

INTERNATIONAL ADVANCED LEVEL

Law

SAMPLE ASSESSMENT MATERIALS

Pearson Edexcel International Advanced Level in Law (YLA0)

For first teaching in September 2013
First examination June 2014

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Pearson Edexcel

International Advanced Level

Law

Paper 1

Sample Assessment Material

Time: 3 hours

Paper Reference

YLA0/01

You must have:

Answer book (AB16)

Instructions

- In the boxes on the answer book, write your centre number, candidate number, your surname and initials, the paper reference (YLA0/01) and your signature.
- Answer **FOUR** questions: **TWO** questions from Part One and **TWO** questions from Part Two.
- Your answers must be fully supported with appropriate legal authority and examples.
- Answer your questions in the answer book.
- Indicate which questions you are answering, in the boxes on the front page of the answer book **AND** in the left-hand margin of the answer space.
- Do not use pencil. Use blue or black ink.

Information

- All questions carry equal marks.
- The total mark for this paper is 100.
- This paper has 10 questions. Page 4 is blank.

Advice

- Write your answers neatly and in good English.

Turn over ►

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PEARSON

Answer FOUR questions.

**TWO questions must be chosen from Part One and
TWO questions must be chosen from Part Two.**

PART ONE

- 1** "The existence of law is one thing; its merit or demerit another." Explain and evaluate this statement made by the legal positivist John Austin.

(Total 25 marks)

- 2** Evaluate the claim that Dicey's account of the rule of law is too narrow to be useful in modern society.

(Total 25 marks)

- 3** "Equity has not made any important contributions to the development of the substantive law in England and Wales; its advantages have been mainly procedural." Explain and evaluate this statement.

(Total 25 marks)

- 4** Evaluate the claim that the only convincing justification for punishment in the criminal justice system is retribution.

(Total 25 marks)

- 5** "The Human Rights Act 1998 has not greatly affected the substance of UK law, but has altered judges' perceptions of their role." Explain and evaluate this statement.

(Total 25 marks)

TOTAL FOR PART ONE: 50 MARKS

PART TWO

- 6 Evaluate the contention that the rules of statutory interpretation prevent judicial creativity.

(Total 25 marks)

- 7 "The doctrine of judicial precedent in the UK offers only vague guidelines and not strict rules." Explain and evaluate this statement.

(Total 25 marks)

- 8 Evaluate the claim that the availability of legal aid, both civil and criminal, has been eroded to such an extent that access to justice in the UK is not widely available anymore.

(Total 25 marks)

- 9 "The jury is outdated and should be abolished." Explain and evaluate this statement.

(Total 25 marks)

- 10 "The traditional notion of parliamentary sovereignty cannot survive the increasing impact of EU law." Explain and evaluate this statement.

(Total 25 marks)

TOTAL FOR PART TWO: 50 MARKS

TOTAL FOR PAPER: 100 MARKS

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Mark Scheme (SAM)

Pearson Edexcel International Advanced Level in Law

Unit 1: Paper 1

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General marking guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed-out work should be marked UNLESS the candidate has replaced it with an alternative response.

General Marking Bands

The guidance on different types of responses below should be read in conjunction with the detailed marking content for each question.

Level	Mark	Descriptor
An excellent answer	25–22	<p>Presents a well-structured response to the question and consistently demonstrates a thorough knowledge and understanding of legal rules and legal institutions and excellent appreciation of the function of law in society. Shows a thorough understanding of legal classification and an excellent approach to problem solving with a particular strength in the use of legal authority, together with a demonstrable awareness of matters of legal controversy and legal reform. Demonstrates an ability to appraise and criticise the application of legal principles across different branches of the law.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>
A very good answer	21–17	<p>Presents a clearly written answer with a detailed knowledge and understanding of legal rules and also the place and role of institutions, as well as demonstrating a very good appreciation of the role and function of law in society. Shows a good understanding of legal classification and demonstrates a clear grasp of analysis of legal problems, with a real ability to apply rules and use authority. Shows a good understanding of different branches of law and gives evidence of a critical awareness of controversial issues in law and law reform. The majority of relevant legal issues raised by the question are included with appropriate supporting material.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>

Level	Mark	Descriptor
A good answer	16–13	<p>Demonstrates a sound knowledge and understanding of legal rules, and the role and function of law in society with some evidence of depth and breadth of argument. Is able, where required to distinguish between civil and criminal liability, and shows a sound approach to problem solving. Quotes some appropriate legal authority. Demonstrates a sound knowledge of some of the relevant issues raised by the question and shows awareness of current controversies and legal reform. Identifies significant points in the marking scheme but with some imbalance in the treatment of issues raised by the question.</p> <p>The candidate will express moderately complex ideas clearly and reasonably fluently through well-linked sentences and paragraphs. Arguments will be generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.</p>
A satisfactory answer	12–8	<p>Presents an answer that demonstrates some knowledge and understanding of legal rules and institutions, and awareness of the role and function of law in society. Demonstrates some ability to solve problems, to identify sources, and to quote relevant authority. Shows knowledge of different branches of law, with some understanding shown also of legal classification. Although awareness of current controversies and reform issues is demonstrated, answers are more descriptive than analytical.</p> <p>The candidate will express straightforward ideas clearly, if not always fluently. Sentences and paragraphs may sometimes not 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 suggest a weakness in these areas.</p>

