

# Mark Scheme with Examiners' Report

## GCE A Level Law (9345)

June 2005

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Mark Scheme with Examiners' Report

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## LAW 9345, MARK SCHEME

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### General Marking Bands

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

#### **Marks 25-22 An excellent answer**

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 law reform. Demonstrates an ability to appraise and criticise the application of legal principles across different branches of law.

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.

#### **Marks 21-17 A very good answer**

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.

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.

#### **Marks 16-13 A good answer**

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.

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.

**Marks 12-8 A satisfactory answer**

Presents an answer which 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.

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.

**Marks 7-4 A basic answer**

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.

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 weaknesses in these areas.

**Marks 3-0**

Presents an answer which demonstrates difficulty in understanding the subject. Although struggling, may produce some relevant points. Perhaps produces a social answer with little relevance to law.

## Paper 1

### Question 1

The question demands specific focus on the Hart/Devlin debate on the enforcement of morals, and on significant cases such as Brown and Shaw. Credit should be given to candidates who provide their own illustrations of relevant dilemmas. Answers which offer a general account of the relationship between law and morality in terms of the history of legal positivism and natural law fail to give sufficient attention to the precise terms of the question and should not be rewarded with a mark in the higher attainment bands.

### Question 2

There is a wide range of possible acceptable answers to this question, which requires awareness of theoretical standpoints as well as appropriate illustration. Candidates who focus more on the functions or necessity of law and discuss mainly in terms of Durkheim and Marx cannot be considered to be good.

### Question 3

The development of equity and its substantive contribution to the formation of the law are the main themes to be expected in this question. Answers well supported by cases and with awareness of historical landmarks such as the Judicature Acts should be rewarded appropriately.

### Question 4

Candidates must both display an awareness of the meaning of strict liability and the ability to illustrate it with cases such as Smedley, Alphacell, Larsonneur and others. Descriptive answers which fail to engage with the issue of the justifiability of strict liability cannot rise above satisfactory level.

### Question 5

Credit should be given here for the exposition of the antecedents and substance of the 1998 Act, coupled with a detailed description of the important Articles of the Convention and the impact of the Act. Candidates who describe rather than evaluate the relevant law cannot attain a mark above satisfactory.

### Question 6

The quotation in question demands awareness of the flexibility inherent in the 'rules' of interpretation and of the constitutional role of the judiciary. Answers which contain substantive detail at the descriptive level but do not anatomise the quotation cannot receive a good mark.

### Question 7

Both detailed awareness of the doctrine of precedent at different levels in the hierarchy and of the pros and cons of strict adherence should be included in the answer. Apart from detailed exposition of the 1966 Practice Statement and the constraints on the Court of Appeal in Young, credit should also be given for exposition of devices for avoiding awkward precedents, such as distinguishing.

### Question 8

Answers should cover both the historical role of the magistracy and assessment of its modern functions in terms of such factors as representativeness, bias, and economic factors.

**Question 9**

This question requires awareness of pressure groups such as Greenpeace and more general/institutionalised groups such as the CBI. Candidates who focus primarily on formal processes of law reform and agencies such as the Law Commission cannot be given a mark above satisfactory.

**Question 10**

Candidates are required to respond to this question by reference to areas of substantive law affected, which could be varied. Descriptions of parliamentary sovereignty or of the institutions of the EU are indirectly related to the question at best and should not be rewarded as generously as focused answers.

## Paper 2

### Question 1

Offers. Unilateral offers, the nature of rewards and their legal status. Performance of that act that amounts to acceptance - whether the terms must be complied with precisely. Status of telephone messages - whether leaving the message amounted to acceptance. Withdrawal of advertisements of rewards. Whether withdrawal was effective in this case. Use of courts to decide these kinds of issues. Appropriate court in the UK or in the country of choice.

### Question 2

Status of brochures and arrangements made by booking. Legal consequences of different availabilities of rooms - effect of this on the contract. Effects of bomb scares and strikes on the contract. Whether doctrine of frustration applies. Effect on contract of cancellation of original arrangements. Misrepresentation. Rights of third parties to a contract. Whether damages are recoverable and for types of losses. Causation and remoteness of damage. Use of ABTA, mediation and settlements out of court.

### Question 3

Supply of Goods and Services and Sale of Goods legislation. Consumer Protection Act 1987. Liability of various people within the chain of supply. Status of imports into the UK from outside the EU. Scope of the legislation. Definition of "defective". Differences under the legislation between cosmetic flaws and dangerous faults. Defences. Damages. What is recoverable in contract, tort and under the legislation.

