

Examiners' Report Summer 2007

GCE

GCE Law (9345)

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Introduction

The aim of this report is to provide feedback about the general performance of candidates in the examination. It is hoped that this will offer useful information for future reference, to enhance insight into what the examiners expect of candidates, and to guide students who enter the examination in future years.

General Comments

In general answers were of a comparable standard to those in previous years. There were some excellent centres in which several candidates achieved higher grades, and it was very pleasing to note that comments made in previous examiners' reports had been noted and acted upon to produce an improvement in the standard of performance overall. 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, with reference to human rights issues. Although, as usual, some candidates displayed a tendency to produce standardised answers, covering all they knew about the general area of law under consideration without directing their answers to the particular question, this trend was no more noticeable than in previous years. Clear presentation, a good structure and detailed discussion of the legal rules relevant to the questions are the hallmarks of good answers. Candidates are reminded that answering only two or three questions can make a significant difference to the final result, even if the few questions attempted are very good, as consistency over all questions and both papers is essential for the achievement of a high grade, and candidates are advised to attempt all the required questions on each paper. The difference between a good answer and one which is only satisfactory is the demonstration of analytical ability rather than merely the ability to reproduce material learned by rote.

Paper 1 Examiners' Report

As noted in previous years, candidates from many centres tend to produce "stock" answers which are well memorised and reproduced but risk losing marks for lack of perceived relevance to the precise formulation of the question set. One of the purposes of the examination this year was to stay within the broad domains of expected knowledge, but to ask questions which might not have appeared before and were not susceptible to a stock answer, which indicates primarily accuracy of memory rather than analytical ability. To take a perennial example - a question such as this year's Question 1 - an unjust law is not a law at all - does not obviously invite assessment of the Hart/ Devlin enforcement of morals debate, but does inevitably require consideration of the argument between natural lawyers and positivists. Many candidates mentioned natural law and positivism almost in passing.

However on the credit side many candidates did produce well argued and detailed analysis of elements such as statutory interpretation and the operation of precedent, and were able to focus explicitly on the terms of the question. This last capacity, to take on the actual formulation of the issue rather than adopting a more scattergun-like approach, is the key to marks in the higher achievement bands.

PART 1

Question 1

As already indicated, the primary focus of any answer to this question had to be the battle between natural law and positivism, but most candidates failed to engage directly with the question and preferred to give a general account of issues involving law and morality with subsequent loss of focus and marks.

Question 2

This question, about the contribution of law to social change, again tended to be met by a blunderbuss approach, with reference to functions of law in society or to the converse proposition, the effect of social change on law. Some candidates were able to focus directly and persistently on the question and supply relevant historical illustration.

Question 3

This question was by and large very competently handled, with often impressive command of historical detail and supporting illustration. What usually separated candidates was the degree of detail at their command or their ability to tie the answer to the contemporary importance of equity.

Question 4

As this question appeared for the first time in recent years, stock answers predominantly dependent on describing the role of corporations in the civil context were sadly out of touch with the terms of the question, which was concerned with the difficulties of establishing criminal liability and with recent proposals for reform.

Question 5

The Human Rights Act has been in force now for several years, and detailed case law on its impact has developed, but many candidates offered an account of the Act which was over-dependent on a historical introduction and offered little insight into the fate of crucial Articles of the Convention, such as 6 and 8, and a fragmentary account of the terms of crucial section of the 1998 Act, such as ss 3 and 4.

PART II

Question 6

This question, on statutory interpretation and the impact of the Human Rights Act 1998, was generally handled very competently, with gratifying awareness of the political justifications underlying different types of “rule”. However, as with previous question, there was also lack of awareness of the provisions of the 1998 Act dealing directly with interpretative principles.

Question 7

Candidates as a rule had a very sound knowledge of the doctrine of precedent as it affects courts at different levels in the hierarchy, and could give a convincingly balanced account of the advantages and disadvantages of adherence to precedent.

Question 8

Few candidates answered this question, and even fewer answered it well. There was a general lack of perception of the various types of pressure groups, and even where such awareness existed it tended to lack supporting illustration.

Question 9

Some candidates confused the jury and the magistrates, but generally there was respectable range of responses, often backed by relevant detail. What distinguished the better candidates was the knowledge of recent reform proposals, whereas the weaker answers tended to concentrate on broad generalisations and familiar quotations in favour of the jury.

Question 10

The better candidates showed gratifying awareness both of the content of the notion of parliamentary sovereignty and of the impact of the EU. Weaker candidates answered a different question, such as the nature of various EU institutions, or managed to tackle only half of the question, as by being knowledgeable about sovereignty but less so about inroads into it.

Paper 2 Examiners' Report

The standard of work matched that attained in previous years. 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. In general, the standard of performance was better for this paper than for Paper One, and there was ample evidence of sensible attempts by candidates 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. Once again, the more popular sections were those dealing with consumer law and criminal law. However, some candidates tackled questions from sections of the syllabus for which they had obviously not been prepared, simply because the questions appeared to be interesting. This practice is most ill-advised, and candidates are reminded that they should not attempt questions from sections of the syllabus that they have not studied with their teachers.