Level	Mark	Descriptor
A basic answer	7-4	<p>Presents an attempt to deal with the question with a superficial knowledge and understanding of legal rules, institutions and the role and function of law in society. Shows an attempt to deal with legal classification and problem solving and uses legal authority, with a little understanding of appropriate branches of law. Gives evidence of a little awareness of issues of controversy and reform. Answers may be commonsense with simple conclusions and little law.</p> <p>The candidate will express simple ideas clearly but may be imprecise and awkward in dealing with complex or subtle concepts. Arguments may be of doubtful relevance or obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, suggesting weakness in these areas.</p>
	3-0	<p>Presents an answer that demonstrates difficulty in understanding the subject. Although struggling, may produce some relevant points. Perhaps produces a social answer with little relevance to law.</p>

Part One

Question Number	Indicative content	Mark
1	Explanation of the theory of legal positivism through the quotation and contrast with approach of natural lawyers such as Plato, Cicero, Aquinas.	(25)

Question Number	Indicative content	Mark
2	Account of Dicey's definitions and examination of their adequacy in the modern context.	(25)

Question Number	Indicative content	Mark
3	Evaluation of the range of substantive contributions made by equity in contract and property law and elsewhere, and assessment of the value of its procedure historically.	(25)

Question Number	Indicative content	Mark
4	Examination of different theories of punishment and their merits. While accounts of various sentences/types of disposal for offenders may be relevant, they must not displace the philosophical issues.	(25)

Question Number	Indicative content	Mark
5	Two- fold coverage, firstly of the now extensive case law on the impact of the Act, and assessment of the degree to which the advent of ss3 and 4 of the Act have altered the mind set of the judiciary.	(25)

Total for Part One = 50 Marks

Pearson Edexcel

International Advanced Level

Law

Paper 2

Sample Assessment Material

Time: 3 hours

Paper Reference

YLA0/02

You must have:
Answer book (AB16)

Instructions

- In the boxes on the answer book, write your centre number, candidate number, your surname and initials, the paper reference (YLA0/01) and your signature.
- This paper is divided into **FIVE** sections (A–E). Choose **TWO** of these sections and answer any **TWO** questions from each – **FOUR** questions in total.
- Your answers must be fully supported with appropriate legal authority and examples.
- Answer your questions in the answer book.
- Indicate which questions you are answering, in the boxes on the front page of the answer book **AND** in the left-hand margin of the answer space.
- Do not use pencil. Use blue or black ink.

Information

- All questions carry equal marks.
- The total mark for this paper is 100.
- This paper has 20 questions. Any blank pages are indicated.

Advice

- Write your answers neatly and in good English.

Turn over ►

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**Answer any FOUR questions chosen from TWO sections.
Candidates must answer TWO, and only TWO, questions from each section chosen.**

SECTION A: The Market

- 1** *A*, a retailer, advertised on the internet that he was selling his stock of electrical equipment at “knock-down” prices. *B* ordered and paid £50 online for an electric fire from *A*, asking for “delivery as soon as possible” and requesting immediate confirmation of his order by email. When he had not heard from *A* after two weeks, *B* wrote to the address on *A*’s website, asking what had happened to the electric fire he had ordered. *A* replied by post that the fire would soon be despatched and that it should arrive within two days. *B* replied angrily that he would be asking for his £50 to be returned if he did not receive the fire within two days.

On checking the electric fire a week later, *A* discovered that it was faulty, so he sent a different model to *B* priced at £100, together with an invoice for the extra £50. *A* repaired the original fire and on receiving another order for that model from *C*, he agreed to sell the electric fire intended for *B* to *C* for £30 the following day.

When *B* realised that he had not been sent the goods he had ordered, and that the fire he was sent was so much more expensive, he telephoned *A* and told him that he did not want the electric fire. *A* apologised and agreed to take back the more expensive fire. However, he informed *B* that the fire he had ordered had now been sold to *C*.

Consider whether *B* has legal grounds for bringing a claim against *A*. If he is successful, what remedy might be available to him, and from which court?

(Total 25 marks)

- 2 *D* booked a week's holiday in response to a newspaper advertisement, for himself, his wife *E*, and children *F* and *G*. The advertisement stated:

"Lovely luxury hotel in the Lake District, with views of hills and lakes. Child care provided. Exotic spa and leisure facilities. Discount for families of four or more. Terms and conditions apply."

D booked a large hire car, as the family car was rather small, and the journey would be very long. Two days before the family left for their holiday *G* fell ill, so they decided that she should stay at home with her grandmother. The hotel reminded *D* about the terms and conditions. One of these stated in small print, in a receipt available only after the booking was made, that there could be no discount in the event of cancellations. Realising that they would need a slightly smaller car, *D* then also tried to change the booking he had made with the car-hire firm, and was informed that all the smaller cars were already reserved.

The hotel proved to be very disappointing, as it was shabby and cold, and the spa was closed for refurbishment. A small paddling pool was located in the hotel grounds and, at the entrance to the hotel, the following notice was posted:

"Your children are your responsibility. You MUST supervise them in or near the pool and playground. The hotel accepts no responsibility for any harm they may suffer on the premises."

