

A LEVEL

Practice materials

LAW

H418

For first teaching in 2020

H418/01 Practice Paper and Mark Scheme



Oxford Cambridge and RSA

Practice Paper

A Level Law

H418/01 The legal system and criminal law

Time allowed: 2 hours

You must have:

- the OCR 12-page Answer Booklet

INSTRUCTIONS

- Use black ink.
- Write your answer to each question in the Answer Booklet. The question numbers must be clearly shown.
- Fill in the boxes on the front of the Answer Booklet.
- Answer **five** questions in total:
Answer **one** question from Questions 1 and 2 and **one** question from Questions 3 and 4 in Section A.
Choose **one** Part in Section B. Answer the **three** questions for that part.

INFORMATION

- The total mark for this paper is **80**.
- The marks for each question are shown in brackets [].
- Quality of extended response will be assessed in questions marked with an asterisk (*).
- This document has **4** pages.

ADVICE

- Read each question carefully before you start your answer.

2

SECTION A**The legal system**

Answer **two** questions (**one** from questions **1–2** and **one** from questions **3–4**)

Answer **one** question from questions **1–2**

- 1 Describe the role of a barrister. [8]

- 2 Describe **three** aims of sentencing. [8]

Answer **one** question from questions **3–4**

- 3 Discuss the problems with government funding of civil cases. [12]

- 4 Discuss the benefits of using juries in criminal cases. [12]

3

SECTION B**Criminal law**Choose **Part 1** or **Part 2**.**Part 1**Answer the **three** questions below.The first two questions are based on the scenarios below. The scenarios are **not** related.

Kevin is a retired professional footballer. Despite having no qualifications or experience, he sets himself up as a physiotherapist at a sports injury clinic. His first client, Cassandra, has suffered a foot injury while jogging. He persuades her that she would benefit from a full body massage, telling her that he is an expert. Cassandra agrees, and Kevin begins to massage her leg before moving onto her injured foot. However, while he is massaging her foot, he presses so hard that Cassandra screams out in pain. Kevin shouts, "Oh shut up or I'll do it again, you stupid woman!" She is so scared and traumatised by this that she reluctantly allows Kevin to finish the massage. Later, Cassandra finds out Kevin is unqualified and as a result she is diagnosed with depression. She refuses to leave her house for several weeks.

McKenzie is the leader of a violent criminal drugs gang. Connor is a member of the gang but wants to leave. McKenzie reluctantly agrees to him leaving, but only after Connor obtains money from Hector, who owes the gang money. Connor says that he doesn't want to do it, but McKenzie says if he doesn't, he will break Connor's grandmother's legs. McKenzie gives him a week to get the money. Connor knows Hector keeps a large sum of money at his house, so decides to go there later that night. Hector is asleep but is woken up when Connor breaks in. Hector creeps downstairs and sees Connor, who panics and tries to run off. Hector grabs him and hits him several times with a baseball bat. Connor is taken to hospital with serious injuries.

- 5 Advise whether Kevin is liable for any non-fatal offences against Cassandra and whether he will be successful, or not, in raising the defence of consent. **[20]**
- 6 Advise whether Connor can avoid liability for any offences by using the defence of duress by threats **and** whether Hector can avoid liability by using the defence of self-defence if charged with the injury to Connor. **[20]**

Essay question on criminal law

- 7* 'The defence of intoxication fails to meet the requirements of modern society and needs to be reformed urgently.'

Discuss the extent to which this statement is accurate.

[20]

Part 2

Answer the **three** questions below.

The first two questions are based on the scenarios below. The scenarios are **not** related.

