

Examiners' Report

Summer 2016

Pearson Edexcel IAL in
Law (YLA0) Paper 02

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General Comments.

There was a small rise in the number of candidates entered for the examination this year, although this syllabus, which has been very popular for many years, is being phased out and this is the last Summer examination before a new syllabus is introduced.

In general terms, candidates demonstrated that they had been prepared well for the examination, in terms of syllabus coverage and possession of a secure knowledge base. However, the exploitation of knowledge in both papers was hampered by the prevalence of stock answers, in which there was insufficient focus on the precise terms of the questions, particularly the essay questions in Paper One. This handicap, inherent in many answers, was less obvious in Paper Two where candidates were obliged to analyse and focus more specifically. It was good practice for candidates to support their answers with illustrations from cases and statutes, and many were able to do so. Many candidates produced evidence of a conscientious effort to understand and absorb the details of the law and some were able to transfer knowledge gained in basic principles of law for Paper One to their answers for Paper Two.

Paper Two

There was no obvious difference in the performance of candidates in comparison with last year, and while there were some very impressive centres, in others the standard of work produced by candidates was more disappointing. Many students had learned details of the law, including the cases and statutory provisions, and they were able to illustrate their answers and support their legal arguments by citing case law and statutes. As usual, some candidates wrote answers in which they attempted to reproduce all they knew about the general areas of law covered in the questions rather than focusing attention on the particular points raised by the questions. Some candidates answered only two or three questions instead of the four questions as instructed, which meant that they achieved a lower grade overall.

As has been the case in previous years, candidates performed better on Paper Two this year than on Paper One. Better candidates identified relevant issues in the questions, stated the rules applicable to the scenarios and applied the rules to the facts. Well-prepared candidates used cases and statutes very effectively especially in the sections dealing with the Market, Criminal law, and the Individual which yet again were the most popular. Very few answered on Family Law and Employment Law. There were no particular difficulties with any of the questions.

Answering the problem-type questions in Paper Two requires particular legal skills, involving the ability to apply legal rules, and the questions can be challenging for some candidates. However, there was evidence of sustained effort by many candidates to deal with the questions logically, identifying the important issues at the start of the answers, and focusing only on those issues, applying relevant legal rules to the facts, and writing well-balanced answers, supported and illustrated by legal authorities.

Candidates are urged to attempt four questions on Paper One and Paper Two as instructed because even the candidates who write three good answers inevitably achieve a lower grade overall. Consistency is essential if candidates are to achieve a high grade, as it is impossible for the examiners to award marks for a question that has not been answered at all.

As in previous years, many candidates wasted their time by re-writing much of the text of the questions. While it is sometimes necessary to write out some of the facts of the questions, it is far from sensible for candidates to write out large sections of the questions.

Section A: The Market

Question 1. This question concerned offer and acceptance and was focused on the importance of timing in pre-contractual and contractual situations. Candidates readily identified the main issues, including withdrawal of offers, the validity of information sent by post and fax, and recorded on telephone answering machines and voice mail. This was handled very well by many candidates, but only the better answers contained detailed discussion of the case law. It is not usually adequate to mention the names of cases without analysing them and explaining their relevance to the question. Few answers demonstrated an understanding of the appropriate courts for hearing disputes about contracts.

Question 2. Pre-contractual negotiations figured in this question, as did contractual terms and the status of bookings made through agents. While many candidates identified the relevance of different types of terms, and their legal effects, few mentioned frustration of contract. It was unusual to find an answer dealing with all the relevant legal rules, including the law of negligence. However, exclusion and limitation clauses were covered quite well. At the end of the question, the issue of damages for “disappointment” in contract arose and this was not generally identified. The causation issues were seldom mentioned by candidates, and the relative advantages of the remedies available in tort and contract were beyond the capacity of most candidates. Few referred to the possible use of trade organisations such as ABTA to resolve disputes.

Question 3. While advertisements were identified as important in this question, it was disappointing that the issue of misrepresentation tended to be glossed over. This is a complex legal concept, and candidates made an attempt to discuss the case law and relevant legislation were duly rewarded. There was noticeable absence of discussion of the Sale of Goods legislation, poor quality goods and sales by description, but the Consumer Protection legislation was frequently covered as was liability of manufacturers and sellers of goods on the internet. Some candidates overlooked completely the Consumer Credit legislation and the distinction between defective and dangerous products.

Question 4. Exclusion and limitation clauses, and the so-called “ticket cases” were easily identified and were handled well initially, with a good focus on the importance of the time of notice, the type of notice and where it was positioned. However, the concept of whether a clause is reasonable was not generally understood. The common law rules, the relevant case law and legislation was referred to, but the question of compensation for injuries was seldom dealt with in depth.

Section B: The Workplace

This section of the paper was not popular with candidates this year, and it was clear that some candidates attempting to answer the section had not studied or prepared this area of law.

Question 5. This question required candidates to identify, discuss and apply the law concerning restrictive covenants, their validity, and the meaning of the presumption relating to “void” clauses. The issue of the reasonableness of covenants was not handled well, and case law was seldom discussed. The question contained several points concerning mobility clauses, repudiation of employment contracts and the role of Trade Unions, but few candidates covered these matters.

Question 6. The important question of whistle blowing and the legal protection afforded by employment legislation was not discussed in legal terms in many answers, as candidates tended to produce “common-sense” answers. The answer also demanded discussion of the correct procedures for dealing with complaints and grievances, and procedural issues concerning termination of contracts of employment. Remedies should also have been covered, but few candidates did so.