F, aged six, wandered away from her parents while they were having dinner, and fell into the pool, sustaining serious injuries. *E* suffered a serious mental illness as a result of seeing *F* so badly injured. The hotel denied all legal liability, even though they had withdrawn the child care service so that there was nowhere for children to play under supervision.

When *D* paid the hotel bill he was told that he would have to pay for four people, even though only three had stayed there.

Consider whether *D*, *E* and *F* have any legal remedies against the hotel company, and whether the car-hire company was acting lawfully in refusing to change the hire agreement. Explain whether *D* can claim compensation for the disappointment he suffered when the hotel failed to meet the expectations generated by its advertisement.

(Total 25 marks)

- 3** *H*, an 80-year-old lady, saw some very interesting modern furniture in a small furniture store. She was told by *J*, the owner of the store, that the items she wanted were the last in the store, that no more would be available, and that she would never see anything like this for sale elsewhere. These statements were not true, but *J* had found this tactic to be a good method of pressurising people to commit themselves to buying goods. *H* placed a deposit of £2,000 on the furniture, and agreed to pay the rest in three monthly instalments of £1,000. They agreed by shaking hands, although *H* signed a note recording the costs.

When the furniture was due to be delivered two days later, *H* stayed at home all day, losing £500 which she would have won if she had done as planned that day and placed a bet on her favourite horse at a local racecourse. The furniture did not arrive. When it did arrive the following week, *H* examined it properly, and she realised that it was of poor quality and in need of repairs, so she refused to pay the money that was still outstanding. She also asked *J* to collect the furniture as she had changed her mind about buying it. *J* said he would come to her flat to collect the money himself. *H* was very frightened, and had no idea what she should do.

Consider whether *J* has acted lawfully in the course of these events. Explain what *H* might be able to do to escape from the agreement she made, and from whom she might get advice on her legal position.

(Total 25 marks)

- 4** *K* and *L* paid *M*, a friend, £200 for tickets for a concert starring *N*, their favourite singer, whom *M* had contracted to perform. *M* agreed that if *K* and *L* acted as stewards for the event, they could stay at the concert hall free of charge on the night of the concert. *M* also asked *K* and *L* to sell T-shirts at the event, promising them £2 for every T-shirt sold.

K and *L* travelled 30 miles to see *N* but found the evening very disappointing, as *N* was clearly under the influence of alcohol, and could hardly stand. The audience shouted him off the stage, and *K* and *L* would have left early, but they stayed on as stewards because of their promise to *M*. *K* and *L* sold 50 T-shirts, but they had no receipts for the sales because *M* had not provided them with proper cash machines.

There was a serious fire in the concert hall that same night and *K* and *L* had to stay in a hotel nearby. *M* refused to give *K* and *L* any money for the T-shirts they had sold, and would not reimburse them for their night at the hotel. *M* argued that theirs was simply an informal, friendly arrangement that attracted no legal obligations.

M refused to pay *N* for the performance at the concert, which so many people had found very poor.

Consider whether *K* and *L* would be successful if they brought a legal claim against *M*. Explain the legal position of *N* in respect of his fees for appearing at the concert.

(Total 25 marks)

TOTAL FOR SECTION A: 50 MARKS

SECTION B: The Workplace

5 A employed the following people to work in his restaurant:

- B, a lesbian, who lived with her partner, rent-free in a flat above the restaurant, but on reduced wages;
- C, a female student, who worked in the restaurant only during the summer vacation;
- D, a 60-year-old male chef, who worked for the first half of the week;
- E, a female chef, also aged 60, who worked for the second half of the week.

During the first summer after opening the restaurant, A told B that as she lived above the restaurant, he expected her to be available whenever he called on her to work. Since the restaurant was busier than expected, this meant that B was working a 70 hour week. When she complained, he told her that he did not really want to have lesbians living in the flat, and that she and her partner would have to move out within a week.

E suspects that D is being paid at a higher rate than her own pay. She would like to discover how much D earns and, if her suspicions are correct, to challenge A about this. C is about to return to university for the start of the academic year, but as she has worked so hard over the summer, she would like an assurance from A that he will employ her during the Christmas vacation.

Advise B about her accommodation, and whether she can have her working hours reduced. Consider how E might discover how much D is paid, and challenge the fact that she is paid less than her colleague, if necessary. Advise C as to whether A is legally obliged to employ her over the Christmas vacation.

(Total 25 marks)

6 F owned and operated a factory where he employed about 100 people. One of his senior managers, G, discovered that 30 people were working with dangerous levels of asbestos in the roof area of the factory. As there was pressure to complete the work quickly, he did not take steps to warn them or to provide them with protective equipment. Some years later, H, who had been working near the roof area, developed a serious and potentially fatal lung disorder as a result, and all the other people who had worked in that area of the factory feared that they too might become seriously ill. J, the wife of one of these men, did develop a fatal lung disease after she had been handling and washing her husband's overalls.

K, a building contractor, was engaged to lay a new floor in the factory. There was a leak in the factory roof after heavy rain, and K slipped on a mixture of oil from one of F's machines, and rainwater. He injured his back very badly and was unable to work again. Because of his experience in floor-laying, K was aware of the dangers of oily floors, especially if the oil mixed with water.

