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Edexcel

Mark Scheme (Results)

Summer 2022

Pearson Edexcel International Advanced Level in  
Law (YLA1)

Paper 2: The Law in Action

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## General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

Question number	State the meaning of freedom of assembly under the Human Rights Act 1998.  <b>Answer</b>	Marks
1(a)	<p style="text-align: center;"><b>(1 AO1), (1 AO2)</b></p> <p><b>One mark for stating the meaning of freedom of assembly (1 AO1), and one mark for a brief explanation/enhancement (1 AO2).</b></p> <ul style="list-style-type: none"> <li>• Under Article 11 of the Human Rights Act 1998 (1 AO1), everyone has the right to meet in a group/associate with others (1 AO2), e.g. 2010 planned protest by the English Defence League.</li> <li>• Freedom of assembly/association includes the right to form/join a trade union (1 AO1) but the right can be restricted to protect national security/public safety (1 AO2), e.g. <i>Redfearn v UK</i> 2012.</li> <li>• Accept any other appropriate examples.</li> </ul>	<b>(2)</b>

Question number	Explain briefly the individual's rights to freedom of expression, under the Human Rights Act 1998.  <b>Answer</b>	Marks
1(b)	<p style="text-align: center;"><b>(2 AO1), (2 AO2)</b></p> <p><b>One mark for each description of freedom of expression, up to two marks (2 AO1), and one mark for each appropriate expansion/example, up to two marks (2 AO2).</b></p> <ul style="list-style-type: none"> <li>• Article 11 of the Human Rights Act 1998 (1 AO1), allows a person to express their views through published articles/leaflets (1 AO2)</li> <li>• It includes the rights to express your views aloud (1 AO1), for example through public protest/demonstrations (1 AO2)</li> <li>• Reference to cases such as <i>Observer Guardian v UK</i>, <i>Abdul v DPP</i>, <i>Lee v Ashers Baking Co. Ltd</i>, <i>Mosley v News Group Newspapers Ltd</i>.</li> </ul> <p><b>NB: Credit references to the restriction of freedom of expression.</b></p>	<b>(4)</b>

Question number	Evaluate Jonas's rights to the information held by the police and his rights to protect his privacy.  <b>Indicative content</b>	Marks
1(c)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (4 AO3), (6 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of the elements of a request for information held under <b>The Freedom of Information Act 2000</b> S1(1) by Jonas – Public authority, request for information, fees, information held, information communicated, time limits.</li> <li>• Identification of the key issues for example, the Police are a public authority, a request must be responded to within 20 working days</li> <li>• Difficulty in deciding whether the holding of the information in confidence outweighs the public interest in disclosing the information e.g. John Catt v UK</li> <li>• Definition of either Data Protection Act 1998 or 2018 e.g. an act of parliament designed to control how a person's personal information is used by organisations, businesses or the government</li> <li>• Identification of the data protection principles under the act, e.g. that an individual's personal data must be stored for a legitimate reason and securely</li> <li>• Analysis that the Police are covered by the act and that the suspected terrorist list should be held under the principles of the act</li> <li>• Analysis that Jonas may make a Freedom of Information request/ a subject access request to the police</li> <li>• Evaluation as to whether the police are withholding information illegally from Jonas under the rules of the Freedom of Information Act</li> <li>• Evaluation of the right of the Police to place Jonas's details on the suspected terrorist list vs his right to privacy under Article of the Human Rights Act and if so for how long</li> <li>• Conclude that as Jonas appears to be no threat to national security and that there is a right to protest under Article 10 and 11 of the Human Rights Act that the police are likely to be in breach of Jonas's rights by keeping his data illegally</li> <li>• Reference and application to suitable sanctions or remedies under any of the Acts</li> </ul>	<b>(14)</b>

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7-10	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11-14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of</p>

	competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.
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Question number	Indicative content	Marks
2(a)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Definition of defamation e.g. where a person can sue another person or company for words that are published or said which can be shown to have damaged their good reputation</li> <li>• Identification that slander is for making a false/damaging statement in public.</li> <li>• Identification that statement must be false.</li> <li>• Identification that the Defamation Act 2013 requires proof that the publication has caused or is likely to cause serious harm to the reputation of the claimant under S1.</li> <li>• Analysis of Adamu’s claim focusing on the meaning of serious harm (S1), i.e. something that is likely to be very damaging to Trand Corp’s reputation, Cooke v MGN Ltd or Youssoupoff v MGM Pictures</li> <li>• Analysis of truth (S2) and honest opinion (S3)- the newspaper’s ability to satisfy either of these sections e.g. Wasserman v Freilich</li> <li>• Analysis of newspapers potential defamation publicly under the Defamation Act 2013 and the newspaper’s claim that they were acting in the public interest, e.g. S4 and Reynolds v Times Newspapers 1999.</li> </ul> <p>Reference and application to possible damages.</p>	(6)

