

# LAW

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Paper 9084/11

Paper 1

## General comments

The overall performance on this paper was rather mixed. There were some promising performances from candidates at this standard. The answers were well planned and candidates were able to support arguments with references to recent case law and other authorities which was very encouraging.

However, there were rather more papers at the lower end of the spectrum where answers were poorly planned and not well supported with either case law or relevant references to statute or other supporting evidence. Where the candidates performed poorly on this paper this can be attributed to a number of reasons. The main reason was that questions were misread or misunderstood. In some cases candidates did not complete the whole paper and often did not seem ready to answer three questions. This suggests that candidates were not always fully prepared for the demands of a paper at this level. There was also a lack of reference to authority in the weaker papers even in answers such as **Question Five** on statutory interpretation. Background knowledge was often superficial and basic particularly in question three where the focus of the discussion was often poor.

Overall there was a lack of critical analysis which will always be expected at AS/A level. Candidates should expect to go beyond describing the background to answers and to progress towards some degree of evaluation and critical analysis. A number of answers were not sufficiently developed to gain marks at the higher levels.

## Comments on specific questions

### **Question 1**

This question considered issues relevant to the court in sentencing and in particular the principles which the magistrates court would consider when arriving at a sentence. It was a reasonably popular question but those that answered it often had a very thin grasp of the various principles that may be relevant to the court and the options open to the magistrates when sentencing a defendant for theft. This was not the real issue. In some very good answers the sentencing options were discussed comprehensively but in many answers the candidates were too superficial in their analysis of these options.

### **Question 2**

This was a very popular question which requested candidates to look at two cases from precedent and to consider critically the way in which the system of precedent operates in English law. In particular the question focused on the flexibility of the system which allowed the court to overturn a decision which was outdated or unfair. This was sometimes well answered with a good use of case law and principles. However, there were answers which did not include case law beyond the cases cited in the question and looked more at the hierarchy of the courts than the means available to the courts to address these issues. This is a central part of the syllabus for 9084 and it is important that candidates are able to support their answers fully with reference to case law in order to properly answer questions on precedent.



### Question 3

This question asked candidates to consider a scenario where a suspect has been stopped in the street by the police and then they were requested to decide whether the powers of the police under the Police and Criminal Evidence Act 1984 had been properly exercised. Candidates had a number of facts which the better ones could easily link to the 1984 Act. The suspect had been searched in the street and he had been interviewed alone without making a phone call or without legal representation. Some of these issues were clearly understood and the answers were supported by case law. This was very encouraging.

### Question 4

This question was very popular and was in some cases the best answer for most candidates. However, there were often answers which did not look at all aspects of the use of juries. There was also a tendency for candidates to answer the question in very general terms and not to look at the specific issue, i.e. the value of lay participation in particular the jury. Detailed discussion of the selection processes of the juries was therefore unnecessary. There were too few illustrations from decided cases. However, overall the better answers were very encouraging and included some very good commentary on the continued use of juries in the judicial process.

### Question 5

This question focused on statutory interpretation. It is always a popular question and candidates usually have no difficulty in identifying the different rules of interpretation but often candidates did not expand beyond the three rules and answers were often poorly illustrated and poorly explained. This question wanted a wide range of options that are open to a judge in statutory interpretation. Too few of the candidates referred to decided cases and there were few detailed answers on the range of tools available to the judiciary when interpreting a statute. However, on the whole this was answered well. There was an encouraging trend towards candidates seeing that statutory interpretation is not confined merely to the three canons of interpretation.

### Question 6

This question focused on the use of delegated legislation. It was linked to a decided case which was sometimes used quite well. There were some excellent answers where candidates were able to give a very detailed account of the use of delegated legislation and also the various reasons to criticise its use. There was a good overall understanding of the controls over its use. The question was also answered in a more discursive manner than others on the paper. The answers to this question were often very encouraging.



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Paper 9084/12

Paper 1

## General comments

The overall performance on this paper was rather mixed. There were few good performances amongst the candidates which was disappointing, but there were still a number of very promising performances which is always encouraging and one or two papers were very impressive for candidates at this qualification standard. The answers on these papers were well planned and candidates were able to support arguments with references to recent case law which was very encouraging.