Consider whether F will be liable to the people who were exposed to asbestos, and especially to H and to J. How might F deal with G? Explain whether K will be able to claim damages from F. Which authority is likely to be involved in inspecting, and advising the various parties?

(Total 25 marks)

- 7 *L*, a recent graduate, who had studied plant cultivation, was employed in 2005 by *M*, who specialised in developing new varieties of roses. His contract of employment contained the following clauses:

"L agrees never to breach the confidence of M by divulging any information about plant genetics, nor about any methods used in developing new varieties of plants during the course of his employment with M. L agrees not to work anywhere else in the United Kingdom for a period of two years after leaving the employment of M. L also agrees not to work for any other company, anywhere in the world, that is in the business of plant genetics or plant breeding."

M spent five years training *L*, after which time *L* was an expert in the plant cultivation field. By the year 2010, *M* was paying *L* a salary of £50,000 a year, and *M*'s company was one of the leading world producers of new varieties of roses. *N*, a great rival of *M*'s, offered *L* a salary of £100,000 a year and the opportunity to work in the UK or in Nigeria. *L* would like the opportunity to travel and to receive the enhanced salary and prospects.

Consider whether the clauses in *L*'s contract of employment are binding on him. How might *M* prevent *L* from working for *N*?

(Total 25 marks)

- 8 The *P* Health Authority, responsible for three hospitals, was told by the Government to take drastic steps to reduce its expenditure because of cuts in Government spending. *P* decided to make a large number of employees redundant, and wanted to achieve this by closing a hospital. This would mean that a large number of nurses, doctors and other staff would lose their jobs. The cleaning firm contracted by *P* to clean wards and other areas, and a catering company, would not have their contracts renewed, and all of their employees would need to be made redundant. Trade Unions representing staff were seriously concerned about this situation.

P introduced a voluntary early retirement scheme for employees in one of the other hospitals for which it was responsible, offering anyone over the age of 55 the opportunity to leave their employment for sums of up to £50,000, depending on salary and years of service. However, management decisions about early retirement were discretionary, and *P* reserved the right to refuse some applications if there would be too few remaining staff in particular areas of work.

P also decided to close its internal IT department, and employ a firm based in Scotland to deal with all IT matters. This meant that *P*'s IT staff were required to train the employees of the Scottish company to take over their own jobs. *P*'s IT employees strongly objected to doing this and refused to cooperate. They set up a picket line as soon as the plan was announced, and threatened strike action.

Consider how *P* and its contractors might achieve its redundancy targets by using the law, and what agencies *P* could use to improve the chances of agreement with its employees. What legal steps, if any, are open to employees who are refused early retirement? How might the situation involving the IT department be resolved within the law?

(Total 25 marks)

TOTAL FOR SECTION B: 50 MARKS

SECTION C: The Family

- 9 A and B had been married for five years and had one child, C, aged three, whose birth was registered in A's family name. Although they had been happy together for a while, A began to take illegal drugs after C was born, and the relationship became very strained. Then A was convicted of a series of thefts and was sentenced to a term of imprisonment. When A was released from prison, he discovered that B and C had gone to live with D, who was B's new partner. B wanted to divorce A so that she could marry D. B and D did all they could to prevent C from having contact with A, who made no financial contribution to the upbringing of C. After several unsuccessful attempts to see C, A broke into the house where C lived with B and D, and took her away to live with him. B and D wanted C to live with them without having any contact with A. They also wanted her to change her family name to that of D after B and D married, as they did not want people to know that C was associated in any way with A, who had a criminal record.

Explain the legal steps that should be taken to resolve this situation. What are the relevant grounds for divorce? How might A be made to contribute financially to C's upbringing? Consider whether it would be possible for C's family name to be changed and how this might be done.

(Total 25 marks)

- 10 E and F were homosexual men who had been living together in a happy relationship, and who became registered civil partners four years ago. E had a child, G, aged 12, who had been born during his marriage to H, after donor insemination at a licensed centre. E saw G regularly. H died in a car accident, and E and F wanted G to live with them permanently. However, J, whom H had married after she and E had divorced, wanted G to live with him. H's mother wanted G, her grandson, to live with her, as she strongly disapproved of J, whose work took him away from home for several weeks each year. She also disapproved of E and F because of their homosexual relationship. G, who was very confused, said he wanted to discover the identity of his donor and go to live with him, if possible.

Explain how the law can be used to resolve this situation, and which agencies are likely to be involved in the process. What factors should be taken into account in deciding what should happen to G?

(Total 25 marks)

11 *K* and *L* had been married for 15 years but were divorced two years ago. They had two children, *M* and *N*. When *K* and *L* divorced, the court had approved a settlement under which the former matrimonial home would be sold and *M* and *N* would live with *L*. The large sum of money obtained from the sale of the family home was to be divided equally between *K* and *L*, and *K* was to pay the children's fees at a private school, and contribute financial support of £2,000 a month for *M* and *N*.

L was surprised when the bursar of the private school attended by *M* and *N* wrote to inform her that she should pay for all the extras incurred by the children, such as school trips, uniform, books and music lessons. *L* was pregnant at the time, and had given up work as she wanted to stay at home to bring up her new baby after it was born. She claimed to have no means of paying anything to the school.