### Question 4

Consumer credit. Protection afforded to consumers by the legislation. Rights of consumers on entering into credit agreements. Effect of attempts to exclude liability. Status of very high interest rates. Effect of minor faults on the credit agreement. Rights of credit companies when consumers default on payments. Possible defences available here.

### Question 5

Maternity rights - legislation and case law. Flexible working time. Working Time Directive and the number of hours that employees should be expected to work under it. Equal pay and the right to discover salaries of colleagues. Relevant legislation. Disability legislation and the rights of disabled employees.

### Question 6

Procedures for dealing with suspension and dismissal of employees. Law concerning unfair dismissal. Protection of employees who wish to inform on their colleagues. Public Interest (Protection) Act 1998. Possible remedies.

### Question 7

Nature of restrictive covenants. Validity of the clause in question - whether it is void or reasonable in the circumstances. Status of previous course of conduct in the case of other employees - whether this will affect K's position. Possible consequences of breach of restrictive covenant. Case law. Effect of term stating period of notice required. Possible consequences of breach by either party. Remedies.

**Question 8**

Contracts for services and contracts of service. The distinction between employees and independent contractors and how that distinction is made. The legal consequences of the distinction. Whether either party can dictate the nature of employment. Duty of care - the differences in the duty to employees and independent contractors. Duties of employees and independent contractors to each other and to employers.

**Question 9**

Domestic violence. Harassment. How the law protects the victims of domestic violence. Divorce. Grounds for divorce. Role of local authorities in relation to children. Child abuse. Rules for dealing with suspected abuse. Fostering. Adoption procedures.

**Question 10**

Grounds for divorce. Harassment. Violence. Behavioural issues. Relevant legislation. Discussion of approach to decision-making in relation to children. Role of CAFCASS. Role of the courts. Orders that might be made. Mediation.

**Question 11**

Divorce. Grounds. Relevant legislation. Financial settlement. Mediation. Best approach to agreeing financial matters. Considerations that are taken into account when reaching agreement. Pensions. Family home. Reasonable expectations of the parties. Considerations in relation to the children of a marriage when parents divorce.

**Question 12**

Same sex relationships. Rights of grandparents. Best interests of children - how these are assessed. Adoption and fostering - legal rules. Relevant legislation. Role of local authorities and CAFCASS.

**Question 13**

Mens rea and actus reus. Knowledge. Intention. Theft, whether burglary is involved. Blackmail. Homicide. Offences against the person. Criminal damage. Law concerning accomplices. Approaches to sentencing. Suggested sentences.

**Question 14**

Mens rea. Actus reus. Intention. Recklessness. Manslaughter. Offences against the person. Theft. Burglary. Causation. Remoteness of damage.

**Question 15**

Mens rea. Actus reus. Homicide. Intention. Possibility of insanity. Drunkenness. Causation. Problems involved when there are two potential accused persons each of whom blames the other.

**Question 16**

Mens rea. Actus reus. Criminal intent. Possible use of the insanity defence. Causing criminal damage. Complicity in crime.

**Question 17**

Law relating to Contempt of Court - rules about publishing details of suspects. Libel. Spent offences. Press Complaints mechanisms. Defences. Possible remedies. Human rights issues.



**Question 18**

Various public order offences that have been committed. Relevant statutes. Trespass. Criminal trespass. Criminal damage. Offences against the person. Highways offences. Possible defences. Human rights issues. Law concerning peaceful demonstrations.

**Question 19**

Human rights. Breach of privacy - whether such a claim exists. Recent cases. Breach of confidence. Detailed analysis of the law. Libel. Possible defences. Discussion of remedies.

**Question 20**

Police and Criminal Evidence legislation. Rights of suspects in relation to stop and search, arrest, questioning, detention and removal of property. Civil remedies. Police complaints system. Defences. Remedies.