Andrew is a soldier who is at home on leave visiting his mother. She complains about her neighbour's teenage son, Bradley, who frequently has parties that go on late into the night. That night, there is another party. Andrew goes next door and finds Bradley sitting in the living room, which is in near darkness and very crowded. Andrew asks Bradley to turn the music down, but Bradley laughs and says, "Get lost soldier-boy!" Irritated, Andrew goes and gets his gun and returns to the living room. There he fires two shots: one he aims at Bradley which hits him in the chest, and another into the corner of the room to frighten the other party-goers. Heidi, who is sitting in the corner, is hit in the head by the second bullet and dies as a result. Andrew is unaware that he has hit Heidi, but thinking he has killed Bradley, takes him to a nearby quarry and dumps the body. Bradley dies an hour later due to blood loss as a result of the gunshot wound.

Thomas is at the beach. There are a number of surfers, and one of them, Rishi, has left his surfboard while he goes to buy an ice-cream. Thomas decides to take his surfboard but as he approaches, Rishi's dog starts to bark at him, so Thomas decides to leave the surfboard where it is. Further down the beach, Thomas sees his maths teacher, Mr Smith, who always makes fun of him in class. Thomas picks up a large rock and throws it at him, but at the same time, Mr Smith bends over to tie his shoelace and the rock misses him. Thomas runs off up the beach and sits down in a deckchair. Beside him is Jill who is sunbathing and has left her handbag next to her. Thomas decides to steal her purse, but when he puts his hand in her handbag there is nothing inside.

- 8 Advise whether Andrew is criminally liable for the murder of both Bradley and Heidi. Do **NOT** consider any defences. [20]
- 9 Advise whether Thomas is guilty of any attempted offences. [20]

Essay question on criminal law

- 10* 'The defence of intoxication fails to meet the requirements of modern society and needs to be reformed urgently.'

Discuss the extent to which this statement is accurate. [20]

END OF QUESTION PAPER

OCR

Oxford Cambridge and RSA

Practice Paper 2022

A Level Law

H418/01 The legal system and criminal law

SAMPLE MARK SCHEME

Duration: 2 hours

MAXIMUM MARK 80

This document consists of 24 pages

SUBJECT–SPECIFIC MARKING INSTRUCTIONS

Introduction

Your first task as an Examiner is to become thoroughly familiar with the material on which the examination depends. You should ensure that you have copies of these materials:

- the specification, especially the assessment objectives
- the question paper and its rubrics
- the mark scheme.

You should ensure also that you are familiar with the administrative procedures related to the marking process. These are set out in the OCR booklet **Instructions for Examiners**. If you are examining for the first time, please read carefully **Appendix 5 Introduction to Script Marking: Notes for New Examiners**. Please ask for help or guidance whenever you need it. Your first point of contact is your Team Leader.

Information and instructions for examiners

The co-ordination scripts provide you with *examples* of the standard of each band. The marks awarded for these scripts will have been agreed by the Team Leaders and will be discussed fully at the Examiners' Co-ordination Meeting.

The specific task-related indicative content for each question will help you to understand how the band descriptors may be applied. However, this indicative content **does not** constitute the mark scheme: it is material that candidates **might** use, grouped according to each assessment objective tested by the question. It is hoped that candidates will respond to questions in a variety of ways. Rigid demands for 'what must be a good answer' would lead to a distorted assessment. Candidates' answers must be relevant to the question. Beware of prepared answers that do not show the candidate's thought and which have not been adapted to the thrust of the question. Beware also of answers where candidates attempt to reproduce interpretations and concepts that they have been taught but have only partially understood.

Using the Mark Scheme

Please study this Mark Scheme carefully. The Mark Scheme is an integral part of the process that begins with the setting of the question paper and ends with the awarding of grades. Question papers and Mark Schemes are developed in association with each other so that issues of differentiation and positive achievement can be addressed from the very start.

This Mark Scheme is a working document; it is not exhaustive; it does not provide 'correct' answers. The Mark Scheme can only provide 'best guesses' about how the question will work out, and it is subject to revision after we have looked at a wide range of scripts.