L had decided not to marry *P*, the father of the baby she was expecting, but *L* and *P* wanted to live together on a permanent basis, and planned to take the children to live in France with them.

What, if anything, can be done to resolve the financial situation with the school? Consider the legal implications of the plan by *L* and *P* to take *M* and *N* to live with them in France.

(Total 25 marks)

12 *Q* and *R* had lived together for seven years and had been married for three years. They had one child together, *S*, aged five, and *R* had a child, *T*, aged 13, from a previous relationship with *U*. *T* was autistic and a very talented musician. He had made several piano recordings, which had earned a large amount of money for him. *Q* turned to drinking excessive amounts of alcohol after he became very jealous of *T* because of the attention that *R* was giving him. He began to shout and scream at *T* and to hit him violently whenever he practised the piano.

R was anxious about *T*, and called the police to the house on several occasions about *Q*'s behaviour. On each occasion, *Q* would appear calm, so the police were unable to take any action. When asked to give evidence by the police, *R* then refused. Eventually, *Q* began to hit *R*, and *S* became distressed, and began to exhibit some very strange behaviour at school. *R* realised that it would be necessary to keep *Q* away from their home. She had no idea how she could do this without involving the police any further. *R* decided that she wanted *S* and *T* to be taken into care.

Q wanted to have a share in the money that *T* was earning, and decided to apply to the court to decide what should be done about this. The media became interested and wanted to publicise details of the family's story and any court proceedings.

Consider whether *R* would be able to keep *Q* away from the family home without involving the police, and explain the steps that she should take to achieve this. Describe the way in which the courts are likely to make decisions about the welfare and placement of *S* and *T*, and about *Q*'s claim for a share in *T*'s earnings. Explain the legal position about publicising family proceedings in the media.

(Total 25 marks)

TOTAL FOR SECTION C: 50 MARKS

SECTION D: The Criminal Offender

13 A was devastated when B, his partner, left him to live with C. After drinking heavily in a local bar, and in a state of shock and anger, he broke into the flat where B and C lived together, by smashing a window. A threw all the food in the fridge around the kitchen, stamping it into the carpet tiles and ruining them. He took two tickets for a football match from the dining room table intending to sell them for a profit outside the football ground the next day. A then entered the bedroom, broke a glass and used it to rip the sheets on the bed. He picked up some jewellery he had given B and put it in his jacket pocket. Hearing someone approaching the front door of the flat, A left via a window, and a necklace dropped out of his pocket and on to the floor of the flat before he jumped to the ground.

A was arrested by the police the following day on suspicion of various offences. When interviewed by the police, he claimed that he could remember nothing except being very drunk when he approached the flat. He also explained that he suffered from epilepsy and that it was possible that he was having an epileptic fit when he was in the flat, which led him to act irrationally.

Consider whether any offences have been committed by A, and if so, the extent to which he might be able to rely on any defences.

(Total 25 marks)

14. Y, aged 18, was caring for D, her mother, at home, and found the experience very stressful as D was slowly dying of a degenerative disease. Y had given up college to nurse D, and was suffering from depression because of the situation. Y decided that she could no longer watch D's suffering, so she put what she knew to be a fatal dose of a very strong sedative in D's coffee. Before she started to drink, D got out of bed and slipped on the wet floor, which Y had recently cleaned. She hit her head and fell into a coma.

D was taken to hospital, where she was visited by E, her son, who had arrived that night from Australia. He was so distressed at the sight of D, that he smothered her with her pillow and she subsequently died. A post mortem examination was carried out but it was impossible to identify the exact cause of death.

Discuss the criminal liability, if any, of Y and E.

(Total 25 marks)

15 *Z* and *F*, aged 18 and 20 respectively, were students who frequently played practical jokes on each other. On one occasion, *Z* telephoned *F* and told him that *F*'s girlfriend, *G*, was seriously ill, and that he should collect her clothes from her room and take them to the hospital. As he entered *G*'s room, *F* was soaked by water from a bucket which *Z* had placed above the door in such a way as to fall on *F*'s head when he opened it.

At that point, *G* arrived home unexpectedly and wondered what was going on. She was so shocked that she lost her temper, and hit out at the crowd of people in the flat (many of them under the age of 16), who had been encouraged by *Z* to go there to watch. *G* pushed *H*, one of the observers, out of the way. *H*, who had an undiagnosed heart condition, fell and suffered a fatal heart attack. *F* panicked and suffered an asthma attack. *Z* realised that *F* was in a serious state, but he left him gasping for breath. *F* died as a result of the asthma attack.

Consider whether any criminal offences have been committed in this situation and which defences could apply. How might the courts deal with any offenders?

(Total 25 marks)

16 *J*, aged 15, became pregnant. She was too frightened to tell anyone, and ran away from home, planning to live rough until the baby was born. *K*, who was *J*'s uncle, noticed her the following day, looking very lost, and offered to let her stay with him. As *J* was tired and hungry she accepted, and went home with *K*. *K* locked *J* in an attic room, guarded by a fierce dog. *K* provided *J* with food and water, and told her to rest there until the baby arrived. *J* was so distressed when her baby was born that she killed the baby. After that *K* forced *J* to work for him without wages, and refused to let her leave the house. One day, when *K* was out, *J* hit *K*'s guard dog very hard when it was asleep, causing it serious injuries, and she escaped across the roof to the house next door where she obtained help.