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding is demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>



<b>Question number</b>	Evaluate Mia's rights and remedies, under the Occupiers' Liability Acts, in respect of the injuries sustained.  <b>Indicative content</b>	<b>Marks</b>
<b>2(b)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (4 AO3), (6 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of relevant issues under the Occupiers' Liability Act 1957 such as the duty S2(1), duty of care S2(2), warnings S2(4)(a) discharging the duty, independent contractor S24(b).</li> <li>• Analysis of Rasma's duty under the Occupiers' Liability Act 1957, i.e. Rasma owes a duty of care to Mia as a lawful visitor. The duty is for Rasma to take such care in all the circumstances to see that Mia will be reasonably safe in the restaurant.</li> <li>• Evaluation of reasons why express and implied conditions under the 1957 Act apply for Mia in this situation, e.g. Rasma may argue that he escapes liability for Mia's injuries under s.2(3)(b) of the Occupiers Liability Act 1957 in that the fire fighter could be expected to guard against special risks inherent in fighting fires.</li> <li>• Evaluation that Mia may argue that as Rasma had caused the dangerous situation to arise with special/exceptional risks he owed a duty of care to Mia regardless of her role as a firefighter</li> <li>• Reference to cases such as Paris v Stepney Borough Council, Woollins v British Celanese, Haseldine v Daw, Woodward v Mayor of Hastings, Salmon v Seafarer Restaurants etc.</li> </ul> <p>NB: Allow any reasonable evaluation. Credit alternative evaluation of the situation under negligence.</p>	<b>(14)</b>

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7-10	<p>Accurate knowledge and understanding is demonstrated.</p> <p>Knowledge and understanding is supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11-14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of</p>

	competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.
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Question number	Describe <b>two</b> situations when an omission may form the actus reus of a criminal offence.  <b>Answer</b>	Marks
3(a)	<p style="text-align: center;"><b>(2 AO1), (2 AO2)</b></p> <p><b>Up to two marks for describing ways an omission may form the actus reus of a crime (2 AO1), and one mark for each appropriate expansion/example, up to two marks (2 AO2).</b></p> <ul style="list-style-type: none"> <li>• Where the conduct of a crime is committed by a failure to act <b>(1 AO1)</b>, such as where the D is under a contractual duty to act over another's health and safety <b>(1 AO2)</b>, e.g. R v Pittwood.</li> <li>• Where a person has a duty to protect the health and safety of children due to a parental or family relationship <b>(1 AO1)</b>, such as where a mother and father of a young child was starved to death by a failure to feed the sibling <b>(1 AO2)</b>, e.g. R v Gibbons &amp; Proctor.</li> </ul> <p>Other suitable descriptions.</p>	<b>(4)</b>

Question number	Analyse the sentences that may be appropriate for Bob, in this situation.  <b>Indicative content</b>	Marks
3(b)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of the range of sentences under S177 Criminal Justice Act 2003 and The Powers of Criminal Courts (Sentencing) Act 2000 such as custodial, suspended sentence, community sentence, fines, discharges.</li> <li>• Identification that the offence Bob has committed is a burglary with the ulterior offence of theft and grievous bodily harm</li> </ul> <p>Applying sentences to <b>Bob:</b></p> <ul style="list-style-type: none"> <li>• Custodial sentence with maximum of 14 years in prison for burglary/ life for robbery as Bob made an unprovoked attack on a vulnerable person</li> <li>• More likely to be a custodial sentence due to Bob's previous history of committing similar offences</li> <li>• Community sentences under the Criminal Justice Act 2003 including an unpaid work requirement between 40 and 300 hours if Bob is judged to benefit from rehabilitation</li> <li>• A suspended sentence for up to 2 years to act as a deterrent to Bob committing any further offences.</li> </ul> <p><b>NB:</b> accept any aims and range of sentences that are appropriately analysed and evaluated in the context of the situation. Allow credit for students who discuss appropriate sentences for non-fatal offences relevant to the question.</p>	(6)

