Cambridge Assessment International Education

Cambridge International AS & A Level

LAW **9084/22**

Paper 2 **October/November 2023**

MARK SCHEME

Maximum Mark: 60

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

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Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

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Social Science-Specific Marking Principles (for point-based marking)

1 Components using point-based marking:

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

a DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)

b DO credit alternative answers/examples which are not written in the mark scheme if they are correct

c DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons …).

d DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)

e DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities

f DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).

g DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

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Guidance on using levels-based mark schemes
Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives

AO1 Knowledge and understanding

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

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Annotations and their Use

Annotation	Use
✓	Used to credit AO1 in any of **Q1**, **Q2** and **Q3**.
NAQ	Used when the answer or parts of the answer do not answer the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Used to indicate AO2 Analysis and application in **Q1** and AO2 Analysis in **Q2(b)** and **Q3(b)**.
C	Used to indicate a conclusion in any of **Q1**, **Q2(b)** and **Q3(b)**.
EVAL	Used to indicate AO3 Evaluation in **Q2(b)** and **Q3(b)**.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded and to show an unused page in the answer book.
?	Indicates material which is not sufficiently clear to be rewarded.
	Indicates material which is not relevant as a response to the question asked.

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Section A

Table A

Use this table to give marks for each candidate response for **Question 1(a)**, **(b)** and **(c)**.

Level	**AO1 Knowledge and understanding 2 marks**	**AO2 Analysis and application 8 marks**
	Description	**Description**
3		**6–8 marks** • Analysis leading to a developed and logical conclusion. • Application which is fully developed.
2	**2 marks** • Identification and accurate citation of most of the relevant law.	**3–5 marks** • Analysis leading to a conclusion which may or may not be entirely appropriate. • Application which is partially developed.
1	**1 mark** • Identification and citation of some relevant law.	**1–2 marks** • Analysis leading to a basic conclusion without reasoning or no conclusion. • Application which is basic.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.

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Question	Answer	Marks
1(a)	**Explain how the source material will apply to Mary.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S21 is the likely offence. Credit can be given for s21(1)(a) or s21(1)(b). • Reference to *Treacy v DPP* (1971). **AO2 Analysis and application** Analysis: • Mary has made a demand with menaces and with a view to gain or intent to cause loss. Mary intended to make the demand but may argue it is unwarranted as she had no choice. • It does not matter that the email was sent to Australia as in *Treacy*. Application: • Under s21(1) Mary has made a demand for the £5000 which includes the £1500 she is owed by Brendan. • The demand is made with menaces as she has threatened to contact newspapers and post on social media. • The offence is committed in England as that is where Mary is when she sends the emails to Brendan in Australia. • She makes the demand intentionally and will gain from the money as well as Brendan losing £1500. • Mary may believe that the demand is not unwarranted and she has reasonable grounds for making it as she can prove she did not steal the money and has no alternative as Brendan will not listen to her but the amount she claims is more than she is owed. • It seems likely that Mary will be convicted of an offence. • Mary can be sentenced for a maximum of 14 years imprisonment. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Question	Answer	Marks
1(b)	**Explain how the source material will apply to Sergeant Jones.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S21(1) is the likely offence. • Reference to *R v Collister & Warhurst* (1955). **AO2 Analysis and application** Analysis: • Sergeant Jones has made an unwarranted demand with menaces as she has suggested Sanjay has to do something to avoid being charged with an offence which could cost him his job. • Sergeant Jones would appear to have the *mens rea* for the offence as she makes the demand intentionally and intends to gain from it. Application: • Sergeant Jones may argue that there was no demand as she did not expressly demand money from Sanjay but *Collister & Warhurst* (1955) makes it clear a demand can be implied. • The demand is made with menaces as Sergeant Jones knows Sanjay will lose his job if he is charged and found guilty of the offence. • As Sergeant Jones knows what will happen to Sanjay she does intend the offence • Sergeant Jones also intends to make a gain as well as Sanjay suffering a loss. • It seems likely Sergeant Jones will be convicted of an offence under s21. • Under s21(3) the maximum sentence is 14 years imprisonment Accept all valid responses.	**10**
	AO1	2
	AO2	8

