



# Mark Scheme (Results)

Summer 2024

Pearson Edexcel International Advanced  
Level In Law (YLA1/02)  
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 'offer' in contract law.  Answer	Marks
1(a)	<p style="text-align: center;"><b>(1 AO1), (1 AO2)</b></p> <p><b>One mark for stating the meaning of 'offer' in contract law (1 AO1), and one mark for a brief explanation/enhancement (1 AO2).</b></p> <ul style="list-style-type: none"> <li>• An offer/states the terms of a contract/invitation to enter into or be bound by a contract with another party/ is a statement of the terms upon which the person making the offer is willing to enter a contract (1 AO1), it can be written or verbal/unambiguous and certain (1 AO2), e.g. Chapleton v Barry (1 AO2).</li> <li>• An offer must be communicated to the other party (1 AO1) unless a person knows about an offer, it cannot be acted upon (1 AO2), e.g. Thornton v Shoe Lane Parking.</li> <li>• Accept any other appropriate meanings.</li> </ul>	<b>(2)</b>

Question number	Explain briefly the meaning of capacity to form a contract.  Answer	Marks
1(b)	<p style="text-align: center;"><b>(2 AO1), (2 AO2)</b></p> <p><b>Up to two marks for explaining the meaning of capacity in a contract (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>• A valid contract may be formed by any person who has recognised legal personality/ has power and understanding /capable/who can participate (1 AO1), such as anyone 18 years of age or older (1 AO2), e.g. The Minors' Act 1987</li> <li>• A corporation is regarded as being able to form a contract/ must have legal capacity/ability to accept terms (1 AO1), such as contracts formed by directors of a company with other parties (1 AO2), e.g. Corporate Bodies' Contracts Act 1960, Ashbury Railway v Richie.</li> </ul> <p>Other suitable descriptions.</p> <p><b>NB:</b> Credit for explanations of when legal capacity may not be sufficient to form a contract, e.g. being drunk when making contract</p>	<b>(4)</b>

Question number	Evaluate whether Roger has breached any terms of the contract with Fatna, including those covered by legislation and what remedies may be appropriate  <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>• Discussion of warranty and condition e.g. Bettini v Guy, Poussard v Spiers and Pond</li> <li>• Discussion of the express and implied terms e.g. The Moorcock, Hutton v Warren</li> <li>• Analysis of possible factors affecting whether terms are express or implied and are a warranty or condition</li> <li>• Discussion of difference between terms and representations, e.g. Couchman v Hill, Oscar Chess Ltd v Williams, Routledge v McKay</li> <li>• Discussion of the express and implied terms in Consumer Rights Act 2015, e.g. reasonable care and skill (S9/S49), goods fit for purpose (S10), goods as described (S11), reasonable price for service (S52)</li> <li>• Discussion of misrepresentation, untrue or misleading statement, e.g. Derry v Peak, Misrepresentation Act 1967</li> <li>• Evaluation that includes which elements of the contract are terms or representations, e.g. 'Best quality' may be regarded as a representation</li> <li>• Evaluation that includes which elements of the Consumers Rights Act apply to the contract, e.g. The oven was not fitted as fit for purpose as it smoked and stopped working</li> <li>• Discussion of remedies available to Fatna because of a breach of terms either through common law and/or The Consumer Rights Act 2015, i.e. damages and rejection of goods</li> <li>• Analysis of heads of remedies, e.g. right to reject (S20), right to repair (S23), right to price reduction (S24)</li> <li>• Evaluation of remedies applied to Fatna, e.g. damages, expenses and quantifiable loss incurred, mitigation.</li> </ul> <p>NB: Allow arguments alternatively for negligence Max L2</p>	<b>(14)</b>

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	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 competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	Analyse whether Aki has a defence to Roxie's claim of negligence.  <b>Indicative content</b>	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 consent e.g. Volenti non fit injuria means the claimant is said to have consented to the negligent act, which is a complete defence.</li> <li>• Identification that Roxie knows how drunk and incapable Aki is in flying the aircraft</li> <li>• Identification that Roxie appears to give full and free consent to the flight</li> <li>• Analysis that Roxie knows of the risk of Aki piloting the plane whilst being very drunk i.e. the high risk of crashing due to being inebriated, e.g. Morris v Murray</li> <li>• Analysis that Roxie has freely given her consent as she had to convince Aki to fly and help him prepare for the flight, e.g. Smith v Baker</li> <li>• Analysis that Roxie does not appear to have an argument that she felt obliged morally to fly with Aki e.g. Haynes v Harwood</li> </ul> <p>NB: All some credit for references to contributory negligence</p>	<b>(6)</b>

