

AS LAW

Unit 2 The Concept of Liability

Friday 19 May 2017

Afternoon

Time allowed: 1 hour 30 minutes

Materials

For this paper you must have:

- an AQA 12-page answer book.

Instructions

- Use black ink or black ball-point pen.
- Write the information required on the front of your answer book. The **Paper Reference** is LAW02.
- Answer questions on **two** scenarios.
- Answer **all** questions on Scenario 1 (**Section A**), and choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.
- Do all rough work in your answer book. Cross through any work you do not want to be marked.
- Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Information

- The marks for questions are shown in brackets
- The maximum mark for this paper is 94.
- In questions **03**, **09** and **15**, **two** marks will be awarded for Assessment Objective Three (AO3), and so you will be marked on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.

Section A Introduction to Criminal Liability

Answer **all** questions on Scenario 1.

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 1

John saw Gordon and Pia, John's ex-girlfriend, standing at the bus stop. John went over to them and started shouting at Gordon, accusing him of stealing his girlfriend. This frightened Gordon. Pia had previously told Gordon that John was a violent man. Gordon was also aware that John had many criminal convictions, including some for violent behaviour.

John then pushed Gordon roughly. Gordon staggered into Pia, who fell off the kerb into the road. As a result of her fall, Pia sprained her ankle. John walked away laughing.

Actus reus requires proof of an act or omission, causation and a criminal consequence. Mens rea is also required for criminal liability, but there is an exception where the offence is one of strict liability.

0 1 Explain the meaning of the term causation in criminal law. **[8 marks]**

0 2 Outline the meaning of both of the following terms:
• oblique (indirect) intention
• transferred malice. **[8 marks]**

Refer to the scenario when answering the remaining questions in this section.

0 3 Outline the actus reus and mens rea of the offences of assault and battery **and** discuss how these offences could be applied to the events between John and Gordon. **[10 marks + 2 marks for AO3]**

0 4 Discuss whether John is likely to be found guilty of the offence of assault occasioning actual bodily harm on Pia. **[8 marks]**

0	5
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Outline the pre-trial procedure which would be followed if John were charged with assault and/or battery on Gordon (both summary offences).

[5 marks]

0	6
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Assume that John has been convicted of the offence of assault on Gordon. Outline the range of sentences that would be available to the court.

[6 marks]

Turn over for the next question

Choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.

Section B Introduction to Tort

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 2

Raza is the owner of a garage near to Debbie's house. Raza had just finished putting some new wheels on Martin's car. Shortly afterwards, Martin was driving the car home from the garage. As he was passing Debbie's house, one of the newly fitted wheels came off the car. The wheel bounced across the garden and smashed into a greenhouse where Debbie was watering her plants.

Debbie was cut by the broken glass. She has been advised that she is likely to get £2000 in damages for her injuries. Debbie's greenhouse cost £400 to repair and Martin's car cost £600 to repair.

Negligence requires proof of duty of care, breach of duty, and damage.

0 | 7

A claimant has to prove that a duty of care is owed using the three-part test set out in the case of **Caparo v Dickman**. Two parts of the test are that there is proximity between the claimant and the defendant **and** that it must be fair, just and reasonable to impose a duty of care.

Briefly explain these **two** parts of the test.

[7 marks]

0 | 8

Breach of duty involves the defendant failing to reach the standard of care of a reasonable man. Risk factors affect whether that standard has been breached. Risk factors include:

- special characteristics of the claimant
- the magnitude (size) of the risk
- whether all practical precautions have been taken
- the social utility of taking the risk (benefits of taking the risk).

Briefly explain any **two** of these risk factors.

[7 marks]

Refer to the scenario when answering the remaining questions in this section.

- 0 9** Briefly explain the rules relating to the principle of res ipsa loquitur and explain how these rules may apply in any claim that Debbie makes against Martin **and** against Raza.
[10 marks + 2 marks for AO3]
- 1 0** Briefly explain the rules on causation **and** remoteness of damage in negligence. Discuss how these rules would apply to Debbie's **and** to Martin's claims against Raza.
[8 marks]
- 1 1** Outline the three-track case management system used in the civil courts and briefly explain which track and which court would be used in any claim that Debbie could make.
[5 marks]
- 1 2** Assume that Raza was found liable in negligence to Martin and also to Debbie. Explain how the court would calculate an award of damages to each of them.
[8 marks]

Choose **either** Scenario 2 (**Section B**) or Scenario 3 (**Section C**) and answer **all** questions on the scenario you choose.

Section C Introduction to Contract

Use continuous prose. Give reasoned answers. Where appropriate, make reference to cases, statutes and examples.

Total for this scenario: 45 marks + 2 marks for AO3

Scenario 3

Marnie is a singer. She wanted to get some merchandise ready for a tour. On Monday she went to Discs' website and filled in the online form to buy 1000 DVDs for £800. She added 'Special label required' and pressed 'Proceed with order'. Discs' sales manager phoned her to discuss the special label. Discs then sent an email – 'DVDs as discussed, £900 - delivery Friday - OK?'

Marnie's computer crashed before she could reply. She immediately wrote a letter to Discs explaining her computer problem, and saying that she was happy with those terms if Discs could supply the DVDs for £875. Her letter arrived on Wednesday. Discs replied immediately by post to her letter saying they would supply the DVDs for £875.

Later on the Wednesday, Marnie called in at Zed Promotions (ZP). ZP was able to supply the DVDs and labels for £850 with immediate delivery which Marnie accepted.

Marnie fixed her computer on Thursday morning and emailed Discs that she no longer wanted the DVDs. Marnie then refused to accept the delivery from Discs when her order arrived on Saturday.

A valid contract requires an offer, acceptance, an intention to create legal relations and consideration.

1 3 Outline the law relating to the ways in which an offer can be accepted. **[7 marks]**

1 4 Briefly explain what is meant by consideration in the law of contract. **[7 marks]**

Refer to the scenario when answering the remaining questions in this section.

1 5 In relation to contract law, discuss each of the stages in the negotiations between Marnie and Discs. Discuss if and when a contract was formed between them. **[10 marks + 2 marks for AO3]**

1 | 6

Explain the differences between actual breach and anticipatory breach of contract. Briefly explain which form of breach occurs in the following:

- when Marnie sends her email to Discs on Thursday
- when Discs attempt to deliver Marnie's order on Saturday.

[8 marks]**1 | 7**

Outline the three-track case management system used in the civil courts and briefly explain which track and which court would be used in any claim that Discs could make against Marnie.

[5 marks]**1 | 8**

Assume that Marnie was found liable for breach of a contract with Discs. Explain how the court would calculate an award of damages to Discs.

[8 marks]**END OF QUESTIONS**

There are no questions printed on this page

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