Consider what crimes, if any, have been committed in this situation, whether any defences might apply and how the courts might deal with the offenders.

(Total 25 marks)

TOTAL FOR SECTION D: 50 MARKS

SECTION E: The Citizen and the Law

17 A was in her second year at university, and was a promising student with no criminal record. One late summer's evening, A was walking home through a town centre when she saw an unruly crowd of people looting shops and setting buildings on fire. Acting on impulse, A ran into a shop through a door which had been broken down by the looters, trampled over some electrical goods which had fallen to the floor, picked up an expensive new computer, and ran home with it. Later that evening, A sent messages via a social networking site from the computer, encouraging others to go to their own town centres to repeat the events that were happening where she lived.

B and C were both aged 20, and were enjoying the excitement of the evening. B threw a brick at a shop window and broke it, shouting to others to join him, and after a few minutes he had gathered a crowd of 30 people, all hurling stones at police officers who had arrived on the scene. C set fire to a piece of wood which he had drenched with petrol and set a car alight, shouting racial abuse as he did so. D, a young mother, observed the events through the bedroom window of her house, and was very frightened for her own safety and for that of her children.

Consider what public order offences, if any, have been committed in this scenario, and explain how the courts are likely to deal with any offenders.

(Total 25 marks)

18 During the football season, two rival groups of football fans were engaged in a fight near a football stadium. They were pictured on CCTV cameras and some days later, police officers went to E's house when his parents were out, and arrested him on suspicion of several public order offences and took him to the police station to be interviewed. E was aged 15, and had been at the scene of the fight with F, aged 18, and G, aged 20, but had not joined in. The police also arrested F and G, and took them to the police station in separate cars, asking G a variety of questions on the way, and recording the answers. At the police station, E, who had never before been in trouble with the police, became extremely distressed, and kept asking to see his father. His requests were ignored. F, who had numerous previous criminal convictions, refused to say anything at all in response to the questions, but asked to see a solicitor. He was told that he could not see a solicitor unless he answered the questions. G, who was not a native English speaker, found it difficult to understand the questions he was asked, but both in the car, and at the police station, he said many things that incriminated him.

E was released after agreeing to accept a caution, and after his fingerprints had been taken without his consent, and with some force being applied by a police officer. F was held in police custody for 36 hours without seeing a solicitor and was then released without being charged. G was charged with several offences before being released on police bail. He was not given access to either a solicitor, as he had not asked for one, or an interpreter, as one was not available.

Consider whether the police have acted lawfully, and if not, what remedies might be available to E, F and G.

(Total 25 marks)

19 A group of business people, calling themselves Circle *H*, joined forces to represent the interests of all the small businesses in their area. They objected to planning permission having been granted by the *J* Local Council for a large supermarket in a rural part of their area. At one of their meetings, Circle *H* passed a resolution not to cooperate with any of the members of the *J* Council until they agreed to meet them and hear their complaints. *K* and *L* were members of the Circle *H* who refused to join the protest, having voted against the resolution. The next issue of the Circle *H* newsletter contained a statement calling *K* and *L* traitors. In retaliation, *K*, who had once had an affair with *M*, the chairman of Circle *H*, spoke to a journalist, who later published an article in a local newspaper about the disloyalty *M* had shown to his wife. This account gave lurid details of their affair, followed by the words:

“Our fit young woman has much more to say about the rudeness of M, both in and out of the bedroom.”

L, who had lost a large sum of money he had invested in a company owned by *N*, the secretary of Circle *H*, telephoned the police, the local MP and numerous friends, and placed messages on an internet social networking site, stating that *N* had been bribing councillors in an effort to make them withdraw planning permission for the supermarket.

Consider whether *M* is likely to obtain compensation from *K* and the newspaper for the publication about his private life, and an injunction to prevent further revelations. He would like to protect his wife from further distress by obtaining a super-injunction in relation to threatened new revelations. Explain whether *N* has any legal redress against *L*.

(Total 25 marks)

20 *P* had very strong concerns about proposals to build a nuclear power station near her home, and she knew that other local residents had similar anxieties. She was vaguely aware that she needed to inform the police if she wanted to organise a protest march, so two hours before *P* and a large group of neighbours set off on a march around the nearest town, she telephoned the police to warn them that there would be a meeting in the market place, followed by a march to the proposed building site. The police officer who answered the call told *P* that she and her friends would be breaking the law if the meeting and march went ahead. It was too late to cancel the event, so *P* carried on regardless.

During the meeting, feelings ran high, and the crowd, which had blocked the main road outside the market hall, became angry and noisy, inflamed by *P*'s strong words and views. Protestors picked up posts and brandished them at the police who had surrounded the market place, pushing cars over then banging on the doors of nearby houses. However, about 50 protestors were held by the police within a rope barrier, and were not allowed to leave for 10 hours. Some travellers, who had parked ten vans on the village green, joined in the demonstration, and marched with the protestors to the building site. The police seized their vehicles. *Q* and *R* chained themselves to the gates of the building site and refused to allow the police to enter.