<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>



Question number	Evaluate whether Rosie is able to prove Rohan caused her damage in negligence and claim damages for the incident or whether it would be regarded as too remote.  <b>Indicative content</b>	Marks
2(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>• Discussion of factual causation in negligence, i.e. but for the defendant’s breach of duty, the consequence would not have occurred, e.g. Barnett v Chelsea &amp; Kensington Hospital Board</li> <li>• Discussion of the meaning of remoteness of damage, i.e. reasonable foreseeability test e.g. The Wagon Mound and possible reference to the effect that the kind of damage</li> <li>• Discussion of method of the effect that the kind of damage has on has on remoteness and the thin skull rule, e.g. Doughty v Turner, Hughes v Lord Advocate, Bradford v Robinson Rentals, Smith v Leech Brain</li> <li>• Analysis of factual causation as the but for test, i.e. but for Rohan poorly fitting the wheels Rosie would not have suffered injuries and losses</li> <li>• Analysis of Res Ipsa Loquitur – Only rational explanation is Rohan caused the damage resulting in shift in burden of proof to Rohan, e.g. Scott v London &amp; St Katherine’s Dock</li> <li>• Evaluation as to the reasonable foreseeability test, i.e. It may be reasonably foreseeable that poorly fitting wheels to Andrew’s car could result in causing injury to Rosie</li> <li>• Evaluation as to remoteness of damage and the thin skull rule, e.g. That Rohan may be liable for damage caused to Rosie regardless of her predisposition to her rare blood disorder and its resulting effect on her injuries</li> <li>• Possible damages available to Rosie, e.g., general and special damages, lump sum or structured settlement</li> </ul> <p><b>NB:</b> No credit for discussions of Duty or general breach of duty. Res Ipsa only maximum L2</p>	<b>(14)</b>

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	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 competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	Describe <b>two</b> situations when an individual is entitled to request information under the Freedom of Information Act 2000.  <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 situations when an individual is entitled to request information under the Act (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>• The Freedom of Information Act (FOI) applies to bodies, persons or office holders and publicly owned companies (1 AO1), for example an NHS Hospital/Education provider or Police Force (1 AO2)</li> <li>• The FOI allows access to a dataset (1 AO1), which is a collection of factual or raw data (1 AO2)</li> <li>• Access is allowed to data even where public service is subcontracted (1 AO1) for example, government departments that contracts legal work to an external solicitor (1 AO2)</li> <li>• Accept relevant examples of what could be classed as public information or exempt information e.g. statistics, financial information, performance data, trade secrets, commercial information, required for legal proceedings, not classified information, not own personal data, cost exceeds £450</li> <li>• Accept any other appropriate examples</li> </ul> <p>NB: Executive agencies are classed as part of their parent government department, for example the DVLA is covered by the FOI as it is part of the Department for Transport.</p> <p>NB: Do <b>not</b> allow requests for personal data/credit scores as this is not covered by the Freedom of Information Act.</p>	(4)

<b>Question number</b>	Analyse the rights and remedies of Dr Strange under the Defamation Act. <b>Indicative content</b>	<b>Marks</b>
<b>3(b)</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 tort of defamation of character and the difference between libel (written) and slander (spoken) under the Defamation Act 2013 S1 statements published that are likely to cause or have caused serious harm to the reputation of the claimant, meaning of serious harm in S2 and S3, truth and honest defences in S4.</li> <li>• Identification of damages and injunction as remedies, e.g. injunction is a court order that instructs a person that they are not allowed to commit a certain act.</li> <li>• Identification that libel is for defamation that is written down and published and slander is for making a false/damaging statement in public.</li> <li>• Analysis of Dr Strange’s claim to deciding whether Afia’s claims amount to defamation, e.g. Afia’s comments and refusal to withdraw them are likely to cause serious harm to Dr Strange’s reputation</li> <li>• Afia’s possible defences of honest opinion (S3) and on a matter of public interest (S4).</li> <li>• Remedies, damages against Afia for serious harm to Dr Strange’s reputation, i.e. damages plus possible retraction, injunction is a court order that instructs a person that they are not allowed to commit a certain act.</li> <li>• Use of appropriate cases such as Monteiro da Costa Noqueira v Portugal, Cooke v MGN Ltd, Ames v Spamhaus Ltd, Thornton v Telegraph Media, Joseph v Spiller, Reynolds v Times Newspapers, Flood v Times Newspapers.</li> </ul>	<b>(6)</b>