## LAW 9345, CHIEF EXAMINER'S REPORT

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### General Comments

There was a small increase in the number of candidates who sat the examination this year, and in general they produced answers of a comparable standard to those who sat the examination in previous years. There were some excellent centres in which several candidates achieved higher grades, and it was very pleasing to note that the examiners' comments made in earlier years had been noted and acted upon to produce a steady improvement in the standard of candidates' work. There was evidence of real effort by many candidates to learn the legal rules in detail across the syllabus, and many were able to produce well-reasoned arguments supported by relevant authorities drawn from cases and statutes. Although some candidates displayed a tendency to produce standardised "blanket" answers - writing all they knew about the general area of law under consideration without directing their answers to the terms of particular question - this trend was no more noticeable than in previous years. Such an approach is the product of a lack of confidence on the part of candidates who have spent many hours learning the law but who lack the belief in their own ability to apply it. Unfortunately, answers incorporating a "write all you know" approach could only earn limited marks, even though candidates' detailed knowledge of the subject area was sound. Once again the examiners advise candidates to focus directly on the terms in each particular question in order to do themselves justice. Too often, candidates wrote a fairly standard response to a question, hoping rather that the *examiner* would form the necessary connections so as to make the answer relevant. This points to the too often repeated examiner's exhortation to examination candidates to read the question carefully, work out what the question demands, then to write an answer that shows that the candidate has *read the question* and has *selected the law relevant to that, and only that question!*

All too often, candidates for a Law examination try to answer the question without using sufficient legal authority, but, generally, most candidates were able to use legal authority to some degree. The most successful use of legal authority shows ability to: 1. Identify the relevant issue (*"The normal rule is that criminal liability requires evidence of mens rea."*); 2. Ask a question (*"In what circumstances will there be liability without needing to show the existence of a mens rea?"*); and answer that question (*"Mens rea may not be necessary to be proved where the offence involves the exploitation of a child for sexual purposes, as in R v Prince, where the fact that the accused did not realise his victim was only 13 years old, when he thought her to be 16, did not afford him a defence".*)

The best answers contained an introduction that demonstrated that the candidate had grasped what the question was about and how the question was to be tackled, for example Question 3:

*"In order to explain the role of equity as being an addition to rather than a replacement of Common Law, we will need to examine the historical context. This will show how and why equity developed and, through its historical development, we will be able to show its role in relation to the much older system of Common Law."*

Answering only two or three questions can spell disaster for candidates. Above all, consistency over the whole of both papers is essential for the achievement of a high grade, and candidates are advised to attempt all the required questions on each paper. Clarity of presentation, coupled with a good structure and detailed discussion of the legal rules relevant to the questions are all the hallmarks of good answers.

## Paper 1

There were many good candidates who displayed both analytical ability and good command of relevant illustrative detail. It was pleasing to observe some excellent, closely-argued answers, and many others were highly competent. Some centres revealed a tendency in relation to certain answers to produce standardised responses, often at great length. The difficulty with such answers tends to be that they may lack focus on the precise question and include material of very doubtful relevance to the question posed. Examiners are required to give credit for answers which focus explicitly on the question, and “oblique” answers have difficulty challenging the more focused answers for a place in the highest achievement bands. There did seem to be an increase in the number of candidates who failed by a considerable margin. This phenomenon is attributable to two main factors - brevity of answers and vagueness in relation to the question set. This point prompts the more general observation that even among the better candidates in the higher achievement bands there was a marked tendency to drift in and out of focus on the precise terms of the question. The terminology of searching questions demands specific analysis, and generalised - and often extensively prepared “stock” answers that, for example, describe the whole process of statutory interpretation without explicit reference to the set question - cannot attract very high marks. Other areas where this “scattergun” approach was evident included popular questions on precedent, law and morality, and the role of equity. In all such areas description of more or less relevant material tended to displace precise analysis.

### Question 1

The answers to this question re-emphasised the general point made above, that many candidates clearly displayed an exhaustive knowledge of law and morality issues, but failed to appreciate that the question was more narrowly focused on the matter of “private” morality and concomitant theories. The strongest candidates did however provide a detailed analysis of the ethical issues in question, accompanied by a detailed knowledge of case law.

### Question 2

This question, on law and social change, was answered by few. There was a tendency to answer a rather different question, on the functions of or the necessity for law, whereas the question was about the relationship between law and social change. Those candidates who did focus on social change tended to lack theoretical depth or awkwardly to splice material, such as private morality arguments from the previous question, into their answers.

### Question 3

Most candidates displayed a welcome familiarity with the origins and contribution of equity and were able to focus fairly precisely on the question. Weaker candidates tended to lack detailed substantive knowledge of the characteristics of equity and illustrative cases, and there was also a trend of dwelling excessively on the defects in the common law that brought equity into existence.