Consider whether any public order offences have been committed, and if so, by whom, and whether any defences may apply. Explain what legal steps the police are entitled to take in this situation.

(Total 25 marks)

TOTAL FOR SECTION E: 50 MARKS
TOTAL FOR PAPER: 100 MARKS

Mark Scheme (SAM)

Pearson Edexcel International Advanced Level in Law

Unit 2: Paper 2

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General marking guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed-out work should be marked UNLESS the candidate has replaced it with an alternative response.

General Marking Bands

The guidance on different types of responses below should be read in conjunction with the detailed marking content for each question.

Level	Mark	Descriptor
An excellent answer	25–22	<p>Presents a well-structured response to the question and demonstrates consistently a thorough knowledge and understanding of legal rules and legal institutions and excellent appreciation of the function of law in society. Shows a thorough understanding of legal classification and an excellent approach to problem solving with a particular strength in the use of legal authority, together with a demonstrable awareness of matters of legal controversy and legal reform. Demonstrates an ability to appraise and criticise the application of legal principles across different branches of the law.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>
A very good answer	21–17	<p>Presents a clearly written answer with a detailed knowledge and understanding of legal rules and also the place and role of institutions, as well as demonstrating a very good appreciation of the role and function of law in society. Shows a good understanding of legal classification and demonstrates a clear grasp of analysis of legal problems, with a real ability to apply rules and use authority. Shows a good understanding of different branches of law and gives evidence of a critical awareness of controversial issues in law and law reform. The majority of relevant legal issues raised by the question are included with appropriate supporting material.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>

Level	Mark	Descriptor
A good answer	16–13	<p>Demonstrates a sound knowledge and understanding of legal rules, and the role and function of law in society with some evidence of depth and breadth of argument. Is able, where required, to distinguish between civil and criminal liability, and shows a sound approach to problem solving. Quotes some appropriate legal authority. Demonstrates a sound knowledge of some of the relevant issues raised by the question and shows awareness of current controversies and legal reform. Identifies significant points in the marking scheme but with some imbalance in the treatment of issues raised by the question.</p> <p>The candidate will express moderately complex ideas clearly and reasonably fluently through well-linked sentences and paragraphs. Arguments will be generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.</p>
A satisfactory answer	12–8	<p>Presents an answer that demonstrates some knowledge and understanding of legal rules and institutions, and awareness of the role and function of law in society. Demonstrates some ability to solve problems, to identify sources, and to quote relevant authority. Shows knowledge of different branches of law, with some understanding shown also of legal classification. Although awareness of current controversies and reform issues is demonstrated, answers are more descriptive than analytical.</p> <p>The candidate will express straightforward ideas clearly, if not always fluently. Sentences and paragraphs may sometimes not 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 to suggest a weakness in these areas.</p>

Level	Mark	Descriptor
A basic answer	7-4	<p>Presents an attempt to deal with the question with a superficial knowledge and understanding of legal rules, institutions and the role and function of law in society. Shows an attempt to deal with legal classification and problem solving and uses legal authority, with a little understanding of appropriate branches of law. Gives evidence of a little awareness of issues of controversy and reform. Answers may be commonsense with simple conclusions and little law.</p> <p>The candidate will express simple ideas clearly, but may be imprecise and awkward in dealing with complex or subtle concepts. Arguments may be of doubtful relevance or obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, suggesting weakness in these areas.</p>
	3-0	<p>Presents an answer that demonstrates difficulty in understanding the subject. Although struggling, may produce some relevant points. Perhaps produces a social answer with little relevance to law.</p>

Section A

Question Number	Indicative content	Mark
1	Offer and acceptance; internet transactions; discussion of what amounts to a 'reasonable time' for performance; negotiations by post; failure to perform contract according to its terms; substitution of goods; whether there has been a breach of contract; whether there has been a fresh offer on different terms; validity of fresh contract with another person; Sale of Goods; whether remedies are available appropriate forum for claim; case law.	(25)

Question Number	Indicative content	Mark
2	Status of newspaper advertisements; terms and conditions of contracts; exclusion clauses; validity of terms attempting to limit or exclude liability; changes in contractual terms; conditions and warranties; rights of their parties; damages for breach of contract; damages for personal injuries; including psychiatric injury; whether damages are available for disappointment in contract; case law.	(25)

Question Number	Indicative content	Mark
3	Misrepresentation; fraudulent statements; sales pressure; unfair contracts; legal rules relating to consumer credit; cooling off and cancellation rights relating to credit agreements; consequences of threats and unfair pressure on debtors; shoddy and unsatisfactory goods; consumer rights; breach of contract; damages; loss of a chance; case law; sources of legal advice.	(25)

Question Number	Indicative content	Mark
4	Agreements between friends as opposed to commercial agreements; intention to create legal relations; rebutting the presumption; legal rules relating to frustration of contracts; whether contracts were frustrated; legal position of N; whether M or N was in breach of contract; availability of damages for breach of contract; case law.	(25)

Total for Section A = 50 Marks

Section B

Question Number	Indicative content	Mark
5	Employment status and rights of workers in 'tied' accommodation; working hours; Working Time Directive; equal pay and related legislation; equal pay for men and women; terms of employment contracts; discrimination in employment and related legislation; legal position of casual and part-time employees; case law.	(25)