Section A: The Market

Question 1

This first question covered offer and acceptance, and many candidates had prepared well. A large number were able to discuss unilateral offers, where performance amounts to acceptance. The status of various modern methods of responding to the offer was also covered well. This year there were issues in the question on offer and acceptance concerning the validity of notices and many candidates did not identify or discuss this aspect of the question. However, there was familiarity with much of the case law on offer and acceptance, though once again there were very few candidates who had any idea what the appropriate court was to hear the matter in the UK or in their country of choice. Many thought that the Magistrates Court would be the appropriate forum and some would have sent this small value case to the House of Lords as a court of first instance.

Question 2

Most candidates identified that this question concerned the law relating to misrepresentation, and many discussed the law in this area competently. However there was much confusion about appropriate common law and statutory remedies. The part of the question concerning damages was handled rather better, however, and some answers discussed remoteness of damage very well.

Question 3

This was a popular question, but few who attempted it produced really good answers. Several civil and quasi criminal issues could have been covered, but most candidates who selected this question only covered the civil law. There were few candidates who were able to refer to relevant cases in their answers and this was not one of the best handled questions.

Question 4

Consumer matters and product liability lay at the heart of this question, and the protection afforded to consumers by legislation was generally well-understood by candidates. Many answers cited the relevant legislation as well as the case law, and there were some impressively detailed answers. The consumer credit matters were handled less well, though.

Section B: The Workplace

Question 5

There were several important issues relating to the new law on disability raised by this question, and few candidates who attempted it were able to deal effectively with all of them. It was disappointing that so few candidates discussed the options available to those who believe that they have been discriminated against on grounds of disability.

Question 6

This was a rather interesting question as it raised issues about discrimination in a range of different scenarios, offering candidates the opportunity to gain substantial marks on some scenarios even if they were less sure about others. However, of those candidates who decided to tackle it there were few who dealt with the issues in depth.

Question 7

This question, which concerned restrictive covenants, was popular as the employment law section usually includes a problem on these matters. 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. Good knowledge of case law was displayed in many 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. The statutory provisions were generally ignored by most candidates, and this highly regulated area of workplace matters was not handled particularly well.

Section C: The Family

Question 9

As usual the family law section of the paper proved popular and was generally tackled well. In this question the complex and at times distressing issues surrounding the role of local authority social workers 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 will inevitably yield better marks than general comments.

Question 10

The issues surrounding rights of competent children to express their views tended to be handled sensibly, but with little or no reference to the rash of cases on this point in recent years. There was, however, good discussion of the approach to decision-making in relation to children, displaying knowledge of the role of CAFFCAS.

Question 11

Ancillary relief is not an easy area of law, even though it is an obvious examination topic. Candidates were, as usual, 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. There were some well-balanced answers to this question. 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.

Question 12

Fewer candidates attempted this question on adoption and some of the rather emotive issues surrounding it. Of those did choose to do so, a large number produced good responses. 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 CAFFCAS were not covered in as much depth. Once again, candidates are urged to produce balanced answers, giving equal attention to all relevant points.

Section D: The Criminal Offender

Question 13

Throughout the criminal law section the examiners were looking for full and detailed answers dealing with the points raised by the questions and demonstrating knowledge of such basic concepts as mens rea, actus reus and causation in criminal law. In this question, which concerned many complex ideas and causation in particular, some candidates lost marks because they appear to have overlooked one or more parts of the question. Nevertheless, the cases were known and explained well.

Question 14

This question demanded discussion of mens rea and actus reus of the crimes involved. These matters were tackled well, but offences against the person were not covered as comprehensively by many candidates. Once again, it was pleasing to note that many candidates had a good working knowledge of the case law involved.

Question 15

Again, many displayed a good understanding of mens rea and actus reus. However, few candidates spotted all the relevant points and the question of criminal damage was largely ignored. Many candidates only dealt with the first part of the question and omitted discussion about compensating the victims of crime, so losing valuable marks.

Question 16

There were some difficult matters for consideration here, and few candidates handled this question well. The part of the question dealing with the CPS was largely ignored, but there were some good answers covering the way in which courts deal with younger offenders.

Section E: The Individual

Question 17

This section was not as popular as some of the others, and while many of the candidates who tackled it identified the relevance of human rights to this section, few were aware of the details of the European Convention on Human Rights or the provisions of the Human Rights Act 1998. There were some sensible answers to this question, however, with reference to cases.

Question 18

This was a popular question and it yielded some very good answers. Many candidates could provide details of the legislation and cases. The powers of the police for dealing with criminals depend upon a delicate balance between the need to protect the public and the rights of the individual, and this was not grasped by some of the candidates.

Question 19

Although this question appeared to interest candidates, there was a disappointing lack of detail in the answers. The law of nuisance has both civil and criminal aspects, but many candidates dealt with only one aspect. The matter of compensation was frequently overlooked.

Question 20

Some answers contained a sound analysis of recent developments in the law. The law of libel was covered rather better than in previous years, and possible defences were discussed well, as were remedies. There tended to be some rather general answers dealing with the whole of the law of defamation, rather than the specific matters raised by the question.

9345 Statistics

Grade	Max. marks	A	B	C	D	E
Grade Boundaries	100	53	48	43	38	34

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