### Question 4

There was a very broad spectrum of achievement in answers to this question. Some candidates provided very detailed and coherent analyses of strict liability, whereas the weaker answers tended to misunderstand the meaning of “strict” in this connection, and confuse it with relative severity of punishment in general.

### **Question 5**

Many candidates showed gratifyingly detailed awareness of the provisions of the Human Rights Act and of the substance of the Articles of the European Convention, but the question of the justifiability of the legislative framework was less perceptively handled.

### **Question 6**

The set question on statutory interpretation required some kind of analytical overview of the flexibility inherent in statutory interpretation as a whole, but many candidates were over-descriptive of the “rules” and/or misled by the presence of the words “golden rule” in the question. Answers here particularly reinforced the general proposition outlined above, that descriptive knowledge detached from the terms of the question set can scarcely receive a mark above satisfactory, because any credit for detailed knowledge must be balanced if not outweighed by lack of focus.

### **Question 7**

A similar phenomenon to the preceding question was observable, with candidates generally having a better awareness of the doctrine of precedent than of the significance of the slant of the question. However the best candidates produced some strongly focused and well illustrated answers.

### **Question 8**

Very few candidates displayed the same level of knowledge when answering this question as they did on topics such as statutory interpretation or precedent. There was a tendency among the weaker candidates towards unsupported generalisation and even to extensive discussion of irrelevant matters such as the jury.

### **Question 9**

In answer to this question, candidates often wrote briefly in generalities and only identified one or two actual pressure groups. Moreover there was a tendency to concentrate on the official law reform agencies such as the Law Commission, whose relevance was overstated.

### **Question 10**

This question clearly demanded identification of two substantive areas of law affected by the EU. Candidates were in the main ill-equipped to answer this question, and discussed instead issues of parliamentary sovereignty or described the main EU institutions without explicit reference to the terms of the question set.

## Paper 2

Many candidates appeared to enjoy answering Paper 2. This year there was evidence of sensible efforts to deal with the questions logically and to focus only on the issues that were identified at the outset, applying relevant law to the facts, and offering balanced answers supported and illustrated by relevant authorities. Fewer candidates produced standardised answers for Paper 2 than in Paper 1, and many well-prepared candidates produced higher marks for Paper 2 as a result. The more popular sections were those dealing with consumer law and criminal law, but candidates who attempted other sections, especially the family law section, also demonstrated a genuine interest in the subject areas that they had studied. Some candidates tackled questions from sections of the syllabus for which they had obviously not prepared and this is most ill-advised. The advice, as in earlier years, is that candidates should not attempt questions from sections of the syllabus that they have not studied with their teachers, even if the questions appear interesting.

In Paper 2, there was too often a rewriting of the facts set out in the question - and for a few candidates, this was the bulk of what they had written in the 3 hours allocated! This is not necessary and the questions should evince an initial introduction where the candidate sets out the plan for tackling the problems disclosed in a reading of the hypothetical facts. Merely detecting the topics and writing about them in the most general terms is not helpful to candidates.

A good response to Question 1 stated: *“The facts in this question point to a problem over the rightful ownership of £200 reward paid by A to C, and not to B, who, the facts tell us believes she has a superior entitlement. The answer to this problem will be found in Contract Law, in particular over whether B can show that she made a valid contract with A, and that therefore she is contractually entitled to the reward, and not C. How then could there be a contract between A and B, when it would appear that they never met, or signed any contract document?”*

Question 13 was best approached by a demonstration from the candidate of the issues raised by the question, for example, *“That A has committed some serious crimes is evident from the facts, but it is clear that while I shall examine the nature of such crimes, I shall need also to explain the nature of B’s behaviour because although she seemed merely to accompany A on his criminal adventures, she may be liable for crimes herself. If all that she did was to help A, then I will need to identify the crimes committed by A as B may very well be his criminal accomplice.”*

## Section A

### Question 1

This first question covered offer and acceptance, and many candidates had prepared well for a question of precisely this kind. A large number were able to discuss the nature of rewards and their legal status as unilateral offers, where performance amounts to acceptance. The status of various methods of responding to the offer was also covered well. However, some candidates left the matter there and did not go on to discuss withdrawal of offer and whether the withdrawal was effective in this case. Many were familiar with the case law on the subject and approached the question sensibly. There were very few candidates who knew what the appropriate court was to hear the matter in the UK or in their country of choice. Far too many thought that the Magistrates Court would be the appropriate forum and some would have sent this rather trivial case (in financial terms at least) to the House of Lords as a court of first instance.

