

Examiners' Report/
Principal Examiner Feedback

Summer 2014

IAL Law (YLA0)
Paper 02

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General Comments

Students who entered the A Level Law examination this year produced answers of a comparable standard to those who sat the examination in previous years, but there was a distinct improvement in the quality of Paper Two answers. Some excellent centres produced students who achieved high grades on both papers, and it was pleasing to observe that earlier comments by the examiners on past entries to this examination had been acted upon, resulting in a steady improvement in the standard of work offered by students. Many students had clearly worked very conscientiously to understand and absorb details of the law across the entire syllabus, though it was unusual to observe efforts by students to transfer knowledge gained in basic principles for Paper One to their answers for Paper Two. Nevertheless, some well-reasoned arguments were produced, supported by relevant authorities drawn from cases and statutes.

Although some students tended to write standardised or “blanket” answers, reproducing all they knew about the general area of law relevant to the questions, this approach was no more widespread than in previous years. Stemming from lack of confidence on the part of students who have spent considerable time learning the law, it is evidence that such an approach indicates that some students lack belief in their own ability to apply their knowledge of the law appropriately. Unfortunately, answers based on a “write all you know” approach can earn only a restricted range of marks, and the examiners advise students to focus strongly on the terms of each question in order to ensure that they answer the particular question that has been asked. It is for the student to develop the connections required to make their answers relevant, and teachers are urged to tell students to read the questions carefully, assess what the questions demand, plan their answers meticulously, and write responses which demonstrate that they have selected law which is relevant to the question, with appropriate illustrations and examples.

Some students attempted to answer questions without supporting and illustrating them with appropriate legal authority, but most tried to use legal authorities to some degree, and better students examined the cases in depth. Clear demonstration of ability to appraise and criticise the application of legal principles and to use authorities appropriately can yield some excellent answers.

In response to Paper One, successful students demonstrated a very good appreciation of the role and function of law in society, and evidence of critical awareness of controversial issues in law and law reform. For Paper Two, better students showed a clear grasp legal analysis in respect of problem scenarios, and real ability to apply rules and use authorities. Clarity of presentation, a good structure for each answer, detailed discussion of the legal rules relevant to the questions and appropriate support from legal authorities are the hallmarks of good answers.

Paper Two

The overall quality of Paper Two answers was greatly improved this year over last. Answering problem-type questions requires the ability to apply legal rules as well as simply reproducing them, and these particular questions can be challenging for some students. However, there was evidence of sustained effort on the part of many students to deal with the questions logically, to identify the important issues at the start of the answer, to focus only on those issues, applying relevant legal rules to the facts, and to write balanced answers supported and illustrated by legal authorities. Fewer students produced standardised answers in Paper Two than in Paper One, and many well-prepared students produced higher marks for Paper Two as a result. The most popular sections were The Market, Criminal law, and the Individual.

Answering only three questions almost inevitably results in disaster, even for the students who write three good answers, as the outcome is a lower grade overall. Consistency across all answers in both papers is essential if students are to achieve a high grade, and they are advised to attempt *four* questions on each paper, as instructed. Although the examiners ensure that students are rewarded for what they have shown they *can* do, rather than penalising them for omissions, it is impossible to award marks for a question that has not been answered at all.

As happens every year, many students again wasted their time re-writing parts of the questions. Although this is partially acceptable, and indeed necessary to a limited extent in order to focus on particular facts, it is not sensible for students to write out large sections of the questions, as it can give the impression that they know little about the topic and are simply filling in time. A simple and direct introductory paragraph is usually all that is needed. For example, when tackling one question, a good student introduced the answer as follows: *“The issues to be discussed in this question are focused mainly on fraud and theft, and the legal rules relating to these matters will be discussed with reference to the scenario stated in the question”*. The student then discussed each point in turn in chronological order, supporting conclusions with cases and sections of statutes, achieving a very good mark.

Section A

Question 1

This first question concerned offer and acceptance, the status of newspaper advertisements, intention to create legal relations, and the timing of offer and acceptance in unilateral contracts. The validity of messages left on telephone answering machines was also important, along with the legal consequences when such machines do not record messages. Withdrawal of unilateral offers and the related case law should also have been discussed. Many students had been well prepared for a question of this kind, and a large number were able to discuss the nature of offers and their legal status. Some students failed to recognise all relevant aspects of the question, losing marks and omitting important points. However, methods of responding to a unilateral offer were handled well. Good references to the

case law were essential, and answers generally displayed familiarity with the cases on the subject, but some students would have earned more marks had they stated the facts of cases more fully and explained how and why they were relevant to the facts of the question.