However, within this cohort there were many more papers at the lower end of the spectrum where answers were poorly planned and not well supported with either case law or relevant references to statute or other supporting evidence. The poor performance of candidates on this paper can be attributed to a number of different reasons. Firstly, questions were often misread or misunderstood. Secondly, candidates did not complete the whole paper and often did not seem ready to answer three full questions. This does suggest that there were candidates who were not always fully prepared for the demands of a paper at this level. Thirdly, there was also a real lack of reference to authority in the weaker papers even in answers such as question one on statutory interpretation. Background knowledge was often superficial and basic, particularly in **Question Four** where the focus of the discussion was often misdirected.

Overall there was a worrying lack of critical analysis. Candidates at this level are expected to include some critical analysis within each answer rather than simply to repeat factual the background to each question.

There was also a general decline in the quality of written English, which was also disappointing.

The paper was of a similar level of difficulty to that set in previous years and none of the questions were considered to be particularly difficult.

## Comments on specific questions

### **Question 1**

This question focused on statutory interpretation. It was based on a quotation from a case decided by Lord Denning. It is always a very popular question and candidates usually have no difficulty in identifying the different rules of interpretation but candidates often failed to address the problems which face the courts in the interpretation of statutes, causing answers to be fairly limited. Many answers did not expand beyond the three rules of interpretation and answers were often poorly illustrated and poorly explained. Too few of the candidates referred to decided cases and there were few detailed answers on the full range of tools available to the judiciary when interpreting a statute. There was generally a very disappointing response to this question.

### **Question 2**

Very few candidates answered this question which expected a critical analysis of the appointment of judges. The candidates rarely had any critical comment to make on the very limited range of people who become judges and answers generally relied on listing the different types of judges.

### **Question 3**

This question was based on a quotation from a recent case on the Human Rights Act, *Murray v Express Newspapers PLC* and others decided in 2007. It was also rather poorly answered with many candidates having a very weak grasp of the European Convention on Human Rights and its various articles. The answers tended not to look at the 'right to privacy' which was mentioned in the quote from the case but to



look at human rights in a more general way. This should be well known at this level. Most candidates addressed this question with a list of the various articles under the convention and very little discussion of them.

#### **Question 4**

This question was not very popular. The focus here was on the appointment of magistrates and their role in court. It also expected some understanding of how the law would react to a member of the magistracy who went beyond her remit. There was a tendency for candidates to answer the question in very general terms and not to look at the specific issues as discussed above. A more worrying number of papers addressed juries as an answer to this question. This was inappropriate, as the question did not address lay participation in general but specifically looked at magistrates.

#### **Question 5**

This was a very popular question. Unfortunately, too many candidates ignored the issues raised in the question set. The hierarchy of the courts was discussed but many answers revealed a rather sketchy understanding with some confusion between criminal and civil courts. The question specifically asked for a discussion of case law but only a few candidates addressed the case law in any detail and showed that they had understood the leading cases such as *Anns v Merton Borough Council*, *Herrington v BRB* and *R v Shivpuri* etc. There were many answers that addressed the answer without any reference to case law at all. This was a pity since precedent is generally well known amongst A level candidates and usually tackled very well.

#### **Question 6**

This question focused on the main forms and purpose of delegated legislation. There were some very good answers where candidates were able to give a very detailed account of the use of delegated legislation and also the various reasons to criticise the way it comes into force. There was a good overall understanding of the controls over its use. The question was also answered in a more discursive manner than others on the paper. Candidates seemed to have a good grasp of this area of law and were able to write in a detailed and critical manner often scoring their best mark on the paper for this question.



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Paper 9084/21

Paper 2

## General comments

This paper has been part of the CIE examination for 9084 A level Law for nearly six years. Over the years candidates have responded well to the requirements of the paper and the need to examine any source material included with the paper. There have been some encouraging and discouraging aspects to the paper. The use of source material was sometimes good but the need to be specific about a particular statute or judgement was not always understood. Unfortunately, there were several individual parts of both questions on this paper which were misread or misunderstood and candidates did not always respond well to questions which were based wholly on the source material. Far too many candidates scored few or no marks at all on at least one section of both questions and so severely affected their overall mark.

## Comments on specific questions

### Question 1

This question was based on extracts from the Occupiers Liability Acts 1957 and 1984. Most of the questions set looked at different aspects of the Act and application of the case of *Glasgow Corporation v Taylor* (1922).