### **Question 2.**

Most candidates recognised that this question concerned the law relating to misrepresentation, and many discussed the law in this area competently, though there was evidence of confusion about the relationship between common law and statutory remedies. Some candidates were unable to distinguish between “mere puffs” and representations and many suggested that the doctrine of frustration might be relevant. There were several issues concerning damages in this question. Few answers discussed the question of ‘once-in-a-lifetime’ events and matters of remoteness of damage.

### **Question 3**

While the majority who attempted this question identified the relevance of the sale of goods legislation, many omitted any discussion of the consumer protection legislation and the validity of manufacturers’ guarantees. Very few candidates spotted the importance of discussing damages and the relevance of scratches or cosmetic damage as opposed to other forms of damage. Some did not bother to identify the possible remedies available to the consumer. The issues surrounding the liability of various people within the chain of supply and the status of imports into the UK from outside the EU tended not to be considered important by many candidates.

### **Question 4**

Consumer credit was at the heart of this question, and the protection afforded to consumers by legislation. While some candidates could explain the rights of consumers on entering into credit agreements, many had little idea of this area of law, and could not do justice to the law that has developed concerning the effect of attempts to exclude liability. This question produced the least pleasing answers in section one. Few candidates selected the question, and there were only a handful who identified all the relevant issues and discussed them in depth.

## **Section B**

### **Question 5**

There were several important issues raised by this question, and few candidates who attempted it were able to deal effectively with all of them, or to differentiate between the different types of employees and their situations. Maternity rights were the best known, and both legislation and case law were covered quite well, but it was disappointing that so few candidates discussed flexible working time, the Working Time Directive and the number of hours that employees should be expected to work under it. Equal pay was another matter that received scant attention and few candidates appeared to be aware of the right that employees now have to discover salaries of colleagues. The disability issues were covered rather better, however, and many answers showed knowledge of the relevant legislation and the rights of disabled employees.

### **Question 6**

This was a rather interesting question as it raised issues about the procedures for dealing with suspension and dismissal of employees and the law concerning unfair dismissal. However, it was not a popular question and of those candidates who decided to tackle it there were few who dealt with the issues in depth. It was also rather puzzling that so few candidates demonstrated knowledge of the legal rules aimed at the protection of employees who wish to inform on their colleagues - the Public Interest (Protection) Act 1998. Possible remedies were discussed but some of the candidates took a very general approach and did not focus on the question.

### **Question 7**

This question, which concerned the nature of restrictive covenants, was popular and invariably any employment law section includes a problem on these issues. However, not all those who dealt with the question considered the validity of the clause in question - whether it was void or reasonable in the circumstances. Some candidates overlooked the matter of the status of a previous course of conduct in the case of other employees - whether this affected the position of the particular employee under consideration. There was good knowledge of case law displayed in many of the answers to this question.

### **Question 8**

Central to this question was the distinction between contracts for services and contracts of service and the surrounding case law. However, many candidates were unaware that they were required to outline the distinction between employees and independent contractors and to explore the way in which that distinction is made and its legal consequences. A more subtle matter was the question as to whether either party can dictate the nature of the employment contract, and few identified that this was relevant. However, the duty of care tended to be covered quite comprehensively.

## **Section C**

### **Question 9**

As usual the family law section of the paper proved popular and was generally tackled well, though it did tend to produce moralising and 'common sense' answers on occasion. In this question, the complex and at times distressing issues surrounding fostering and adoption of children were covered well, though some candidates did not display any great depth of knowledge of the legal rules, preferring to concentrate on the emotive issues that were raised by the question. Detailed knowledge of the law does yield better marks than general tirades. A good structure is a bonus, and clear presentation of the law on the main issues raised by the question is essential for marks in the higher bands. Answers to family law questions can have a tendency to be rambling.

### **Question 10**

The issues surrounding domestic violence were handled sensibly, but there was uncertainty about the way in which harassment should be dealt with when there are victims of domestic violence. The grounds for divorce were well-known and some candidates were very articulate and practical in their approach to this matter. There was good discussion of the approach to decision-making in relation to children, but few candidates displayed real knowledge of the role of CAFCASS or the drive towards mediation. Some candidates produced only 'common sense' answers and were unable to obtain good marks for this question, which required detailed knowledge of the law.

