A)-(C) (**max 12** for one only) but is unable to engage in significant evaluation
or
develops perceptive evaluation of any one of (A)-(C) but with a weak explanatory framework
or
attempts to deal with both explanation and evaluation in two of (A)-(C) but the answer is a little superficial or confused.
- 6 - 10 The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A)-(C) but the explanations and/or suggestions are limited and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge
or
though the candidate attempts to introduce explanation and evaluation, they are so fundamentally undermined by error and confusion that they remain substantially incoherent.
- 0 The candidate presents no information relevant to the question.

Tort**3****Total for this question: 75 marks**

- (a) Consider what rights and indicate what remedies the residents may have against Gurpal.
(20 marks)

Potential Content

- (A) Explanation of the tort of nuisance, including the notion of interference with use and enjoyment and the factors involved in assessing reasonable user (public/private nuisance issues)
- (B) Outline explanation of the remedies

Mark Bands

- 16 - 20 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(B), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based (**max 17** if no public).
- 12 - 15 The candidate shows clear understanding of the rules of law in (A)-(B), developing explanations and using illustration but is a little hesitant in developing the application required
or
explains and applies (A) comprehensively
or
explains and applies (A) with some explanation and/or application of (B).
- 8 - 11 The candidate shows understanding of the appropriate rules of law in (A)-(B), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies either (A) or (B) (**max 9** for (B) only)
or
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 4 - 7 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(B) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 3 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) (i) Consider whether Harry has any right to claim compensation from Gurpal. (10 marks)

Potential Content

- (A) Brief indication of the liability of an occupier, in particular, of the distinction between visitors and trespassers
- (B) Explanation of the rights and duties imposed by the Occupiers' Liability Act 1984
- (C) Explanation of causation and contributory negligence rules

Mark Bands

- 8 - 10 The candidate demonstrates the ability to indicate the distinction in (A), to explain the rules of law in (B) and (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 5 - 7 The candidate shows clear understanding of the distinction in (A) and of the rules of law in (B), but is hesitant in developing the application required
or
explains and applies (A) and (B) with some error, confusion or superficiality (where the answer also deals with (C), any or all of these characteristics will be still more evident)
or
explains and applies (B).
- 3 - 4 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate material drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 2 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (ii) Consider whether Iris has any right to claim compensation from Gurpal for her actual and potential loss. (20 marks)

Potential Content

- (A) Explanation of the elements of the tort of *Rylands v Fletcher*
- (B) Explanation of the defence of act of a stranger
- (C) Outline explanation of the remedy of damages, including consideration of pure economic loss

Mark Bands

- 16 - 20 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 12 - 15 The candidate shows clear understanding of the rules of law in (A)-(C) (**max 13** if only (A) and (B) or (A) and (C)), developing explanations and using illustration but is hesitant in developing the application required
or
explains and clearly applies (A) and (B) or (A) and (C) **or** explains and applies (A)-(C) with some error or superficiality.
- 8 - 11 The candidate shows understanding of the appropriate rules of law in (A) and either (B) or (C), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies (A)
or
the answer explains and applies (B) (**max 9**) or (C) (**max 8**) **or** there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 4 - 7 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 3 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) Because of the rules of vicarious liability, a defendant is sometimes liable to pay compensation in tort, though not personally at fault. Explain and comment critically on these rules and the reasons for their application. (25 marks)

Potential Content

- (A) Explanation of the requirement for the relationship of employer and employee
- (B) Explanation of the requirement for a tort to be committed within the course of the employment
- (C) Explanation of rationale and evaluative comment on the rules (for example, on the suitability of the tests to distinguish employees from independent contractors, and on the changing test of course of employment)

Mark Bands

- 21 - 25 The candidate demonstrates the ability to explain the rules in (A) and (B) and to present sound evaluative comment as in (C).
- 16 - 20 The candidate demonstrates the ability to explain the rules in (A) and (B) but the evaluative comment in (C) is a little limited
or
there is sound explanation of (A) or (B) and more limited explanation of the other, together with sound evaluative comment in (C) or there is a little superficiality across the range of (A)-(C).
- 11 - 15 The candidate demonstrates the ability to explain the rules in (A) and (B) (**max 12** for one only)
or
to adopt a strongly evaluative approach as in (C) but which lacks some foundation in explanation of rules
or
attempts a more balanced approach across the range of (A)-(C) (including (A) and (C) or (B) and (C)) in which explanation and/or comment are a little limited or suffer from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and comment by introducing discussion of any of the material in (A)-(C) but the explanations and comment are restricted and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and commentary can emerge
or
though the candidate attempts to introduce explanation and comment, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