- (a) In this part candidates were expected to identify whether the owners of a house open to the public owed a duty of care to the claimant Asif, a visitor to the house and his family. As he is an electrician the occupier is entitled to expect that he will appreciate the risks associated with property and so under section 2(3)(b) the standard of care may not be as high in relation to him when he is injured. Candidates generally applied the Act well although not everyone was able to identify the precise section and apply it properly.
- (b) In this part the candidates needed to consider the different rights that can be claimed by a child. The couple's child Binda has been made ill by eating poisonous berries. The candidates were expected to draw on a number of sources including, section 1(1)(a) Occupiers Liability Act 1984 and the case of *Glasgow Corporation v Taylor*. Candidates generally answered this part very competently.
- (c) Many candidates answered this part poorly. The question anticipated candidates discussing the wide range of sources from which a court can draw and the problems that this can raise. Mention of *Hansard* was given particular credit. Candidates who discussed law reform were credited.
- (d) There were very few good answers to this part of the question. Candidates were expected to outline procedure in the civil courts and the associated problems. A number of candidates failed to identify that this was a civil action. Differences between an action in the High Court and the County Court should have been highlighted. Many candidates had a very sketchy knowledge of procedure in a civil trial and reasons for the choice of court and these answers were very disappointing. This suggests that candidates are still not as competent in answering questions on procedure as perhaps other aspects of the course.

### Question 2

This question looked at the role of the magistrate and in particular the role of the court clerk. Magistrates are usually a popular area for candidates to study and respond to questions. Candidates were given two sources, one on a section of the Justices of the Peace Act which outlines the function of the court clerk, and also *R v Eccles Justices ex parte Farrelly* which considered whether a defendant has grounds for an appeal if it appears that the court clerk has exceeded his/her function.

- (a) Candidates needed to focus here on both sources. The clerk had retired with the magistrates but had not taken part in the decision making. Most candidates were aware of the issue but were confused about the effect of the Justices of the Peace Act.
- (b) The second part of the question looked at the way a defendant would appeal from a decision from the Magistrates' Court. Far too many candidates failed to understand the effect of the procedure of 'stating a case' and did not understand to which court such an appeal would be made.
- (c) This part of the question required a specific reference to the statute and the case of Farrelly. Those that understood the issue were generally competent and saw that although the clerk does not retire with the magistrates the clerk appeared to take part in the decision making.
- (d) The final part of the question explored the role played by magistrates in criminal cases. There were some very good answers here but far too many stuck to pre-learnt notes on magistrates so irrelevant matters were included such as the role of magistrates in civil matters and also the way magistrates are appointed again this was not strictly relevant. Candidates were also required to discuss the extent of the role of the Magistrates' Court and to its importance in the sheer number of cases disposed of in the court as compared to the Crown Court.



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Paper 9084/22

Paper 2

## General comments

It has been noted over the past few years that candidates have adapted quite well to the different approach needed for the sources paper and standards have been improving over the past few years. Candidates have recognised the need to examine any source material included with the paper. However, candidates are not always flexible in their approach to the source material. They must be prepared to adapt to the different types of questions, otherwise answers tend to have gaps where points have been missed. Mistakes which can easily be avoided with careful reading of the examination paper are too easily made. As in previous years there were some disappointing responses to some parts of the questions which reflected a lack of flexibility when reading the sources given with the paper or often a total failure to refer to the sources at all. The use of source material was occasionally very good but all too often a candidate would fail to be specific about sections within a particular statute or a reference to a particular part of a case or judgement was not always understood. Candidates often fail to respond to the questions on this paper in continuous prose but instead use lists. Note form should only be used if a candidate has run out of time at the end of a paper. Neither question proved to be more popular than the other.. Overall, the standard was reasonable on this paper, although lower than in previous years.

## Comments on specific questions

### Question 1

This question was based on extracts from three cases: *Croke (a Minor) v Wiseman* (1982), *Iqbal v Whipps Cross University Hospital NHS Trust* (2007) and *Young v Bristol Aeroplane* (1944). It was generally well answered in some parts but there were a number of mistakes, which were made by a considerable number of candidates. The first question looked at whether the Court of Appeal will be bound by a decision of the Court of Appeal if decided on a similar issue. Many candidates answered this well. However, candidates were not as competent in the second question, which looked at whether the House of Lords will be bound by a decision in the Court of Appeal. Candidates had to understand the rules of precedent in order to answer this part of the question. Part (c) was generally well answered since it considered the issue of whether the principle in *Young v Bristol Aeroplane* would apply in this case. It was often applied very well with candidates showing a very good grasp of the rules. The final part concentrated on the role of precedent today. The better candidates used the cases given in the paper and then developed their answers with a range of other examples from case law. However, the weaker candidates gave short very general answers to this part of the question, which carried a maximum of twenty marks and so lost a considerable number of marks by failing to respond in sufficient detail.