The Examiners' Standardisation Meeting will ensure that the Mark Scheme covers the range of candidates' responses to the questions, and that all Examiners understand and apply the Mark Scheme in the same way. The Mark Scheme will be discussed and amended at the meeting, and administrative procedures will be confirmed. Co-ordination scripts will be issued at the meeting to exemplify aspects of candidates' responses and achievements; the co-ordination scripts then become part of this Mark Scheme.

Before the Standardisation Meeting, you should read and mark in pencil a number of scripts, in order to gain an impression of the range of responses and achievement that may be expected.

Please read carefully all the scripts in your allocation and make every effort to look positively for achievement throughout the ability range. Always be prepared to use the full range of marks.

Assessment Objectives

Three Assessment Objectives are being assessed across the questions: **AO1**: Demonstrate knowledge and understanding of the English legal system and legal rules and principles, **AO2**: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology, **AO3**: Analyse and evaluate legal rules, principles, concepts and issues.

For **AO2**, there are two elements to the assessment objective:

- Apply legal rules and principles to given scenarios
- Present a legal argument using appropriate legal terminology

These two elements should have equal weighting and be awarded jointly according to the guidance given in the level descriptors and indicative content. For example, to achieve level 4, an answer should include excellent application of legal rules and principles and excellent presentation of legal argument. Further guidance will be given in the standardisation meeting when there is an uneven performance across the elements.

Levels of Response

Questions in this paper are marked using a levels of response grid. When using this grid, examiners must use a **best-fit** approach. Where there are both strengths and weaknesses in a particular response, particularly imbalanced responses in terms of the assessment objectives, examiners must carefully consider which level is the best fit for the performance. Note that candidates can achieve different levels in each assessment objective, for example a Level 3 for AO1, and a Level 2 for AO2.

To use these grids:

Determine the level: start at the highest level and work down until you reach the level that matches the answer.

Determine the mark within the level: consider the following:

When there are 2 marks per level

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Consistently meets the criteria for this level	At top of level

When there are 3 marks per level

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Meets the criteria but with some slight inconsistency	Middle of level
Consistently meets the criteria for this level	At top of level

ASSESSMENT OBJECTIVES: BREAKDOWN BY QUESTION**Section A**

Questions 1–2

Assessment Objectives:	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.
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Questions 3–4

Assessment Objectives:	AO3 1b: Analyse and evaluate legal concepts and issues. 12 marks.
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Section B

Questions 5, 6, 8 and 9

Assessment Objectives:	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO2 1a/1b: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.
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Questions 7* and 10*

Assessment Objectives:	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO3 1a: Analyse and evaluate legal rules and principles. 12 marks.
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Questions that have an asterisk (*) assess the quality of a candidate's extended response. Levels descriptors are identified in the AO3 column in italics.