Question	Answer	Marks
1(c)	**Explain how the source material will apply to Charles.** Use Table A to mark candidate responses to this question. AO1 out of 2 marks. AO2 out of 8 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** • S21(1) is the likely offence. • Reference to *R v Lambert* (2009) and *R v Harvey* (1981). **AO2 Analysis and application** Analysis: • Charles has made an unwarranted demand with menaces as he has pretended to be Dave to his wealthy aunt. • Charles has the *mens rea* as he makes the demand intentionally and this would not be reasonable as it is to pay a drug dealer. Application: • Charles has made a demand with menaces and due to *Lambert* it is does not matter that he is not the one who will carry out the threat. • It also does not matter that Charles is not able to carry out the threat. • Charles has intention as he needs the £500. • He may argue that he had reasonable grounds for making the demand as he was likely to suffer serious injury and he has no other way to get the money; using *Harvey* a jury would not see his actions as reasonable and necessary. • As a consequence, it seems likely Charles will be convicted under s21. • Under s21(3) the maximum penalty is 14 years imprisonment. Accept all valid responses.	**10**
	AO1	2
	AO2	8

Section B

Table B

Use this table to give marks for each candidate response for **Questions 2(b)** and **3(b)**.

Level	AO1 Knowledge and understanding 10 marks	AO2 Analysis and application 6 marks	AO3 Evaluation 9 marks
	Description	**Description**	**Description**
4	**9–10 marks** • Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.		
3	**6–8 marks** • Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**5–6 marks** • Mostly focused and reasoned analysis throughout. • The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	**7–9 marks** • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	**3–5 marks** • Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**3–4 marks** • Some reasoned analysis. • The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**4–6 marks** • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • Some coherent argument.

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Level	AO1 Knowledge and understanding 10 marks	AO2 Analysis and application 6 marks	AO3 Evaluation 9 marks
	Description	**Description**	**Description**
1	**1–2 marks** • Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	**1–2 marks** • Limited analysis. • The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	**1–3 marks** • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	**0 marks** • No creditable content.	**0 marks** • No creditable content.	**0 marks** • No creditable content.

Question	Answer	Marks
EITHER		
2(a)	**Describe the offence of aggravated burglary.** **AO1 Knowledge and understanding** • The offence is found in s10 Theft Act 1968. • There must be a s9(1)(a) or s9(1)(b) Theft Act 1968 burglary. • At the time the offender must have with them: • Any firearm or imitation firearm • Any weapon of offence • Any explosive • The maximum sentence on conviction is life imprisonment. Each point made is worth 1 mark up to a maximum of 5.	**5**

Question	Answer	Marks
2(b)	**Evaluate the law on omissions in *actus reus.***	**25**

Use Table B to mark candidate responses to this question.
AO1 out of 10 marks.
AO2 out of 6 marks.
AO3 out of 9 marks.

Indicative content

Responses may include:

AO1 Knowledge and understanding

- An *actus reus* is normally a voluntary and positive act.
- There are some situations in which a failure to act can give rise to criminal liability.
- Statutory duty – this is a duty imposed by an Act of Parliament, often as a means of raising standards of behaviour such as failing to provide a specimen of breath under s6 Road Traffic Act 1988.
- Contractual duty – this often arises due to employment – *R v Pittwood* (1902).
- Duty due to a relationship – this is a wide duty but can be between a parent and child or between other family members – *R v Gibbins and Proctor* (1918), *R v Evans* (2009).
- Duty undertaken voluntarily – this covers a wide range of situations but may involve taking on caring for someone vulnerable – *R v Stone and Dobinson* (1977).
- Duty arising from public office – this only applies to a small category of people, such as police officers – *R v Dytham* (1979).
- Duty arising due to a dangerous situation - the defendant has failed to prevent harm as they have allowed a situation to become dangerous – *R v Miller* (1983), *R v Evans* (2009).

AO2 Analysis and application

Analysis:

- An *actus reus* is a key element as without it there is no need to prove *mens rea* and there cannot be a criminal offence.
- This means it is essential to prove as it is something which can be seen and so helps with sentencing.
- The development of the law shows complexity as originally an *actus reus* had to be both positive and voluntary but this left gaps in the law.
- This led to unfairness as those who did not do what they should have done avoided liability.
- There can be inconsistency in duties as they do not always take account of whether the person involved is able to discharge it so there is an issue of fair labelling.
- Some duties do not take account of the complex relationships those involved have or the pressures individuals can be under.
- There is a question whether people have to intervene given the availability of emergency services.