### Question 2

This question looked at a factual scenario which could have given rise to a criminal offence. However, the principles of law in this case concerned delegated legislation and the challenges that can be made to a piece of legislation when it has not adhered to procedures which have been laid down in the primary legislation.

- (a) Candidates needed to focus on whether a defendant had grounds to appeal against a conviction under legislation which had not followed the strict procedure laid down in the original Act. Most candidates were able to explain that the procedure had not been followed and that the defendant had grounds for an appeal. This part of the question was generally well answered with good use of the source given in the *Aylesbury Mushrooms* case.
- (b) The second part of the question looked at the procedure for the appeal by the claimant Hari. This was often poorly answered because most candidates failed to recognise what type of law was involved here. Very few candidates understood the procedure for judicial review. Many, however,



identified this later in their answer to part (d) so it was known by candidates but they failed to recognise its correct application.

- (c) This part of the question required a detailed look at what is the consequence of holding that a law is ultra vires. Candidates were expected to understand that ultra vires could mean procedural and also substantive ultra vires. The answers often lacked specific reference to the difference between the two. It is crucial that this should be referred to in the answer and it was clear from some answers that this was not fully understood. Candidates referred to the two cases but often only in passing and these points were not developed.
- (d) This question asked candidates to discuss the role of delegated legislation. There were some good answers, but the vast majority were not very detailed and did not include a sufficiently wide range of material relating to the safeguards and controls which were highlighted in the question and should have been an important part of the answer.





# LAW

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Paper 9084/31

Paper 3

## General comments

It was disappointing to see yet a further a drop in the number of entries for this series. Quality of candidate response is a perennial issue and it is of great concern that an increasing number of candidates are presenting themselves for examination without a sufficient amount of legal knowledge, an understanding of the subject matter necessary to answer the style of questions required to meet assessment objectives of the syllabus or indeed both. In short, candidate outcomes will never improve without better and more appropriate candidate preparation; preparation in terms of how to answer the questions actually posed and by working through question papers and mark schemes for previous series would seem to be the key.

Centres and candidates are again reminded that questions in **Section A** require the candidates to focus more on the critical analysis and evaluation of the legal rules that they learn. In **Section B** candidates need to focus on the application of legal rules in a scenario-based problem and on the drawing of clear conclusions. To this end, Centres must teach rules in such a way as to engender understanding of aim and purpose and candidates must be encouraged to present responses which refer to precise legal rules and demonstrate the skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

## Comments on specific questions

### Section A

#### Question 1

Thankfully, only a very small number of candidates attempted this question as few of those that did displayed any recognition, let alone understanding of the battle of the forms that frequently takes place as a company tries to enter a contract using its own standard written terms with another company that seeks to use its own, differing standard terms of business. Unfortunately, those who wrote all they knew about the formation of a contract scored few marks.

#### Question 2

The most popular question on the paper and, in the main, it was quite well answered. Most candidates seemed secure with the meaning and implication of the term sufficiency of consideration and were able to explain and illustrate well by reference to relevant case law. That said, many candidates still wrote all they knew about consideration and did not answer the question which was very precisely worded to promote focus and dissuade candidates from producing the blanket answer which will never score highly.

#### Question 3

Most candidates who attempted this question should never have done so, clearly having absolutely no comprehension of either the meaning of the terms liquidated damages clause and penalty clause and even less idea of the implications thereof. No study of damages as a remedy can ever omit even a cursory study of these attempts to set down damages when the contract is made and that would be payable in the event of breach.



## Section B

### Question 4

Pleasingly, the majority of candidates identified misrepresentation as the principal issue, but disappointingly few were able to define misrepresentation accurately or to explain precisely when it is actionable in law. Better prepared candidates were able to discuss the issue of the actual nature of the misrepresentation (i.e. whether fraudulent, negligent or innocent), whether silence amounts to a misrepresentation and the consequent remedies of rescission and/or damages.

