

AS LEVEL

Examiners' report

LAW

H018

For first teaching in 2020

H018/01 Summer 2023 series

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Introduction

Our examiners' reports are produced to offer constructive feedback on candidates' performance in the examinations. They provide useful guidance for future candidates.

The reports will include a general commentary on candidates' performance, identify technical aspects examined in the questions and highlight good performance and where performance could be improved. A selection of candidate answers is also provided. The reports will also explain aspects which caused difficulty and why the difficulties arose, whether through a lack of knowledge, poor examination technique, or any other identifiable and explainable reason.

Where overall performance on a question/question part was considered good, with no particular areas to highlight, these questions have not been included in the report.

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Paper 1 series overview

Paper 1 covered a broad range of topics and candidates did well if they had revised thoroughly and were able to recall the knowledge that was required. However, it is clear many students were not prepared for some elements of the paper, particularly in Section A. Some topics such as alternative dispute resolution (ADR) and Sentencing are clearly popular with the candidates whereas Employment Tribunals seems to have been somewhat neglected. It is important that all parts of the specification are delivered and question spotting is not undertaken. In Section B candidates appeared to have retained some detailed knowledge and understanding of the law. However, in this section there seemed to be less understanding of the requirements of each question. Candidates should have plenty of experience with practice questions so that they are clear about the demands of the scenario questions in particular. They need to refine their approach to application questions to avoid unnecessary description that will not gain any marks. The paper requires all questions to have a response and therefore no candidates should be leaving out aspects of the specification.

Candidates who did well on this paper generally:	Candidates who did less well on this paper generally:
<ul style="list-style-type: none"> • had been taught all aspects of the specification • had a good understanding of legal principles, particularly in relation to non-fatal offences • had revised thoroughly on all aspects of the specification • had a good understanding of the Assessment Objectives linked to the different questions and how to meet them. 	<ul style="list-style-type: none"> • had not prepared all of the topics within the specification • may have attempted to speculate regarding the potential questions that could be asked • did not have a good knowledge and understanding of the legal principles, particularly in relation to non-fatal offences • did not understand the Assessment Objectives or how to meet them.

Section A overview

Candidates had a varied response to this section. Some of the responses were clearly well prepared and candidates had a good knowledge and understanding of the topic, which demonstrates an ability to retain and recall the required information. However, they did not respond well to all the questions which clearly demonstrates that some topics are neglected either in the delivery of the course or the revision carried out by candidates. Where candidates had retained information on all aspects of the specification there were many opportunities within this section to achieve high marks.

Question 1

1 Explain the differences between criminal and civil law.

[8]

This question resulted in a range of responses covering all levels. The more successful responses produced separate paragraphs for civil and criminal law and dealt with each individually, or alternatively identified a range of points and compared civil and criminal law for each of them. There were some impressive responses with candidates knowing the different parties and standards of proof. Candidates could quickly reach high marks by identifying the courts, the standards of proof and the outcomes. Some students inadvertently gave a lot of detail on the types of cases and judges which unfortunately, despite being accurate, were matters not relevant to the question. Some of the candidates attempted evaluation which was also not relevant to the question.

Question 2

2 Describe the work of employment tribunals.

[8]

There were very few Level 4 responses and it appears that many students were unprepared for a question on Employment Tribunals. The majority of candidates were able to indicate the types of matters dealt with by an Employment Tribunal but little more, with some very confused about its purpose. These candidates tended to talk about an Employment Tribunal being an alternative dispute resolution mechanism and then discussing ADR. These responses also tended to evaluate the Employment Tribunal which was not the Assessment Objective for this question. In fact, candidates could have reached a high mark fairly easily by identifying the claims brought to the tribunal and describing the role of the judge/chair to manage the case, listen to evidence and deliver a judgement.

Question 3

3 Describe the aims of sentencing.

[8]

This was obviously a popular topic with the candidates and there were plenty of Level 3 and Level 4 responses. Candidates who were confident in their knowledge and focused on the questions were able to identify a range of aims with a description of each, occasionally with a very detailed description given. Candidates who could identify five aims and provide an explanation of the aim were quickly able to reach full marks. Where candidates did fail to reach a high mark, it was often because they had misunderstood the question and described the types of sentences, or occasionally because they provided an evaluation of the aims, which was not the requirement of this question.