Section A

	Answer	Marks	Guidance
1	<p><i>Describe the role of a barrister.</i></p> <p>Answers may include the following:</p> <p>Role includes:</p> <ul style="list-style-type: none"> • Preparing cases for court. • Drafting legal documents. • Preparing Counsel's opinion. • Holding case conferences. • Negotiating settlements. • Advocacy – representing clients in court. • In criminal cases specialising in either prosecution or defence. • In civil cases specialising in, for example, personal injury, defamation. • Public Access – being instructed directly by clients. This does not include legally funded cases. • Specialising in areas of law, for example, criminal, family, commercial, tax, company. <p>Credit any other relevant point(s).</p>	8 AO1	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> • Excellent knowledge and understanding of the English legal system, rules and principles. • The response is accurate, fully developed and detailed. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> • Good knowledge and understanding of the English legal system, rules and principles. • The response is detailed, but not fully developed in places. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> • Basic knowledge and understanding of the English legal system, rules and principles. • The response may lack detail in places and is partially developed. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> • Limited knowledge and understanding of the English legal system, rules and principles. • The response will have minimal detail. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
2	<p><i>Describe three aims of sentencing.</i></p> <p>S.142 Criminal Justice Act 2003</p> <p>Punishment of offenders</p> <ul style="list-style-type: none"> Retribution – society’s revenge for the offence. Based on proportionality – punishment should fit the crime. Concerned with the offence that was committed. <p>The reduction of crime (including its reduction by deterrence)</p> <ul style="list-style-type: none"> Individual deterrence. Offender given a severe penalty and deterred from reoffending through fear of future punishment. General deterrence – by giving offenders severe punishments society will be deterred from committing offences. <p>The reform and rehabilitation of offenders</p> <ul style="list-style-type: none"> Reform and rehabilitate an offender by giving individualised sentences. Aim is to alter the offender’s behaviour to stop reoffending. Forward looking aim. <p>The protection of the public</p> <ul style="list-style-type: none"> Public should be protected from dangerous offenders. Custodial sentences and some community sentences aim to protect the public. Legal Aid Sentencing and Punishment of Offenders Act 2021 – extended determinate sentences and mandatory life sentences for those who have committed serious sexual or violent offences. <p>The making of reparation</p> <ul style="list-style-type: none"> S.130 Powers of Criminal Courts (Sentencing) Act 2000. The making of reparation by offenders to persons affected by their offences. Aim looks to give something back to the victim. Offender should pay compensation to the victim or make restitution. <p>Credit any other relevant point(s).</p>	8 AO1	<p>Use Levels of Response criteria</p> <p>Level 4 (7–8 marks)</p> <ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes. <p>Level 3 (5–6 marks)</p> <ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes. <p>Level 2 (3–4 marks)</p> <ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to statutes. <p>Level 1 (1–2 marks)</p> <ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of relevant statutes is limited. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
3	<p><i>Discuss the problems with government funding of civil cases.</i></p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Cuts in civil legal aid funding, year on year, has resulted in only a few cases eligible for funding. This is despite increases in the number of civil court claims. • The limited number of eligible cases (Schedule 1, Legal Aid, Sentencing and Punishment of Offenders Act 2012) has resulted in an increase in litigants in person. Very few family cases are now eligible for funding. • Differences in the allocation of funds to different areas results in inequality of provision. • The number of providers has declined – fewer opportunities to access justice for some – advice deserts. • Means tested eligibility levels are so low that only those on very low levels of income will qualify, resulting in only the poorest having access to justice. • Puts pressure on other advice agencies. These agencies often have a limited budget. This results in delays in obtaining civil legal advice. <p>Credit any other relevant point(s).</p>	<p>12 AO3 1b</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (10–12 marks)</p> <ul style="list-style-type: none"> • Excellent analysis and evaluation of a wide range of legal concepts and issues. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed. <p>Level 3 (7–9 marks)</p> <ul style="list-style-type: none"> • Good analysis and evaluation of a range of legal concepts and issues. • The response has a mainly consistent focus on the question. • Most of the key points are well discussed and well developed. <p>Level 2 (4–6 marks)</p> <ul style="list-style-type: none"> • Basic analysis and evaluation of legal concepts and issues. • The response is partially focused on the question. • Some of the key points are discussed and partially developed. <p>Level 1 (1–3 marks)</p> <ul style="list-style-type: none"> • Limited analysis of legal concepts and/or issues. • The response has limited focus on the question. • Discussion of any key points is minimal. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