### Question 5

This question was a gift to candidates prepared for a question based on minors' contracts; unfortunately few were and, alarmingly, a number missed the basic fact that the main protagonist was under the age of majority. Candidates who were suitably prepared scored highly, but too many candidates produced confused responses that failed to recognise nuances between the three contracts made.

### Question 6

This was the most popular question from **Section B** which attracted responses of very variable quality. Far too many candidates decided to answer the question from a moral rather than a legal standpoint and were awarded few marks as a consequence. The distinction between invitations to treat and offers was known by most but principles were applied far less securely, resulting in very weak conclusions or none being drawn.



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Paper 9084/32

Paper 3

## General comments

It was disappointing to see yet a further a drop in the number of entries for this series but it is again pleasing to report a marginal improvement in the overall quality of candidate scripts. Having said that, considerable scope still remains for candidates in general to realise their full potential; better candidate preparation in terms of how to answer the questions actually posed by working through question papers and mark schemes for previous series would seem to be the key. Centres and candidates are again reminded that questions in **Section A** require the candidates to focus more on the critical analysis and evaluation of the legal rules that they learn and in **Section B** on the application of them to a scenario-based problem and on the drawing of clear conclusions. To this end, Centres should limit the depth of material delivered to prospective candidates and teach rules in such a way as to engender understanding of aim and purpose and candidates must be encouraged to present discursive responses rather than ones based simply on factual regurgitation.

## Comments on specific questions

### Section A

#### Question 1

Some reasonable answers but very few did any critical examination. Many were able to explain how oral statements can become terms of the contract, but too many saw it as a question that asked them to write all they knew on offer, acceptance, consideration, and intention.

#### Question 2

By far and away the most popular question which again, in the main was well answered. That said, many candidates wrote all they knew about consideration and did not answer the question which was very precisely worded to promote focus and dissuade candidates from producing the blanket answer which will never score highly.

#### Question 3

Unfortunately, many saw this as an excuse to write out a brief history on the formation of contracts with only a small part of the question dealing with acceptance. Although cases were used by many they were not always the correct ones or used in the correct context. Candidates simply must learn to provide balanced responses. A short introductory paragraph regarding formation of contract is all that will attract marks when the question clearly points to one aspect which the examiner wishes the candidate to explore in detail.

### Section B

#### Question 4

The most popular question from **Section B**, candidates generally struggled to contend with the fact that there were potentially 3 contracts to consider. However, most candidates seem to be capable of discussing the difference between invitation to treat and offer. Generally the postal rule was also explained well.



**Question 5**

Thankfully, this question was not terribly popular and attracted a range of alarming, yet amusing answers concerning alcoholism and capacity. Very few candidates were able to recognize mistake and explain and apply it. Far too many thought the question was one of misrepresentation and hence gained no marks, despite giving lengthy answers.

**Question 6**

Very few candidates gave a good answer to this question and some even managed to answer it without referring to damages and choosing to discuss whether a contract had been formed or not for which they received no marks.



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Paper 9084/41

Paper 4

## General comments

It was disappointing to see yet a further drop in the number of entries for this series. Quality of candidate response is a perennial issue and it is of great concern that an increasing number of candidates are presenting themselves for examination without either sufficient legal knowledge, the understanding of the subject matter necessary to answer the style of question required to meet assessment objectives of the syllabus or both. In short, candidate outcomes will never improve without better and more appropriate candidate preparation; preparation in terms of how to answer the questions actually posed, by working through question papers and mark schemes for previous series would seem to be the key and a didactic approach which actively promotes candidate understanding of aim and purpose of legal rules. Candidates must also be encouraged to present responses which refer to precise legal rules and demonstrate the skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

## Comments on specific questions

### *Section A*

#### **Question 1**

This question attracted some good responses. Those candidates were able to present an accurate account of the rules and to reflect upon them appropriately. Weaker candidates tended to focus almost exclusively on the rules, but the distinction between primary and secondary victims was not always well understood and certainly not commented upon as required by the question posed.

#### **Question 2**

This was a popular question, but the majority of candidates achieved poor marks. The main problem was undoubtedly that the majority of candidates omitted (by choice or error) to deal with the question in the context of vicarious liability. Many responses were based in criminal law; some based in the law and morals debate, some never referred to law at all and could have been written without attending law classes or reading a law textbook.