Question 2

This question, concerning aspects of misrepresentation, was popular. Those students who answered it appeared to find it difficult to support their answers with appropriate authorities. Many did not recognise the importance of both common law and statute, and as a result some focused their answers too narrowly, omitting some of the material identified in the mark scheme. There was evidence of confusion about the current safeguards and statutory remedies, and many were unable to produce in-depth analysis. The relative advantages of different approaches to obtaining remedies were only covered by the better students

Question 3

This popular question attracted many students, and it tended to be answered well by many, though the role of trading standards officers was seldom discussed. The cases and statutory authorities on were well-known. The rights of third parties were described, illustrated and explained well. Few answers indicated an understanding of the law concerning importing into the UK and distributing there goods manufactured outside the EU. It was disappointing to observe that so few cases were used to illustrate this answer.

Question 4

This question proved attractive to many students who tackled this section of the paper. Several points of law needed to be identified and discussed, and few students covered all of them. However, there was some good analysis of the rules relating to advertisements and the legal validity of exclusion/limitation clauses. Most answers contained some discussion of the rights of third parties and the possibility of frustration of contract and its consequences. Causation, remoteness and remedies were also discussed, but there were few students who gave details of the case law. As is usual, there was a great deal of confusion about the appropriate use of courts and alternative methods of dispute resolution.

Section B

This was not a popular section of the paper with students entering the examination this year, and it was apparent that some of those attempting to answer these questions had not prepared this area of law.

Question 5

This first question on the section required students to identify, discuss and apply the law relating to restrictive covenants, their validity, and the meaning of the presumption relating to “void” clauses in this context. Case law was seldom referred to by the few students attempting this section.

Question 6

Transfer of undertakings was an important factor here, but it escaped the notice of those who dealt with this question. The law in relation to equal pay was identified as important, as was the right of female employees to discover the salary of males in equivalent posts. Discrimination on grounds of sex and age were commented upon, but with little support from legal authorities.

Question 7

The main focus in the question was on selection for redundancy and the rules concerning notice of redundancy, but there were very few attempts to answer this question, and even fewer students dealing with appropriate redundancy schemes and the need for consultation with, and the involvement of, Trade Unions and ACAS. Possible remedies and appropriate procedures were barely mentioned in answers.

Question 8

This question required students to distinguish between employees and independent contractors and to describe the legal consequences for people falling into each category. There were various scenarios for discussion, which raised important points of law, including aspects of Tort and Health and Safety at work. However, answers contained too little reference to legal authorities, to the common law duties of employers, to ultra-hazardous activities and what happens in respect of practical jokes played in the workplace.

Section C

Family Law again proved much less popular than some of the other sections of the paper, but those students who had prepared thoroughly for this section and chose to answer it, tended to do well. However, as is so often the case in answers to the family law section, there were students who produced common-sense answers, and who did not refer to the relevant legal provisions and case law. Some had clearly not prepared to answer this section, but armed with some knowledge of criminal law, thought they could do justice to the question on domestic violence.

Question 9

This question concerned the matters to be taken into consideration when deciding what should happen to a teenager who is at odds with her family over a number of questions of principle. The role of social workers was important here, and appropriate care orders, on the basis of the Children Act. The section 8 orders were discussed very well in general, as was the law concerning domestic violence. However, the need to take account of the views of an intelligent 13 year old was not mentioned in many answers. Fostering and child care considerations were discussed, but not the matter of approval of foster parents, or the longer term issues such as the importance placed by the courts on contact with family members. Human rights issues, such as freedom of religion, were barely identified.

Question 10

Human rights law was important in this question, and again, it was disappointing that so few of the students who answered the question could see the relevance of this area of law to the facts under consideration. The legal validity of forced marriages and the role of the police and social workers were given priority, as was legislative and common law protection, and many answers emphasised the importance of the Protection from Harassment Act. The legal position when parents disagree about consent to vaccinations was not a matter that was well-known, and some students dealt with this by taking a common sense approach, even though there is case law on the subject.