Question Number	Indicative content	Mark
6	Health and Safety at Work; parent Act and Regulations; asbestos; possibility of claiming; legislation and case law re asbestos claims; tort liability of employers; importance of date of knowledge of hazards; disciplinary procedures; non-delegable duties; legal position of contractors; occupiers' liability in employment situations; significance of trade or calling of contractors; contributory negligence; damages; role of Health and Safety Executive; internal inquiries.	(25)

Question Number	Indicative content	Mark
7	Restrictive covenants in the employment context; legal position of clauses restricting future employment activity; presumptions; justification by employers; trade competition; head-hunting; relevance of salary; case law; scope and breadth of clauses; examples and illustrations.	(25)

Question Number	Indicative content	Mark
8	Redundancy; rules re making employees redundant; consistency in practice; need for agreed policy on selection for redundancy; role of trade unions; compensation and redundancy pay; schemes for voluntary early retirement; selection; discretion of employers; possibility of appeals; contractual terms; duties of employees to obey reasonable orders; strikes; informal picketing; role of ACAS.	(25)

Total for Section B = 50 Marks

Section C

Question Number	Indicative content	Mark
9	Married partners; grounds for divorce; provision for children; contact; role of social workers and the court; financial provision for children; factors taken into account when reaching decisions about children; best interests of the child; relevance of lifestyle; legal rules concerning change of family name; factors taken into account legislation; case law.	(25)

Question Number	Indicative content	Mark
10	Status of civil partnerships; contact with children following divorce; decisions about what should be done in the best interests of children; contact; role of the courts; role of local authorities and other social workers; relevance of lifestyle; claims and rights of grandparents and parents; children of the family; sight of children to ascertain name and details of sperm donors; whether children have the right to be involved in decisions about the future; legislation; case law.	(25)

Question Number	Indicative content	Mark
11	Financial provision on divorce; clarification of orders of the court; settlement of disputes about court orders; revisiting terms of earlier order; possibility of variation of terms; permission to leave the jurisdiction; application to the court; role of the court; factors taken into account when dealing with children; position of the parents and other parties; relevance of unmarried partnerships in decision-making process; role of agencies; legislation; case law	(25)

Question Number	Indicative content	Mark
12	Domestic violence; practical and legal steps involved in protecting children and partners; court proceedings where there is no immediate emergency; role of school; role of social workers; role of the court; best interests of children; local authority involvement; role of the police; publicity of family proceedings and other cases involving children; legislation; case law.	(25)

Total for Section C = 50 Marks

Section D

Question Number	Indicative content	Mark
13	Essential elements of criminal liability; whether applicable in scenario; actus reus; mens rea; theft; burglary; intention; possible defences to crimes; whether drunkenness can be a defence; epilepsy as a defence; insanity; relevant statutes and case law.	(25)

Question Number	Indicative content	Mark
14	Mens rea; actus reus; murder; manslaughter; intention; causation; novus actus interveniens; proof of causation in criminal cases; diminished responsibility; Coroners and Justice Act 2009; case law.	(25)

Question Number	Indicative content	Mark
15	Elements of crimes; practical jokes; assault; actus reus; mens rea; relevance of intention in this scenario; recklessness; homicide; causation; thin skull rule; foresight; gross negligence manslaughter; defences; involvement of bystanders; age of offenders; sentencing; case law.	(25)

Question Number	Indicative content	Mark
16	Elements of crimes; mens rea; actus reus; kidnap; abduction by person connected with child under 15; role and permission of DPP in this situation; false imprisonment; infanticide; slavery and forced labour; European Convention on Human Rights; criminal damage; Human Rights Act; legislation; sentencing; case law.	(25)

Total for Section D = 50 Marks

Section E

Question Number	Indicative content	Mark
17	Public order offences; elements of each; definitions of riot; violent disorder; affray; intentional harassment, alarm and distress; inciting others; arson; anti-social behaviour; dispersal of groups; racial hatred offences; highway offences; public nuisance; breach of peace; mens rea of PO offences methods of dealing with offenders; legislation; case law.	(25)

Question Number	Indicative content	Mark
18	PACE; codes of practice; identification; arrest, detention and questioning; status of questions before arrival at police station; role of custody officer; conduct of interviews; recordable offences; fingerprints; refusal of consent; reasonable force; status of cautions; rights of people held in custody; right to a responsible adult; right to an interpreter; consequences of refusal to answer questions; human rights considerations; art.5 length of detention; possible remedies.	(25)

Question Number	Indicative content	Mark
19	Elements of libel; consideration of each element relevant to question; possible defences; qualified privilege; absolute privilege; defences available to newspapers; justification; injunctions; super-injunctions; human rights; right to privacy and confidentiality art.8 ECHR; right to freedom of speech art.10 ECHR.	(25)

Question Number	Indicative content	Mark
20	Protest marches and demonstrations; duty to inform the police within time limits; police powers to ban marches etc; who committed the offences; trespassory assemblies; breach of peace; mens rea of offences; police powers; defences; anti-social behaviour; dispersal of groups; human rights issues ECHR; legislation; case law.	(25)

Total for Section E = 50 Marks

Total for Paper = 100 Marks

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