#### **Question 3**

This question produced only a small number of good answers in which both the factual account and the analysis were dealt with competently. Many candidates simply presented weak factual accounts of the legal rules. Worryingly, some candidates appeared to know absolutely nothing about the maxim at all. A small number were able to give a reasonable account of why the maxim applies in some circumstances, but the majority of those seemed to struggle to discuss the implications for the burden of proof if the defendant is able to give reasons which point to a cause other than negligence on his/her part.

#### **Question 4**

Similar to **Question 2**, this seemed to attract numerous responses from candidates who appeared to never been near law classes or law textbooks, choosing to contrite on the evils of the robbers rather than their potential liability in tort. Few candidates saw the connection between the robber's actions and negligence in this scenario, even if many did talk about the police officer's contributory negligence when he failed to put on a seat belt.



**Question 5**

This question attracted perhaps the best responses of any on the paper. Stronger candidates demonstrated a good knowledge of both private nuisance and Rylands v Fletcher issues and were able to apply both appropriately. Again, the weaker candidates tended to discuss the facts of either one issue or the other and proper application to the scenario was all too often weak or non-existent.

**Question 6**

This was a popular question but few dealt with it even competently. Focus was far too often on whether or not the mine owners were liable (whether in negligence or under employment legislation) rather than simply accepting the statement in the scenario that they had been. The consequence was that the key issues of consent (by returning to the mine) and nervous shock were too often overlooked altogether.



# LAW

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**Paper 9084/42**

**Paper 4**

## **General comments**

It was disappointing to see yet a further a drop in the number of entries for this series. Quality of candidate response is a perennial issue and it is of great concern that an increasing number of candidates are presenting themselves for examination without either sufficient legal knowledge, the understanding of the subject matter necessary to answer the style of question required to meet assessment objectives of the syllabus or both. In short, candidate outcomes will never improve without better and more appropriate candidate preparation; preparation in terms of how to answer the questions actually posed, by working through question papers and mark schemes for previous series would seem to be the key and a didactic approach which actively promotes candidate understanding of aim and purpose of legal rules.

Candidates must also be encouraged to present responses which refer to precise legal rules and demonstrate the skills of analysis, assessment and discussion rather than relying on ones based simply on vague knowledge of 'the law' and/or factual regurgitation.

## **Comments on specific questions**

### *Section A*

#### **Question 1**

Candidates attempting this question did not cover themselves in glory.

Some did understand the term vicarious liability and the majority of those knew the rules rendering employers jointly and severally liable for the torts committed by their employees whilst at work and some relevant case law which they simply regurgitated; unfortunately the question actually posed expected more.

#### **Question 2**

This was a popular question. However, many had prepared an answer to an anticipated question about negligence or nuisance but not one asking for a comparison of the essential elements of both torts. Candidates generally gave a factual account of one tort followed by the other one without dealing with the 'compare and contrast' element of the question, thus leaving the reader to draw out the comparisons and contrasts himself. The consequence was mediocre marks at best.

#### **Question 3**

This question attracted the best quality answers in this section of the paper.

However, it was still a relatively small number of candidates whose responses dealt with both the factual account and the analysis relating to both torts competently. Many candidates simply presented weak factual accounts of the legal rules and demonstrated limited or no understanding of their application through case law.

#### **Question 4**

This question attracted perhaps the best responses of any on the paper; the majority demonstrating at least awareness of key provisions of the relevant legislation (Occupiers Liability Acts 1957 and 1984). Stronger candidates demonstrated a good knowledge of the legislation and were able to apply it appropriately. Again, the weaker candidates tended to discuss the facts alone.



### Question 5

This was a popular question which many candidates were able to discuss to a reasonable standard. Comparatively few candidates were able to deal with the full range of anticipated issues well, preferring to focus on either negligence or *Rylands v Fletcher* but not both.

The question asked candidates to advise Layla on the best course of action.

Such advice should normally give reasons: this seldom happened.

### Question 6

This question attracted a few good responses in which candidates were able to present an accurate account of the rules and apply them appropriately, even if the distinction between primary and secondary victims was not always well understood. The position of rescuers was not always picked up on, but the stronger candidates tended to recognise the issue of potential consent and dealt with it well. Weaker candidates either focused almost exclusively on whether or not negligence caused the losses rather than on the liability towards injured parties or on discussion of the facts without referencing the relevant legal rules.