Question 11

Ancillary relief, which was central to this question, can be a difficult topic for students to understand. However, there were a few good answers concentrating on the length of marriage, the fact that there were no children involved, and the importance of not blaming either party. The legal rules concerning sharing of property inherited by one party were also identified as important. However, financial support by spouses of one another was barely mentioned. The use of mediation to settle the dispute was discussed quite well.

Question 12

Many of those who attempted to answer this question clearly found it interesting and were able to discuss the legal aspects very well. However, it was apparent that some of the answers contained a good deal of moralising, which was inappropriate in a legal response. The role of the court was recognised and the status of parental responsibility agreements was discussed, but there was little comment on birth certification and internet advertisements for sales of sperm. The change of surname point was handled quite well, but few cases were cited.

Section D

The Criminal Law section was as popular as ever this year, and it was very encouraging for the examiners to note that a large number of students showed good understanding of basic criminal law concepts of actus reus and mens rea and were able to explain and apply their knowledge and understanding appropriately.

Question 13

The scenario in this question involved the age of criminal responsibility, a factor identified as important by many who answered the question. The mens rea and actus reus of theft were outlined well in many instances, but the question of citizen's arrest was not covered particularly well. Offences against the person and the defences were given due attention, and although some cases were mentioned, there was little discussion of the facts and how they related to the scenario.

Question 14

Elements of theft and fraud were identified and discussed very well by many students, as were the necessary mens rea and actus reus. The importance

of intention was given special prominence in many answers. Relevant legislation was discussed appropriately, but again there were few students who gave any in-depth treatment to the cases. Sentencing tended to be omitted from some answers.

Question 15

The crime of burglary were outlined very well by many who answered this question, together with the relevant mens rea, and actus reus. The Theft Act, common enterprise and related matters were handled well, and relevant statutory provisions were described better than the case law. Possible sentences with the emphasis on the age of offenders were also covered sensibly.

Question 16

Although this controversial scenario attracted many responses by students, the legal rules concerning suicide pacts, assisted suicide and related matters were not handled well. Criminal damage was another element of the question that was not discussed in full. However, the issue of causation tended to be dealt with rather more effectively. Better students discussed the role of CPS and the recent guidance issued by DPP.

Section E

This section is now as popular as the sections on Consumer Law and Criminal Law, and it is clearly growing in popularity. Some of the students who tackled the section had a poor grasp of the complexities of the legal rules in this area, and the relevance of human rights law. There are many detailed statutory rules that are relevant, but there is also a supporting volume of case law dealing for this section.

Question 17

Public order legislation and the possible offences committed in the scenario were covered well, as were the statutory rules concerning criminal trespass on private land, and obstruction of the highway. Legal rules concerning protest marches and demonstrations were less well known. The various forms of nuisance were identified and handled quite sensibly, as were the defences, but the case law tended to be omitted.

Question 18

This was a topical question which proved to be popular. Most of those who attempted it could describe the provisions of the Public Order legislation and outline the numerous possible offences, including riot, violent disorder, arson and so on. The position of ring leaders and the issue of joint enterprise were not handled well, however. The issue as to whether the use of social internet sites to incite violence could involve to any criminal offences was not covered in depth by many students. The role of the courts in imposing sentences, which has also been very topical recently, was another matter than was barely mentioned.

Question 19

The role of role of the media and the legal rules concerning phone-tapping are matters which have recently been discussed in the world-wide news,

and this question was popular with students as a result. The better answers described the relationship between the media and the police and included human rights considerations, in particular, HRA 1998 art.8 and art.10 ECHR. The balance required by the law is important, but few answers referred to that matter. Most students concentrated on outlining the law of libel, some covering a range of irrelevant matters. However, the better answers contained consideration of spent offences, statute and case law.

Question 20

There were some very good answers to this question dealing with the role of Stop and Search, and containing detailed discussion of the Police and Criminal Evidence Act and related Codes of Practice, as well as the validity of "verbals". There was some good comment on the role of the police and the role of the custody officer in particular, and it was pleasing to note how many students could cite the precise sections of the legislation applicable to the scenario. However, it was disappointing that few answers concentrated on the possible remedies against the police and the role and procedures of the Police Complaints Authority.

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