Question 4

4 Discuss the disadvantages of using mediation as a way of solving a civil dispute.

[8]

ADR was clearly a popular topic for the candidates, but candidates appeared unprepared with the required technique to respond to a discussion type question. Although there were some Level 3 and Level 4 responses the majority of candidates found themselves in Level 2 due to the lack of evaluation. Candidates were proficient at supplying a list of disadvantages of mediation but they struggled to develop these in a meaningful way as required for AO3. It is important to note that a bald statement identifying a particular factor is not enough to achieve the first point. It is also essential to add the impact of that factor in relation to the disadvantage it creates for mediation. Once this is done the candidate can then expand on that point with further discussion. It is possible to present a counter argument and gain marks but that can only be achieved if the candidate has already delivered a Developed Point focused on the disadvantage. The weaker responses tended to write a statement of fact followed by another statement saying why it was a disadvantage and this often only achieved the basic point marks. Some candidates responded with limited argument focused on time and money and this repetitive discussion also tended to limit their work.

Exemplar 1

	4.	A disadvantage of using mediation
		is it is not legally binding. This
		means a settlement could be
		agreed upon but not actually
		followed through with by either
		of the parties. This could
		lead to the parties having to
		go to court or through
		arbitration anyway, which means
		the time of going through mediation
		and the courts with the cost
		added on makes mediation
		seem less worth attempting. This
		means justice may not be achieved
		as some people may not be
		able to afford court fees or
		take the time out of work
		to attend.

This is a good example of a well-developed response. The candidate identifies the issue then uses the phrase - 'this means that' - to link it to the impact on mediation. This achieves the point which they then discuss in detail.

Exemplar 2

		One disadvantage of using mediation as a way
		of solving a civil dispute is that it can be
		costly. This means that even though the
		process is not formal and not legally binding
		the party parties would still have to pay
		a cost despite the fact that the process is
		not legally binding so the parties can re- alter
		the decision or not follow the decision made
		at any time so money could potentially be
		wasted. Another disadvantage is that one of

A good example of a developed response. The candidate identifies cost in a bald statement and the point is not really achieved until they have discussed formality and lack of legally binding outcomes. This is clear from the use of –‘this means that’ – to link to the impact on mediation. This only leads to development because of money wasted and the discussion of this point ends there.

Section B overview

This section provided a broad range of questions offering plenty of opportunity to display knowledge from across the specification. Candidates had a good understanding of many aspects of non-fatal offences, although for some it was a more challenging task to identify which offences were required for each question. Those candidates who had a very good understanding of the law demonstrated a confident application to the scenario questions by identifying the correct offence and the point at which the characters had actus reus and mens rea. Those with a less secure grasp of the law found it more difficult to identify the offence and then struggled to maintain focus on the question often just presenting a repeat of the scenario. The more successful candidates fully understood that the evaluation question was focused on battery and were able to discuss that offence rather than providing general commentary on non-fatal offences.

Question 5

During a woodwork class at school, Layla overhears Kareem saying rude things about her to his friend Ben. She walks up to Kareem and punches him in the face. As a result, Kareem falls backwards off his chair. He hits his hand on a workbench causing a severe cut, which requires medical treatment.

Layla's friend, Mia, then decides to frighten Ben. She points an electric drill at the back of his head and switches it on. When Ben hears the drill behind him, he quickly turns around. Mia deliberately pushes the end of the drill into Ben's face, blinding him in one eye.

5 Explain what is meant by transferred malice in criminal law.

[8]

This was a very straightforward mens rea question. The more successful responses linked transferred malice correctly to mens rea and provided a range of cases to illustrate. If candidates did this correctly they could reach Level 4 without difficulty. Some of the weaker responses confused transferred malice with actus reus as they appeared to be struggling with a basic explanation. However, those responses also recovered some marks because they could correctly explain the case law. Some candidates wasted precious time explaining what mens rea was rather than concentrating on the question asked. A number of candidates were confused between transferred malice, factual causation and intention.