<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 Navin's rights under Article 8 of The Human Rights Act 1998. <b>Indicative content</b>	<b>Marks</b>
<b>3(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>• Definition of Article 8 (1) HRA, e.g. Right to Private, family, home life and correspondence with responsibilities.</li> <li>• Identification of Article 8 (2) HRA indicates that Article 8 imposes a negative duty on the State not to interfere with the rights under the Convention and also a positive duty to protect those rights.</li> <li>• Identification of Article 8 that it is a qualified right (Article 8(2)) and that it is possible for the State to interfere with the rights contained in the Article but only where the interference is in accordance with law and is necessary in a democratic society to achieve one of six legitimate aims set down</li> </ul> <p>Applying <b>Article 8</b> and Right to privacy:</p> <ul style="list-style-type: none"> <li>• Navin has had his rights under Art 8 interfered with, e.g. private life and the listening device.</li> <li>• Navin has had more than one of his rights under Art 8 potentially infringed, e.g. Correspondence and reading his emails.</li> <li>• As this is a qualified right the security services may argue that they have legitimately and legally infringed Navin's rights under Art 8 due to his terrorist conviction.</li> <li>• Conclude that as Navin has clearly completed his sentence as a terrorist unless the courts decide that the security services actions are necessary and proportionate then it is likely his rights have been breached, e.g. There is evidence that Navin is an ongoing terrorist threat.</li> <li>• Alternatively, if the security services can show that there is a 'pressing need' for interference in Navin's Art 8 rights then this may be justified, e.g. There is evidence that Navin is plotting violence</li> <li>• Analysis of remedy for breach of Navin's rights under Art 8, e.g. Judicial review due illegality, injunction and damages, Art 46 application to ECHR</li> <li>• Reference to cases such as Niemietz v Germany, Dudgeon v UK, S and Marper v UK, Gillan and Quinton v UK, Halford v UK, Malone v UK, Handyside v UK</li> </ul>	<b>(10)</b>

<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> <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>

<b>Question number</b>	Identify, from the scenario, which incidents are considered by The Occupiers' Liability Acts.  <b>Answer</b>	<b>Marks</b>
<b>4(a)</b>	<p style="text-align: center;"><b>(4 A02)</b></p> <p><b>One mark for each point identifying the likely incidents that are considered by the Occupier's Liability Act 1957 or 1984 in the scenario, up to four marks.</b></p> <ul style="list-style-type: none"> <li>• Ron repairing the gate is covered by the 1957 Act as he is an independent contractor/ Rob being hit by a slate (1)</li> <li>• Ron trespassing into Abbas's house is covered by the 1984 Act/ Ron falling over the floorboard (1)</li> <li>• Fatima is covered by the 1984 as she is a child trespasser/Fatima cutting her hand on the gate (1)</li> <li>• Josh is covered by the 1984 as he is a child trespasser/ Josh cutting his hand on the gate (1).</li> </ul> <p>Accept any other relevant application</p> <p>NB: The explanation of which incidents are covered rather than naming the specific Act gain each mark.</p>	<b>(4)</b>



Question number	Analyse the rights and remedies of Rebecca against Jalil in connection with the trespass to land.  <b>Indicative content</b>	<b>Marks</b>
<b>4(b)</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>• Definition of trespass to land, e.g. any unjustifiable intrusion by a person upon the land in possession of another.</li> <li>• Identification that trespass is actionable in court whether or not the claimant has suffered damage. However, rights over trespass are not normally brought to court without damage to land or persistent trespass.</li> <li>• Analysis that Rebecca is the claimant and Jalil the defendant</li> <li>• Analyse that Jalil’s activities amount to trespass, unauthorised interference, direct invasion of land, Jalil’s justification likely to be unreasonable</li> <li>• Analyse that there is no need for Rebecca to prove damage to land though this has clearly taken place, i.e. the broken ornaments</li> <li>• Analyse that Rebecca can claim remedies such as damages and the possibility of an injunction</li> <li>• Use of appropriate cases such as Ellis v Loftus Iron Co</li> <li>• NB: Allow application of Occupier’s Liability Acts</li> </ul>	<b>(6)</b>