4

Total for this question: 75 marks

- (a) Consider whether Kim has any rights against Jaspreet in connection with the advice about the plants and shrubs. (20 marks)

Potential Content

- (A) Explanation of the general framework of negligence, and of the difference between liability for physical damage (and any consequent economic loss) and for pure economic loss
- (B) Explanation of the special rules on liability for negligent statements, examining the relationship between the concepts of assumption of responsibility, special relationship, special skill or knowledge and reasonable reliance

Mark Bands

- 16 - 20 The candidate explains the general framework in (A) and the detailed rules in (B), and demonstrates the ability to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 12 - 15 The candidate shows clear understanding of the rules of law in (A)-(B), developing explanations and using illustration but is a little hesitant in developing the application required
or
 comprehensively explains and applies (B).
- 8 - 11 The candidate shows understanding of the appropriate rules of law in (A)-(B), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies (A) (**max 8**)
or
 explains and applies (B) with a little error, confusion or superficiality.
- 4 - 7 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(B) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 3 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) (i) Consider whether Leon has any rights against Kim in connection with the injury to his leg.
(10 marks)

Potential Content

- (A) Brief explanation of the liability of an occupier, in particular, of the importance of being a visitor
- (B) Explanation of the rights and duties imposed by the Occupiers' Liability Act 1957
- (C) Explanation of contributory negligence rules

Mark Bands

- 8 - 10 The candidate demonstrates the ability to present the general explanation in (A), to explain the rules of law in (B) and (C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 5 - 7 The candidate shows clear understanding of the general basis of liability in (A) and of the rules of law in (B), but is hesitant in developing the application required
or
explains and applies (A) and (B) with some error, confusion or superficiality (where the answer also deals with (C), any or all of these characteristics will be still more evident).
- 3 - 4 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate material drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 2 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (ii) Consider whether Marie has any rights against Kim in connection with her reaction to the incident involving Leon. (20 marks)

Potential Content

- (A) Explanation of the general basis of liability in negligence, including (where appropriate) the need to prove fault against the defendant in relation to the situation occasioning the psychiatric harm. Explanation of the difference between physical and psychiatric harm and of the meaning of psychiatric harm
- (B) Explanation of the rules concerning liability for psychiatric harm, including the distinction between primary and secondary victims, and the special requirements in the latter case

Mark Bands

- 16 - 20 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(B), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 12 - 15 The candidate shows clear understanding of the rules of law in (A)-(B), developing explanations and using illustration but is a little hesitant in developing the application required **or** comprehensively explains and applies (B).
- 8 - 11 The candidate shows understanding of the appropriate rules of law in (A)-(B), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies (A) (**max 8**)
or
 explains and applies (B) with a little error, confusion or superficiality.
- 4 - 7 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(B) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 3 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) There are special rules which restrict liability for psychiatric injury, and for pure economic loss caused by negligent statements. In relation to **either** psychiatric injury **or** negligent statements, comment critically on those rules and on the reasons for their imposition. (25 marks)

Potential Content

- (A) Reconsideration and evaluation of the specific rules on psychiatric injury/negligent statements
- (B) Reconsideration and evaluation of the relevant basis of and distinctions in the construction of the rules - physical and psychiatric injury/acts and statements, economic loss consequent on physical damage, and pure economic loss
- (C) Reconsideration and evaluation of the rationale for the restrictions, grounded in policy

Mark Bands

- 21 - 25 The candidate demonstrates the ability to reconsider and evaluate (A) and either (B) or (C). Discussion of all three may compensate for minor deficiencies in the treatment of all or any.
- 16 - 20 The candidate demonstrates the ability to reconsider and evaluate any one of (A)-(C) and to discuss tentatively any other
or
to deal perceptively with any two but with hesitant evaluation.
- 11 - 15 The candidate demonstrates the ability to reconsider and evaluate any one of (A)-(C)
or
discusses any two but in which neither explanation nor evaluation are fully developed, and in which there may be some error or confusion.
- 6 - 10 The candidate begins to indicate some capacity for reconsideration and/or evaluation by introducing discussion of any of the material in (A)-(C) but the explanations and evaluation are limited and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent reconsideration and evaluation can emerge
or
though the candidate attempts to introduce reconsideration and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