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

Question number	Assess Dev's possible criminal liability for making off without having paid for the petrol. <b>Indicative content</b>	Marks
3(c)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (3 AO3), (3 AO4)</b></p> <ul style="list-style-type: none"> <li>• Identification of the components of Making Off Without Payment (Theft Act 1978 S3): goods supplied or services done, makes off from the spot, fails to pay on the spot as required or expected, dishonesty, knows that payment on the spot is required or expected, intention to avoid payment permanently.</li> <li>• Analysis of Dev's criminal liability:</li> <li>• Services done –Filling Dev's car with petrol</li> <li>• Makes off from the spot - departure from the petrol station must be dishonest, i.e. Dev knows he cannot pay and leaves the petrol station when the petrol attendant is not looking.</li> <li>• Fails to pay as required or expected – Dev would have seen the cost of the petrol on the pumps display and knows he must pay as he remembers he has forgotten his money and leaves the petrol station</li> <li>• Dishonesty – reasonable and honest person would not have left the petrol station without payment, perhaps making arrangements to pay later and as Dev waited until no one was watching and drove off he knew he was acting unreasonably and dishonestly.</li> <li>• Knows that payment on the spot is required – Dev forgot his money after filling his car with petrol and left when the petrol attendant was not looking indicating knowledge of payment required.</li> <li>• Intention to avoid payment permanently – Dev drove off without paying indicating he intends never to pay.</li> </ul> <p>Reference to cases such as R v Allen, R v Brooks &amp; Brooks, R v McDavitt, R v Vincent, Ivey v Genting Casinos.</p> <p><b>NB:</b> Credit alternative applications of Fraud by False Representation or Obtaining Service Dishonestly</p>	<b>(10)</b>

Level	Mark	Descriptor
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
<b>Level 4</b>	<b>7-10</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	Identify, from the scenario, which faults to the car are likely to be treated as a condition of the contract and those that are likely to be treated as a warranty. <b>Answer</b>	Marks
4(a)	<p style="text-align: center;"><b>(4 AO2)</b></p> <p><b>One mark for each point identifying the potential contractual condition or warranty in the scenario, up to four marks.</b></p> <ul style="list-style-type: none"> <li>• The new dent in the door of the car is a warranty as it is a minor term due to it not affecting the performance of the car (1)</li> <li>• The broken lights are a condition of the contract as the car will not perform safely without them (1)</li> <li>• The broken windscreen wipers are a warranty as it is a minor term due to it not affecting the performance of the car (1)</li> <li>• The badly repaired engine is a condition of the contract as its failure means the car is unable to perform its key function as a mode of transport for Dave (1).</li> </ul> <p>Accept any other relevant application</p>	<b>(4)</b>



Question number	Analyse whether Ahmed owed a duty of care to Rana.  <b>Indicative content</b>	Marks
4(b)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of the elements required to establish a duty of care – reasonably foreseeable that the defendant’s conduct will cause injury, the relationship is sufficiently proximate and it is fair just and reasonable to impose a duty.</li> <li>• Identification of the incremental approach – Caparo v Dickman</li> <li>• Assessment of Rana’s ability to establish Ahmed’s conduct was reasonably foreseeable in causing the injury.</li> <li>• Analysis in establishing whether the relationship between Rana and Ahmed was sufficiently close. Bourhill v Young vs Law Society v KPMG Peat Marwick and Others (1999) CA.</li> <li>• Analysis as to whether it is just, fair and reasonable to impose a duty between Rana and Ahmed. Hill v Chief Constable of West Yorkshire vs Mitchell v Glasgow City Council</li> <li>• Analysis that as Ahmed is a mechanic it is likely that the three elements required to establish a duty of care with Rana in this situation are established</li> <li>• Any other reasonable analysis of the situation.</li> </ul>	(6)

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

<b>Question number</b>	Assess whether Ahmed has breached his duty of care to Rana and what damages Rana may be appropriate.  <b>Indicative content</b>	<b>Marks</b>
<b>4(c)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (3 AO3), (3 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Discussion of the reasonable man test e.g. Blyth v Birmingham Waterworks</li> <li>• Discussion of the risk factors affecting the reasonable man e.g. Paris v Stepney, Bolton v Stone, Nettleship v Weston, Marshall v Osmond</li> <li>• Analysis of possible risk factors affecting the standard of care expected of a reasonable man who is a trained mechanic repairing the brakes of a car</li> <li>• Evaluation that includes how risk factors may lower or higher the standard expected of a reasonable man, i.e. Ahmed is a professional, no known higher or lower risks for Rana, the magnitude of the risk, the potential for serious harm, public utility</li> <li>• Discussion of remedies available to Rana because of a breach of Ahmed's duty of care, i.e. general and special damages</li> <li>• Analysis of heads of damages, e.g. damage to property and expenses incurred, loss of future earnings, pain and suffering</li> <li>• Evaluation of damages applied to Rana, e.g. special damages, expenses and quantifiable loss incurred up to claim, mitigation, loss of future earnings and loss of amenity.</li> </ul> <p>Credit any relevant application of the law of negligence.</p>	<b>(10)</b>