<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 Amy's rights and remedies under The Occupiers' Liability Acts for her injuries.  <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>• Identification of requirements of the Occupiers' Liability Act 1957</li> <li>• Identification of an occupier, premises under S1(3)(a), lawful visitor, express or implied, duty of care under S2(2)</li> </ul> <p>Applying Occupiers' Liability Act 1957:</p> <ul style="list-style-type: none"> <li>• Ade is the occupier and Amy the lawful visitor.</li> <li>• Factors relevant to deciding whether Ade has discharged his duty to Amy, e.g. reasonable warnings under S2(4)(a).</li> <li>• The fact that Amy was a specialist visitor under S2(3)(b) i.e. 'ordinarily incident to Amy's calling'.</li> <li>• The defence of Independent contractors under S2(4)(b) though this is unlikely as Amy is a salesperson rather than a trades person.</li> <li>• Remedies such as damages and the possibility of an injunction.</li> <li>• Possible remedies for Amy such as loss of earnings</li> <li>• Credit can be given for alternative application of Negligence</li> <li>• Use of appropriate cases such as Wheat v Lacon, Paris v Stepney Borough Council, Woollins v British Celanese, Roles v Nathan, Haseldene v Daw.</li> </ul> <p>NB: Credit the Occupiers' Liability Act 1984</p>	<b>(10)</b>

<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> <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 the criminal liability of Harley and Emy for any offences they may have committed.  <b>Indicative content</b>	Marks
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><b>Emy for the offence of Blackmail</b></p> <p>Identification of the offence <b>Blackmail</b>:</p> <ul style="list-style-type: none"> <li>• Identification of the elements of required to establish the offence of <b>Blackmail</b> under S21 Theft Act 1968 – Demand, with menaces, with a view to a gain or loss.</li> <li>• Identification of the key issues for example, menaces as an objective test, conduct only required to be proved</li> <li>• Difficulty in establishing what is unwarranted and reasonable grounds and proper means as a defence e.g. R v Harvey</li> <li>• Analysis of Emy’s ability to satisfy the components of Blackmail using cases such as R v Collister &amp; Warhurst, Thorne v Motor Trade Association, R v Harry</li> <li>• Evaluation that the offence is committed when Emy has done all she can to communicate the unwarranted demand to Harley, i.e. at the point she demands £1,000, Treacy v DPP</li> </ul> <p><b>Harley for the offence of Criminal Damage</b></p> <p>Identification of the offence <b>Criminal Damage</b>:</p> <ul style="list-style-type: none"> <li>• Identification of the elements of required to establish the offence of S1(1) Criminal Damage Act 1971</li> <li>• Identification of the key issues for example destroy or damage, property, belonging to another, without lawful excuse, intention or subjectively reckless</li> <li>• Analysis of Harley’s ability to satisfy the components of criminal damage using cases such as Hardman v Chief Constable of Avon and Somerset Hardman v Chief Constable, Roe v Kinglerlee, R v G and R, Morphitis v Salmon, Roper v Knott</li> <li>• Evaluation that the offence is committed on property, the crate of wine, that belongs another, i.e. the warehouse owner.</li> <li>• Evaluation as to whether the property is damaged sufficiently to be regarded as a criminal damage, i.e. is simply damaging the crate enough to be a cost, A v R, or affect the usefulness of the wine, Morphitis v Salmon</li> <li>• Evaluate whether Harley was subjectively reckless as to the</li> </ul>	<b>(20)</b>

damage to the crate of wine.

### **Harley for the offence of Fraud by False Representation**

Identification of the offence **Fraud by False Representation**:

- Identification of the elements of required to establish the offence **Fraud by false representation** under S2 of the Fraud Act 2006 - express or implied, fact or law, untrue or misleading, dishonesty, intention to make a gain or cause a loss.
- Analysis of the key issues for example, a representation can be made to any system such as email under S2(5), no requirement for deception of V, offence committed at point all done to communicate.
- Evaluation of Harley's ability to satisfy the components of Fraud using case law and the Act such as S1, S2, S2(5), DPP v Ray, R v Rai, MPC v Charles, R v Ghosh, Ivey v Genting Casinos, R v Parkes
- Coming to logical conclusions focusing on key elements of each offence such as Harley committing the offence of Fraud at the point he intended to make a gain for himself, i.e. when he has sent the email lying about his criminal record in order to secure gainful employment.
- **NB**: Credit any other suitable discussions regarding the application of evidence in any offence, e.g. analysis of Fraud for Harvey lying on his application form for his first job

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<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>