	Answer	Marks	Guidance
4	<p><i>Discuss the benefits of using juries in criminal cases.</i></p> <p>Answers may include the following:</p> <ul style="list-style-type: none"> • Random selection allows for a cross-section of the community to be picked. The jury will be made up of people of different ages, gender, ethnicity and background. • Trial by one's peers. The right to jury trial dates to before Magna Carta and considered a key freedom in our democracy. • Secrecy. Juries make their decisions in private and do not have to give reasons. Free from outside pressure allowing unpopular decisions to be made. • Number of jurors. The views of 12 is better than one. Individual prejudices should be cancelled out. • Open system of justice. The presence of the jury ensures that the proceedings are kept simple, enabling the defendant and public to understand the trial. • Jury equity. Juries are not bound to follow Acts of Parliament or precedent. They can use their idea of fairness and justice. Ponting's Case, R v Kronlid. • Impartiality. Jurors will have no connection to the case or each other. They are unlikely to be case-hardened. • Public confidence. The public have confidence in the impartiality and fairness of jury trial. <p>Credit any other relevant point(s).</p>	<p>12 AO3 1b</p>	<p>Use Levels of Response criteria</p> <p>Level 4 (10–12 marks)</p> <ul style="list-style-type: none"> • Excellent analysis and evaluation of a wide range of legal concepts and issues. • The response is wide ranging and has a well sustained focus on the question. • The key points are fully discussed and fully developed. <p>Level 3 (7–9 marks)</p> <ul style="list-style-type: none"> • Good analysis and evaluation of a range of legal concepts and issues. • The response has a mainly consistent focus on the question. • Most of the key points are well discussed and well developed. <p>Level 2 (4–6 marks)</p> <ul style="list-style-type: none"> • Basic analysis and evaluation of legal concepts and issues. • The response is partially focused on the question. • Some of the key points are discussed and partially developed. <p>Level 1 (1–3 marks)</p> <ul style="list-style-type: none"> • Limited analysis of legal concepts and/or issues. • The response has limited focus on the question. • Discussion of any key points is minimal. <p>Level 0 (0 marks) No response or no response worthy of credit.</p>

Section B

5 Advise whether Kevin is liable for any non-fatal offences against Cassandra and whether he will be successful, or not, in raising the defence of consent.

Assessment Objectives	<p>AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.</p> <p>AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.</p>
Additional guidance	<p>The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.</p>

AO1 Indicative content

Answers **may**:

Define and explain common law assault and battery – charged under section 39 Criminal Justice Act 1988:

- Assault: *actus reus* is putting a person in fear of immediate and unlawful personal harm accompanied by *mens rea* of intention or subjective recklessness – *Venna*
- Words may negate an assault – *Tuberville v Savage, Light*
- Battery: *actus reus* is the infliction of unlawful personal harm accompanied by a *mens rea* of intention or subjective recklessness – *Collins v Wilcock, Thomas, Venna*

Define and explain assault occasioning actual bodily harm – section 47 Offences Against the Person Act 1861:

- *Actus reus* is assault leading to physical or psychological harm which interferes with health or comfort of the victim – *Miller, Chan-Fook, Constanza, Ireland, Burstow*
- *Mens rea* of intention or subjective recklessness is only needed for the assault or battery – *Roberts, Savage, Constanza*

OR

Define and explain unlawful and malicious inflicting grievous bodily harm – section 20 Offences Against the Person Act 1861:

- *Actus reus* includes infliction of really serious physical or psychological harm – *Smith, Ireland, Burstow*
- *Mens rea* is foresight of some harm but not necessarily serious harm – *Grimshaw, Parmenter*

Define and explain defence of consent in the context of a medical procedure:

- Can be given for physical benefit which include surgical interferences and therapeutic treatments
- Must be real – *Burrell and Harmer, Gillick*
- Fraud only negatives consent if it deceives as to identity of defendant or as to nature and quality of act – *Clarence, Richardson, Tabassum, Dica, Konzani*

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include the following:

In the case of Kevin massaging Cassandra's leg and foot:

- *Actus reus* of battery exists as Kevin touches Cassandra's leg and foot with his hands
- *Mens rea* of battery exists as Kevin appears to touch Cassandra intentionally

In the case of Kevin shouting at Cassandra:

- *Actus reus* of assault may exist as Kevin puts Cassandra in fear of further and immediate harm
- *Mens rea* of assault may exist since he is at least, subjectively reckless, if not intentional, in his action

In the case of Kevin causing Cassandra's depression (section 47 Offences Against the Person Act 1861):

- *Actus reus* may exist as Kevin has created a situation which appears to psychologically 'interfere with health or comfort' of Cassandra
- *Mens rea* may exist as his actions appear at least reckless as to the initial unlawful act of battery