### **Question 11**

Divorce was again known thoroughly as an obvious examination topic. Grounds for divorce and the relevant legislation were outlined well. Candidates were less confident about financial settlements and mediation as the best approach to agreeing financial matters. However, there were some good answers outlining the considerations that are taken into account when reaching agreement, the role of pensions and the significance of the family home. Some of those who answered this question displayed a good knowledge of what happens in practice in cases of this kind, and there were some well-balanced answers.

### **Question 12**

Fewer candidates attempted this question, but of those who did choose it, a large number produced good responses. Same sex relationships produced some interesting comments as did the rights of grandparents - or the lack of them. The question of the best interests of children and how these are assessed was handled well. Adoption and fostering and the relevant legal rules were also covered comprehensively by better candidates. The roles of the local authorities and CAFCASS were not covered in as much depth. Candidates are urged to produce balanced answers, giving equal attention to all relevant points.

## **Section D**

### **Question 13**

Throughout the criminal law section the examiners were looking for full and detailed answers that covered the many issues raised by the questions and demonstrated knowledge of such basic concepts as mens rea, actus reus and causation in criminal law. In this question, the matter of knowledge was identified and discussed by many candidates, as was intention. Crimes of theft, the question of whether burglary was involved, blackmail and homicide were covered convincingly by many. Some answers failed to identify the relevance of criminal damage. Others omitted the law concerning accomplices. Some candidates lost marks because they appear to have overlooked the last part of the question.

### **Question 14**

This question demanded discussion of mens rea and actus reus, intention, recklessness and the complexities of the crime of manslaughter. These matters were tackled well, but offences against the person were not covered as comprehensively by many candidates who appeared to run out of time in dealing with so many points. There was great scope for earning marks on the matters of causation and remoteness of damage, but these points were not handled very well by many of those who attempted this question.

### **Question 15**

Some topical issues were raised by this question and candidates approached it with interest. Again, many displayed a good understanding of mens rea and actus reus. Issues surrounding homicide, intention and causation were discussed very well by some candidates. However, few were able to produce good accounts of the way in which the law deals with difficulties that arise when there are two potential accused persons each of whom blames the other. Many ignored the instruction in the question to consider how the police and Crown Prosecution Service would be likely to proceed in this case and whether a prosecution was likely to be successful.

### **Question 16**

Some difficult matters surrounding possible insanity should have been under consideration here but few candidates seemed to be aware of the relevance of the use of the insanity defence and how it would operate in practice. Many identified the need to discuss the questions of causing criminal damage to the dog, and those relating to complicity in crime.



## Section E

### Question 17

This question was not as popular as some of the others, and the candidates who tackled it did not all have a good grasp of the complexities of the law and the special relevance of human rights to this section. This question concerned the law relating to Contempt of Court, yet that matter was frequently overlooked. However, the rules about publishing details of suspects were covered quite well. Libel tended to act as an incentive to many candidates to write everything they knew about that area of law at the expense of relevance. The question of spent offences was ignored by many as was the role of the Press Complaints mechanisms. Defences and possible remedies were covered sensibly in general.

### Question 18

Like many of the other questions with a topical flavour, this was popular with candidates. The various public order offences were well-known as were the relevant statutes. Trespass as a tort and as a crime was discussed very well as was the question of criminal damage. Highways offences were identified by many candidates and the possible defences and human rights issues were handled well. However, some answers contained no reference to the law concerning peaceful demonstrations.

### Question 19

Human rights issues were important in this question and the topical matter of breach of privacy should also have been considered - as indeed it was by many candidates. Recent cases were discussed, but the tort of breach of confidence did not always claim the attention it deserved here. Some answers contained a sound analysis of recent developments in the law. The law of libel was given a popular slant here and was not always covered well. Possible defences were discussed however, as were remedies.

### Question 20

The rights of suspects and their treatment by the police is almost inevitably a topic that appears in the problems in this section of the paper. Accordingly, the Police and Criminal Evidence legislation was known thoroughly by many candidates, who were able to give good accounts of the rights of suspects in relation to stop and search, arrest, questioning, detention and removal of property. Civil remedies were also well-known but there was a tendency to omit discussion of the police complaints system. Defences and possible remedies were covered well.

## LAW 9345, GRADE BOUNDARIES

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Grade	A	B	C	D	E
Lowest mark for award of grade	53	48	43	38	33

**Note:** Grade boundaries may vary from year to year and from subject to subject, depending on the demands of the question paper.

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