Question	Answer	Marks
2(b)	**AO3 Evaluation** • The range of duties have been expanded over time to cover gaps in the law, which can make the law more effective. • Most developments have been made by judges suggesting that change is incremental and in step with society's needs. • Statutory duties show Parliament acting as an agent of social paternalism and making people behave better – this might be in relation to large groups such as drivers, smaller groups such as family members who may be aware of someone else in the family abusing a vulnerable person or particular categories of people such as teachers having inappropriate relationships with students. • Contractual duties make sure that those with responsibility to others discharge them properly which make the law effective. • Duties due to relationships often deal with situations in families – this can be good and can overlap with statutory duties, as between a parent and child. However, it can be hard to define the extent of a relationship; there is a problem if the person to whom the duty is owed does not want it to be fulfilled. • A duty undertaken voluntarily can be good as it enables people to be cared for. However, the duty assumed may be impossible to carry out, the person who assumes it may not have realised its full implications and they may not be able to fulfil it due to their own shortcomings. • A duty arising from public office is good as those who are being paid to protect society should do so. However, there is a problem in how much they are then expected to do. • A duty arising out of a dangerous situation is good as it encourages people to behave better. However, they may not be able to see the dangerousness of the situation which raises questions of fairness. • There is also a problem as there is no Good Samaritan law so there is no obligation to rescue unless there is a duty; critics argue this is morally and legally wrong. • There is a problem that people can be caused to feel fearful or to intervene badly out of a fear of criminal proceedings. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9

Question	Answer	Marks
OR		
3(a)	**Describe the community sentences available for an adult offender.** **AO1 Knowledge and understanding** • These are in s177 Criminal Justice Act 2003. There are many, including: • An unpaid work requirement. • A programme requirement. • A prohibited activity requirement. • A curfew requirement. • An exclusion requirement. • A residence requirement. • A mental-health treatment requirement. • A drug rehabilitation requirement. • An alcohol treatment requirement. • An attendance centre requirement. Each point made is worth 1 mark up to a maximum of 5.	**5**

Question	Answer	Marks
3(b)	**Evaluate to what extent rehabilitation is the <u>most</u> effective aim when sentencing young offenders.** Use Table B to mark candidate responses to this question. AO1 out of 10 marks. AO2 out of 6 marks. AO3 out of 9 marks. **Indicative content** Responses may include: **AO1 Knowledge and understanding** sets out aims: • Rehabilitation is the main aim of sentencing for young offenders. • S142A Criminal Justice Act 2003 aims to prevent offending by those under 18 and considers the welfare of the offender. • A young offender's name is not usually published, their case is dealt with in the Youth Court and the public not admitted to the trial in an effort to protect them. In very serious offences, or if the young offender is tried with an adult, often in the Crown Court, but they are not usually named. • Any sentence should be individualised to try and reform the young offender; a punishment should be lower than that for an adult convicted of the same offence as the young offender is seen as less mature and less able to appreciate the impact of what they have done. • It is important to avoid criminalising a young offender without good reason as the system encourages them to take responsibility for their actions and be integrated back into society. • A wide range of factors are taken into account to create a 'best fit' sentence for a young offender. • The usual sentence for a young offender is a youth rehabilitation order, created by the Criminal Justice and Immigration Act 2008. Used for offenders under 18 and for a maximum of three years it can mix and match requirements to suit the offender, their situation and the offence. • A custodial sentence is a last resort if the crime is so serious no other sentence is appropriate. • It may be necessary to remove a young offender from surroundings which make it more likely that they will commit a crime. • It is also important to put in place education and training so they have an alternative to criminality. **AO2 Analysis and application** Analysis: • Rehabilitation is the primary aim in an effort to prevent or break a cycle of criminality. • The use of sentencing guidelines and the wide range of sentences for young offenders should make sentencing fairer and more effective. • There still has to be a link to punishment so the young offender is deterred from repeating the same behaviour.	**25**

Question	Answer	Marks
3(b)	• Society needs to feel that young offenders are 'not getting away with it' through sentences that do not reflect what they have done. • Many competing principles that it can make sentencing hard in terms of fair labelling and in striking the correct balance. **AO3 Evaluation** Evaluation: • Effective rehabilitation for a young offender relies on a difficult balance of a sentence which has a deterrent effect but is also fair and proportionate to the offence committed and so it can be the most effective aim. • Most young offenders receive community sentences so effectiveness of rehabilitation depends on resources in terms of staff and facilities being available – this is not always the case due to cutbacks and making it ineffective. • A lack of education and training may lead to criminality – these issues are not fixed quickly but many sentences are short to avoid stigmatising young offenders so little is achieved in the time available. • Staying in the community can make the temptation to reoffend higher – this is especially true as young offenders may be less mature and not able to resist pressure from those around them and so the aim is ineffective. • Many young offenders do not come from a stable family background – this is a societal issue which is hard to address in the short term. • Some parents do not have the education, skills, support or a culture of work making criminality in their children more likely and the aim ineffective. • Small, and falling, numbers of young offenders receive custodial sentences but serious levels of violence in youth detention centres does not create an atmosphere of rehabilitation and may increase criminality. • Some in society argue that young offenders are not punished enough and so there is no real incentive for them not to reoffend. Accept all valid responses.	
	AO1	10
	AO2	6
	AO3	9