Question 6

6 Advise how the law relating to non-fatal offences against the person will apply to Layla. **[8]**

Candidates demonstrated a clear understanding of the range of non-fatal offences for this question with clear evidence of some knowledge of both the actus reus and mens rea for all offences. However, there are only application (AO2) marks available in these questions and therefore, while a huge amount of relevant knowledge and understanding (AO1) including case authority was cited, there were no marks available for this. The stronger responses maintained focus on the question and applied the law directly to Layla. They were able to identify the offences of s47 and s20 and how they applied to Layla. However, a large number of candidates did not identify that there were two offences in the scenario and this has been the same for a number of years now. As a result, the weaker responses only identified a battery and did not link it to the actual bodily harm (ABH) or alternatively decided that the 'severe cut' was the ABH.

Question 7

7 Advise how the law relating to non-fatal offences against the person will apply to Mia. **[8]**

As with Question 6 candidates demonstrated a clear understanding of the range of non-fatal offences for this question with clear evidence of some knowledge of both the actus reus and mens rea for all offences. However, there are only application (AO2) marks available in these questions and therefore, while a huge amount of relevant knowledge and understanding (AO1) including case authority was cited, there were no marks available for this. Again, candidates often did not deal with the two offences although it was very clear in this scenario that there were two separate offences. The issue of assault was often very well done with the stronger responses being able to apply the law very successfully for that offence. There was some confusion about the s18 offence although the fact that the victim was now blind in one eye and that the drill had been pushed in 'deliberately', made this offence fairly obvious. The weaker responses suggested that this could be s20 or even s47. Some of the much less successful responses tried to link this to the events in the previous scenario and suggested defences based on the conversation between Ben and Kareem.

Misconception



A common misconception seems to be that description of the law is required for the scenario questions (Questions 6 and 7). This is not the case. Only AO2 marks (application) are available for these questions and candidates should focus on this rather than waste time describing the law.

Exemplar 3

7	B	<p>mia will be charged with assault under s39 Criminal Justice Act 1988 which is defined as intentionally or recklessly making the victim apprehend immediate unlawful violence (<u>Fagan v MPC</u>). Here, the victim apprehends violence as he has a general awareness of violence as when mia turns on the drill, Ben quickly turns around (<u>Smith v Supt of Woking</u>).</p> <p>The violence that could occur to Ben is immediate as they are in close proximity of each other and the violence could occur within a reasonable amount of time (<u>Smith v Supt of Woking</u>). The unlawful violence is through gestures and scaring Ben (<u>Savage</u>). Therefore the Actus Reus is satisfied. Mia has intention to cause Ben to apprehend unlawful violence as she decides to frighten Ben by turning on the drill (<u>Mohan</u>). Therefore the mens Rea is satisfied and mia is criminally</p>
		liable for Assault.

Although there is a brief definition which is AO1 this is an excellent example of application where the focus is on the character in the scenario and how she is liable for the offence that they have correctly identified. This gains the maximum marks for this issue within the question.

Question 8*

- 8*** Discuss the problems with the common law offence of battery and the extent to which reform of the law would make it more morally justifiable. **[8]**

Many candidates appeared to be unprepared for a question picking out a specific non-fatal offence to discuss and instead appeared to expect a question on the Offences Against the Person Act generally. As a result, there was a lot of incorrect reference to battery not being clearly defined in 'the Act' and the fact that the Act was very old. As a result, there were a number of less successful responses struggling to achieve more than Level 2, and in these cases, they either did not discuss battery specifically or did not discuss anything, focussing on description rather than discussion. In addition, candidates must be aware that the discussion must be developed in this question in the same way as it is in question 4. This means that a bald statement identifying a particular factor is not enough to achieve the first point. It is also essential to add the impact of that factor in relation to the question. It is not enough to say that battery is not well defined and therefore reform of the law would make it more morally justifiable; candidates must specify the aspects that are positive or negative and show how reform could improve it or be unnecessary. Once this is done the candidate can then expand on that point with further discussion.

As in previous sessions, centres must be aware that any aspect of non-fatal offences could be put forward as the discussion question and candidates will be well advised to spend time preparing and discussing critical comments on all of the specific offences.

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