Protection of Human Rights**5****Total for this question: 75 marks**

- (a) Explain and apply the rules of law relevant to the issues raised by the conduct of the campaign, including the actions of Oliver in connection with Pravin. In your answer, consider the effect of the European Convention on Human Rights on any rights and obligations. (25 marks)

Potential Content

- (A) Explanation of the tort of defamation
- (B) Explanation of the criminal law on harassment and an indication of possible public order and other offences
- (C) Explanation of the rights to freedom of expression and to freedom of assembly and association contained in Articles 10.1 and 11.1 of the Convention and the limitations and restrictions which may be justified under Articles 10.2 and 11.2

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. Though all three will be addressed, answers may vary in the weight devoted to each.
- 16 - 20 The candidate shows sound understanding of the rules of law in two of (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
soundly explains and applies any one and develops some explanation and application of another. Discussion of all three may compensate for some superficiality or errors in any or all.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in one of (A)-(C), with some discussion of another, developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies any one of (A)-(C) but neither explanation nor application reveal clear understanding (where there is a greater range, the answer will display increasing superficiality and confusion).

- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) Discuss what action would be open to the police in relation to the planned march and rally, including any action whilst it is taking place. In your answer, consider the effect of the European Convention on Human Rights on any rights and obligations. (25 marks)

Potential Content

- (A) Explanation of the rules permitting prohibition of all marches and of powers to control marches by directing the route etc. under the Public Order Act 1986
- (B) Explanation of powers of stop and search (and possibly of arrest) which may be exercised under PACE Act 1984 and Criminal Justice and Public Order Act 1994
- (C) Explanation of powers in connection with possible Public Order Act 1986 and other offences, and of police powers in connection with suspected breach of the peace, if the rally goes ahead and violence breaks out
- (D) Explanation of the rights to freedom of expression and to freedom of assembly and association contained in Articles 10.1 and 11.1 of the Convention and the limitations and restrictions which may be justified under Articles 10.2 and 11.2 - where appropriate, explanations may rely upon discussion previously introduced in answer to (a)

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. The answer will address (A) and (D), and either (B) or (C), though answers may vary in the weight devoted to each.
- 16 - 20 The candidate shows understanding of the rules of law in any three of (A)-(D), developing explanations and using illustration but is a little hesitant in developing the application required
or
 soundly explains and applies any two.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in one of (A)-(D) (**max 13**), with some discussion of another, developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies any one of (A)-(D) but neither explanation nor application reveal clear understanding (where there is a greater range, the answer will display increasing superficiality and confusion).
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(D) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) Explain and comment on the extent to which English law supports freedom to pursue campaigns such as those organised by Oliver. (25 marks)

Potential Content

- (A) General framework explanation concerning rights and freedoms and the general impact of the Human Rights Act 1998 in relation to the ECHR
- (B) Evaluative reconsideration of the existing preventive and reactive powers to deal with the relevant kind of campaigns (viewed, perhaps, in the ‘residual freedoms’ context)
- (C) Evaluative reconsideration of the requirements of the European Convention on Human Rights and its impact on English law. Relationship between Articles 10 and 11

Mark Bands

- 21 - 25 The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in (B) and (C), though there may be some imbalance in treatment as between these elements.
- 16 - 20 The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in either (B) or (C) (**max 18**), and with a more tentative examination of the other **or** explores the approach as in (B) and (C) but with little or no framework in (A).
- 11 - 15 The candidate explores the issues by reference to any two of (A)-(C) (**max 13** for one only)
or
attempts a more balanced approach in which some explanation of the framework in (A) and exploration of the approach of the current law as in (B) and (C) are present but in which the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A)-(C) but the explanations and evaluation are limited and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge
or
though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

6

Total for this question: 75 marks

- (a) Consider how the law would apply to the conduct of Sally, Teri and the Daily Enquirer, and what legal action Ray could take. (25 marks)

Potential Content

- (A) Explanation of the duty of confidentiality (privacy) and its relevance to the conduct of Sally, Teri and the Daily Enquirer
- (B) Explanation of the rules in relation to telephone intercepts and use of surveillance devices
- (C) Explanation of the tort of defamation
- (D) Explanation of trespass, and criminal and civil liability for harassment