Level	Mark	Descriptor
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
<b>Level 4</b>	<b>7-10</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	Evaluate Dave's legal rights and remedies in these situations. <b>Indicative content</b>	<b>Marks</b>
5	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (8 AO3), (8 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <p>For <b>Dave against Ginika</b></p> <p>Identification of contractual issues:</p> <ul style="list-style-type: none"> <li>• Offer</li> <li>• Acceptance</li> <li>• Intention to create legal relations</li> <li>• Consideration</li> <li>• Breach, actual and anticipatory</li> <li>• Remedies such as damages</li> </ul> <p>For contract, consideration of:</p> <ul style="list-style-type: none"> <li>• Invitation to treat/offer – Dave's statement "bring £200 in cash..."</li> <li>• Invitation to treat/acceptance – Ginika's text with stating "consider it sold" for "£200 cash"</li> <li>• Evaluate whether Dave's initial statement is a unilateral offer or an invitation to treat</li> <li>• Electronic acceptance by Ginika due to the wording of the text</li> <li>• Evaluate whether or not Ginika's text fulfils Dave's offer, e.g. £200 cash needs to be delivered to Dave's house in order for there to be valid acceptance</li> <li>• Intention to create legal relations – evaluate whether the presumption of no intention to create legal relations between friends is rebutted taking into account the discussions and actions of the parties</li> <li>• Evaluate the effect, if any, of Ginika's decision to withdraw her original bid for the Dave's football shirt, e.g. if the text was acceptance then a contract between Dave and Ginika has been formed and her refusal to pay becomes a breach of contract</li> <li>• Consideration of any remedies such as damages that Dave may have against Ginika</li> </ul>	<b>(20)</b>

- Use of relevant cases such as Thornton v Shoe Lane, Gibson v MCC, Carlill v Carbolic smoke ball co, Hyde v Wrench, Felthouse v Bindley, Entores v Miles Far East Corporation, Thomas v BPE Solicitors, Merritt v Merritt, Balfour v Balfour, Esso Petroleum v Customs & Excise, Poussard v Spiers.

For **Dave against Henry** consideration

Identification of contractual issues:

- Offer
- Acceptance
- Intention to create legal relations
- Consideration
- Breach, actual and anticipatory
- Remedies such as damages

For contract, consideration of:

- Invitation to treat/offer – Dave’s statement “bring £200 in cash...”
- Counter offer/acceptance – Henry’s statement “I’ll take the football shirt” for “£220” and showing Dave the money
- Evaluate whether Dave’s initial statement is a unilateral offer or an invitation to treat
- Evaluate whether or not Henry’s actions and statement can be considered a counter offer to Ginika’s text
- Intention to create legal relations – evaluate whether the presumption of no intention to create legal relations between friends is rebutted taking into account the discussions and actions of the parties
- Evaluate whether Dave’s response is a rejection of Henry’s offer or non-acceptance by Dave means Henry’s offer has lapsed due to time
- Evaluate whether Dave’s decision to accept Henry’s £220 is acceptance or an offer and the effect of Henry’s refusal to pay the £220 for the football shirt
- Consideration of any remedies such as damages that Dave may have against Henry
- Use of relevant cases such as Thornton v Shoe Lane, Gibson v MCC, Carlill v Carbolic smoke ball co, Hyde v Wrench, Ramsgate Victoria Hotel Co v. Montefiore Felthouse v Bindley, Entores v Miles Far East Corporation, Thomas v BPE Solicitors, Merritt v Merritt,

	<p>Balfour v Balfour, Esso Petroleum v Customs &amp; Excise, Poussard v Spiers.</p> <p>Coming to logical conclusions focusing on key elements of each claim and appropriate remedies.</p> <p>NB: Allow for any reasonable assessment of the contractual relationship between the three parties.</p>	
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Level	Mark	Descriptor
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-4</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
<b>Level 2</b>	<b>5-8</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
<b>Level 3</b>	<b>9-14</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>

<b>Level 4</b>	<b>15-20</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>
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