Question 7. Terms of contracts of employment were the main focus in this question, with emphasis on bonuses and commission. The law concerning liability for injuries at work is complex and should have been analysed in depth, so it was disappointing to see so few answers in which this area of law was mentioned. The law relating to fair and unfair dismissal was not generally discussed and there was little evidence of knowledge of legislation and case law.

Question 8. It is usual for an examination of the law of employment to contain questions about picketing and demonstrations against employers, but few candidates covered this competently. The legal rules concerning the transfer of undertakings, the need to consult with Trade Unions and the role of ACAS were not handled well, and the situation concerning the development of new contracts, remedies and appropriate procedures tended to be overlooked.

Section C: The Family

Question 9. This question reflected the general approach of candidates who answered this section of the paper. There was usually thorough discussion and analysis of the law following the identification of the issues, and a good knowledge of the legislation could be observed. Many candidates discussed in depth the law concerned same sex relationships and domestic violence. There was a good understanding of the legislative protection as well as the common law position and the role of the police and the courts.

Question 10. Ancillary relief is a difficult area, but those who attempted this question appeared to be aware of the statutory provisions and the factors to be taken into account by courts when considering how best to do justice to the parties. Many candidates discussed the relevance of the length of the marriage, the fact that there were no children, and the emphasis on lack of blame. Some of the more complex matters concerning property distribution and access to pensions, the value of the matrimonial home and general financial support were

handled well. However, prenuptial agreements and the possible use of mediation were not generally well-understood.

Question 11. This was well answered as there was sound understanding by many candidates of the law relating to children and matters to be taken into consideration in fostering and adoption arrangements. Care orders and the Children Act were handled very well.

Question 12. This question, which concerned the position of 14 year olds in respect of consent to medical treatment, appeared to interest candidates. Those who attempted this question were able to outline the Gillick case and discuss the role of doctors and social workers. However, the question of confidentiality, and the balance of parental rights was usually overlooked. The relevance of “best interests” was appreciated.

Section D: The Criminal Offender

Question 13. Few candidates were able to describe the elements of the law of arson, but many were strong in their understanding of the law of criminal damage to property, and produced good commentaries on this aspect of the question. Although the law concerning murder and manslaughter was generally accurately described, some candidates overlooked the issue of transferred malice. However, there was some good analysis of the development of the law concerning long term abuse and the defence of provocation. There was good general discussion about the concepts of mens rea and actus reus in this and in the other answers on this section. Many candidates were able to describe the age of criminal responsibility and how young offenders are dealt with.

Question 14. There were some very good accounts of the offences against the person, reproducing the statutory provisions and the case law relevant to the question. The law of manslaughter was also covered in some detail by many candidates, but the issue of omissions as opposed to positive acts was neglected in many instances. The law relating to theft, including robbery, was handled well. Many candidates described and explained the relevant case law. It was disappointing, however, that some of the difficulties involved in assessing causation were not fully appreciated by many candidates.

Question 15. This question, which involved identifying and analysing offences involving violence to the person, was very popular. Much of the discussion centred on the elements of murder and manslaughter, and the approach to proving intention when a defendant might lack full mental capacity. Causation was another important aspect to this problem scenario, but few candidates were able to engage with the issue in depth.

Question 16. Offences involving theft were important in this question, but it was disappointing that there were so few answers covering all aspects, together with details of the statutes as well as the cases. Many candidates overlooked the offences involving theft of vehicles and fuel, and the possible defences to these crimes.

Section E: The Individual and the Law

Question 17. The pattern in previous years was repeated this year in that the law of defamation was not approached in the correct way. Far too many candidates repeated all they knew about the topic without directing their answer to the facts of the question. The important role of the media in this situation was not fully appreciated by the majority of

candidates. Some of the defences to defamation, including Parliamentary privilege, were identified as relevant, but again, there was insufficient focus on the facts of the problem scenario, and few candidates discussed the relevance of “malice”, and the technical meaning of that concept. Human Rights considerations were discussed by some candidates and there was reference to the Human Rights Act 1998, Art.8 and Art.10 ECHR and the balance required by the law between these two provisions.

Question 18. This question concerned the Public Order legislation, and those candidates who were able to provide a detailed account of the public order offences, including wearing of certain uniforms, riot, violent disorder, arson, were rewarded accordingly. The legal rules concerning protest marches and demonstrations were recognised as important in many answers, including the requirements relating to advance notice, and penalties for failing to inform the police of events that were planned. In general the law concerning public nuisance, private nuisance and statutory nuisances, highways offences and criminal trespass involving vehicles was identified as relevant and discussed by candidates with relative success. Those who referred to case law were able to achieve the best marks.

Question 19. This question concerned the legal rules relating to Stop and Search and the requirements of the Police and Criminal Evidence Act and Codes of Practice. Many candidates decided to answer this question, but it was not handled as well as in previous years. The role of the police, including that of the custody officer was important in respect of the treatment of detainees. The best answers referred to the precise subsections of the statute and the relevant provisions of the Codes, but too many answers were vague, especially in respect of the duration of detention, the property of detainees and remedies against the police. There was evidence of some awareness of the role and procedures of Police Complaints Authority.

Question 20. Although questions about the legal requirements at designated sporting events and voluntary codes of conduct have appeared on Paper Two over the years, this question was not well-answered. Few candidates identified as important the regulations and voluntary agreements for coach operators. Some answers did demonstrate that candidates were aware of the law concerning alcohol at sporting events, and the specific offences relating to racist abuse in football matches. The checklist for prosecutions was overlooked by many candidates, as were offences under the Serious Crime Act 2007.

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