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A) and at least one of (B)-(D), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based. Discussion of a greater range will compensate for minor deficiencies in explanation and application of any or all.
- 16 - 20 The candidate shows sound understanding of the rules of law in (A) and at least one other from (B)-(D), developing explanations and using illustration but is a little hesitant in developing the application required
or
soundly explains and applies any two of (B)-(D).
- 11 - 15 The candidate shows understanding of the appropriate rules of law in two of (A)-(D), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies any one of (A)-(D) (**max 13**)
or
there is a more balanced approach in which explanation, analysis and application are present across a greater range from (A)-(D) but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(D) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) Consider the effect of the Human Rights Act 1998 and of the European Convention on Human Rights on the application of the law to these incidents. (25 marks)

Potential Content

- (A) Explanation of the requirements of the Human Rights Act 1998 in relation to the European Convention on Human Rights
- (B) In view of Ray's rights, explanation of the right to respect for private and family life, home and correspondence contained in Article 8.1 of the Convention and the limitations and restrictions which may be justified under Article 8.2
- (C) In view of the Daily Enquirer's rights, explanation of the right to freedom of expression contained in Article 10.1 of the Convention and the limitations and restrictions which may be justified under Article 10.2

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows clear understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
develops sound explanation and application of (B) and (C) but with a weaker framework of (A).
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C) (the framework in (A) may be dealt with very briefly), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies (B) and (C) (**max 12** for one only)
or
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
The candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) How satisfactory do you consider the protection currently given by English law to people such as Ray? (25 marks)

Potential Content

- (A) General framework explanation concerning rights and freedoms and the general impact of the Human Rights Act 1998 in relation to the ECHR
- (B) Evaluative reconsideration of the existing actions which tend towards, or amount to, a right to privacy
- (C) Evaluative reconsideration of the requirements of the European Convention on Human Rights, examining the need to strike a balance between the right to privacy (Article 8) and the right to freedom of expression (Article 10)

- 21 - 25 The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in (B) and (C), though there may be some imbalance in treatment as between these elements.
- 16 - 20 The candidate demonstrates the ability to explain the framework in (A) and to explore the approach of the current law as in either (B) or (C) (**max 18**), and with a more tentative examination of the other
or
 explores the approach as in (B) and (C) but with little or no framework in (A).
- 11 - 15 The candidate explores the issues by reference to (B) or (C)
or
 attempts a more balanced approach in which some explanation of the framework in (A) and exploration of the approach of the current law as in (B) and (C) are present but in which the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and/or evaluation by introducing discussion of any of the material in (A)-(C) but the explanations and evaluation are limited and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge
or
 though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

Consumer Protection

7

Total for this question: 75 marks

- (a) Discuss Ben's criminal and civil law obligations in connection with the advertising and sale of the door and door frame, and consider Andy's rights and remedies. (25 marks)

Potential Content

- (A) Explanation of the requirements of the Sale of Goods Act 1979 in terms of description, satisfactory quality and fitness for purpose
- (B) Explanation of the remedies of rejection and damages
- (C) Explanation of the criminal law rules on trade descriptions and on misleading price indications in sales promotions

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows sound understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
 soundly explains and applies (A) and (B) (**max 17**) or (A) and (C) (**max 18**) and deals briefly with the third.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A)-(C) (**max 13** for any two), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
 the answer explains and applies any two of (A)-(C)
or
 there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) Discuss Andy's rights and remedies against Chen in connection with the fitting of the door and the damage to the furnishings. (25 marks)

Potential Content

- (A) Explanation of the requirements of the Supply of Goods and Services Act 1982 in terms of reasonable care and skill
- (B) Explanation of the common law and statutory (UCTA 1977, UTCCR 1999) control of exclusion clauses
- (C) Explanation of the remedies for breach of contract.

Mark Bands

- 21 - 25 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 16 - 20 The candidate shows sound understanding of the rules of law in (A)-(C), developing explanations and using illustration but is a little hesitant in developing the application required
or
soundly explains and applies (A) and (B) (**max 18**) or (A) and (C) (**max 18**) and deals briefly with the third.
- 11 - 15 The candidate shows understanding of the appropriate rules of law in (A) and (B) or (A) and (C) (**max 13** if (B) and (C) only), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies any two of (A)-(C)
or
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 5 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) Explain and comment critically on the common law and statutory approach to the control of exclusion clauses. In your answer you may refer back to any explanations previously introduced. (25 marks)

Potential Content

- (A) Explanation and evaluation of the common law approach
- (B) Explanation and evaluation of the statutory approach in UCTA to liability which cannot be excluded
- (C) Explanation and evaluation of the statutory approach in UCTA to liability which can be excluded subject to a requirement of reasonableness
- (D) Explanation and evaluation of the statutory approach in UTCCR, possibly also examining the relationship between UCTA and UTCCR

Mark Bands

- 21 - 25 The candidate demonstrates the ability to explain and evaluate the rules in (A) and at least one of (B)-(D). Discussion of a greater range may compensate for minor deficiencies in the discussion of all or any.
- 16 - 20 The candidate demonstrates the ability to explain and evaluate the rules in (A) and at least one of (B)-(D) but explanation or evaluation in either or both is a little limited
or
 there is sound explanation with some evaluation of any two of (B)-(D) and with some reference to (A)
or sound explanation and evaluation of (A) (**max 16**).
- 11 - 15 The candidate demonstrates the ability to explain and evaluate the rules in any one of (A)-(D)
or
 to explain the rules in any two of (A)-(D) (**max 12** for one only)
or
 to adopt a strongly evaluative approach to any two of (A)-(D) (**max 12** for one only) which lacks some foundation in explanation of rules
or
 attempts a more balanced approach across a range from (A)-(D) in which explanation and/or evaluation are limited or suffer from some confusion.
- 6 - 10 The candidate begins to indicate some capacity for explanation and evaluation by introducing discussion of any of the material in (A)-(D) but the explanations and evaluation are restricted and superficial.
- 1 - 5 The candidate merely introduces fragments of information from which no coherent explanation and evaluation can emerge
or
 though the candidate attempts to introduce explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

8**Total for this question: 75 marks**

- (a) (i) Discuss Des's rights and remedies against Gary's Bikes in connection with the bicycle and his injuries. (20 marks)

Potential Content

- (A) Explanation of the rule on privity of contract and the effect of the C(RTP)A 1999
- (B) Explanation of the SGA 1979 implied terms as to satisfactory quality and fitness for purpose and remedies of rejection and damages
- (C) Explanation of the common law and statutory approach to exclusion clauses

Mark Bands

- 16 - 20 The candidate demonstrates the ability to recognise and explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 12 - 15 The candidate shows sound understanding of the rules of law in (A)-(C) (**max 13** if only (A) and (B) or (A) and (C)), developing explanations and using illustration but is hesitant in developing the application required
or
explains and clearly applies two of (A)-(C)
or
explains and applies (A)-(C) with some error or superficiality.
- 8 - 11 The candidate shows understanding of the appropriate rules of law in (A) and either (B) or (C), developing explanations and using illustration but is unable to extend the analysis to achieve substantial application of the rules to the facts
or
the answer explains and applies (A)
or
the answer explains and applies (B) (**max 9**) or (C) (**max 8**)
or
there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is a little superficial or suffers from some confusion.
- 4 - 7 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate rule(s) drawn from (A)-(C) but the explanations are limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.

- 1 - 3 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (ii) Discuss the rights and remedies of Des and Jerri against Fastspoke in connection with the personal injury and damage to the chinaware. (15 marks)

Potential Content

- (A) Explanation of the provisions of the CPA 1987
- (B) Explanation of the tort of negligence
- (C) Explanation of the remedies available for each action

Mark Bands

- 12 - 15 The candidate demonstrates the ability to explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 8 - 11 The candidate shows clear understanding of the rules of law in (A)-(C) (**max 9** for any two), but is hesitant in developing the application required
or
 explains and applies any two of (A)-(C) (**max 8** for (A) or (B) only) with some error, confusion or superficiality (where the answer deals with all three, any or all of these characteristics will be still more evident).
- 5 - 7 The candidate shows understanding of the rules of law in (A) or (B) but is unable to make any substantial application to the facts
or
 explains and applies (C) without providing any significant foundation in (A) or (B)
or
 there is a more balanced approach in which explanation, analysis and application are present across the range but the answer is superficial and/or suffers from some confusion..
- 3 - 4 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate material drawn from (A)-(C) but the explanations are limited and superficial
or
 the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 2 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
 though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (b) Discuss the rights and remedies of Ernie and Hugh in connection with the delivery of the bicycle. (15 marks)

Potential Content

- (A) Explanation of terms relating to time of performance, as express terms and as contained in the provisions of the SGSA 1982
- (B) Explanation of the concept of breach of condition and breach of warranty
- (C) Explanation of the remedies available in the light of the kind of breach - repudiation and/or damages

Mark Band

- 12 - 15 The candidate demonstrates the ability to explain the rules of law in (A)-(C), and to select and analyse the key facts so as to achieve perceptive application on which a sustainable solution can be based.
- 8 - 11 The candidate shows clear understanding of the rules of law in (A)-(C) (**max 9** for any two), but is hesitant in developing the application required
or
explains and applies any two of (A)-(C) with some error, confusion or superficiality (where the answer deals with all three, any or all of these characteristics will be still more evident).
- 5 - 7 The candidate shows understanding of the rules of law in any one of (A)-(C) but is unable to make any substantial application to the facts
or
explains and applies any one of (A)-(C) with some error, confusion or superficiality.
- 3 - 4 The candidate begins to indicate some capacity for explanation and analysis by introducing consideration of some appropriate material drawn from (A)-(C) but the explanations are very limited and superficial
or
the candidate adopts an approach in which there is concentration on explanation in terms of the facts presented rather than through development of explanation and application of legal rules.
- 1 - 2 The candidate merely introduces fragments of information or unexplained examples from which no coherent analysis and explanation can emerge
or
though the candidate attempts to introduce explanation, analysis and application, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

- (c) How far do you consider it true to say that the current rules of criminal and civil law strike the right balance between the interests of consumers of goods and services and those who sell and supply them? (25 marks)

Potential Content

- (A) Reconsideration and evaluation of the rights and remedies available in civil law
- (B) Reconsideration and evaluation of the common law and statutory approach to exclusion clauses
- (C) Explanation and evaluation of criminal law provisions and sanctions
- (D) Explanation and evaluation of issues of access, funding, enforcement (including other mechanisms - for example, local authority intervention, regulatory authorities, ombudsmen)

21 - 25 The candidate demonstrates the ability to reconsider/explain and evaluate any two of (A)-(D) (of which one must be (C)). Where a greater range is dealt with, there may be minor deficiencies in explanation and/or evaluation of all or any.

16 - 20 The candidate demonstrates the ability to reconsider/explain and evaluate at least one of (A)-(D) and to present less comprehensive and coherent reconsideration/explanation and evaluation of one other

or

is sound in reconsideration/explanation of at least two of (A)-(D) but hesitant in evaluation

or

adopts a strong evaluative approach to at least two of (A)-(D) within a more hesitant framework of reconsideration/explanation

or

attempts reconsideration/explanation and evaluation across the range of (A)-(D) which is relatively coherent but a little superficial.

NB In all descriptors in this band, **max 18** if (C) is not discussed.

11 - 15 The candidate demonstrates the ability to reconsider/explain and evaluate any one of (A)-(D)

or

to reconsider/explain any two of (A)-(D) (**max 13**)

or

to develop evaluation of any two of (A)-(D) with a weak basis in reconsideration/explanation

or

the candidate attempts a balanced approach across a range from (A)-(D) but in which the answer is superficial or suffers from some confusion.

6 - 10 The candidate begins to indicate some capacity for reconsideration/explanation and/or evaluation by introducing discussion of any of the material in (A)-(D) but the reconsideration/explanation and evaluation are limited and very superficial.

- 1 - 5 The candidate merely introduces fragments of information from which no coherent reconsideration/explanation and evaluation can emerge
or
though the candidate attempts to introduce reconsideration/explanation and evaluation, this is so fundamentally undermined by error and confusion that it remains substantially incoherent.
- 0 The candidate presents no information relevant to the question.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

**A Level Law (LAW5)
(One question to be answered from 8)**

Unit 5	AO1	AO2	AO3
Question 1	21	54	10
Question 2	21	54	10
Question 3	21	54	10
Question 4	21	54	10
Question 5	21	54	10
Question 6	21	54	10
Question 7	21	54	10
Question 8	21	54	10
Total marks	21	54	10
% of the A2	7.5	19	3.5
% of the A Level	3.75	9.5	1.75