OR

In the case of Kevin causing Cassandra's depression (section 20 Offences Against the Person Act 1861):

- *Actus reus* may exist as the psychological injury could be serious – depression, agoraphobia
- *Mens rea* may exist as his actions appear reckless as to some harm albeit not necessarily serious harm

In the case of Cassandra allowing Kevin to carry out the massage:

- Consider argument that Kevin does not apply any unlawful force on the basis that Cassandra consented
- Consider Cassandra's consent may not be valid as there is nothing to suggest she would have consented had she known Kevin was unqualified and it could be argued that working at the clinic that Cassandra, not unreasonably, would believe he was qualified
- Consider consent is likely to have been revoked by Cassandra, having been shouted at, but that this is not communicated to Kevin due to the trauma

Reach a reasoned conclusion in each instance.

Credit any other relevant point(s).

	AO1	Mark	AO2 1a/1b	Mark
Level 4	<ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant case law. 	7–8	<ul style="list-style-type: none"> Excellent application of legal rules to a given scenario. Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. 	10–12
Level 3	<ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant case law. 	5–6	<ul style="list-style-type: none"> Good application of legal rules to a given scenario. Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. 	7–9
Level 2	<ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to case law. 	3–4	<ul style="list-style-type: none"> Basic application of legal rules to a given scenario. Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. 	4–6
Level 1	<ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of case law is limited. 	1–2	<ul style="list-style-type: none"> Limited application of legal rules to a given scenario. Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. 	1–3
Level 0	No response or no response worthy of credit.	0	No response or no response worthy of credit.	0

- 6 Advise whether Connor can avoid liability for any offences by using the defence of duress by threat **and** whether Hector can avoid liability by using the defence of self-defence if charged with the injury to Connor.

Assessment Objectives	<p>AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.</p> <p>AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.</p>
Additional guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative content

Answers **may**:

Define and explain the defence of duress by threats:

- Threats causing pressure to commit a crime and that, if successful, the effect is acquittal
- Common law test
- Standard test governs the application of the defence – *Graham, Hasan*

Define and explain the defence of duress by threats and its limitations:

- Defence can't be raised against murder or attempted murder – *Howe, Lynch*
- Threat has to be of death, serious harm or rape – *Howe, Valderrama-Vega*
- The objective/subjective nature of the threat – *Graham, Bowen, Flatt*
- Threat to defendant, close family or of someone to whom a responsibility is owed - *Ortiz, Wright*
- Nexus between threat and nomination of the offence – *Cole, Abdul-Hussein*
- Threat must be 'imminent' – *Hudson & Taylor, Abdul-Hussain* or 'almost immediate' - *Hasan*
- Voluntary association with criminals - *Sharp, Fitzpatrick, Hasan*

Define and explain self-defence:

- Use of some force must be necessary in the circumstances as they appear to the defendant
- Force used must be reasonable – *Palmer, Owino*,
- Evidence of an attempt to retreat is desirable, but not essential – *Bird*
- Use of excessive force may render the defence unavailable – *Clegg*
- Mistake as to the need for force in self-defence must be assessed subjectively – *Williams (Gladstone)*
- Successfully raising self-defence leads to acquittal as it is a complete defence
- Credit reference to the Criminal Justice and Immigration Act 2008

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include the following:

In the case of the defence of duress being raised by Connor – likely to be satisfied in part, but fail overall:

- The crime committed (burglary) is neither murder nor attempted murder, so this part is satisfied
- There is a threat of serious injury made by McKenzie
- That the threat is made, not to Connor himself, but to his grandmother
- Graham 1 – Whether Connor was compelled to act as he did because he himself thought his life, or someone he was responsible for, was in danger
- Graham 2 – Whether a sober person of reasonable firmness sharing Connor's characteristics would have responded in the same way following McKenzie's threats
- That there is no nexus between the crime nominated by Connor himself (burglary) and the threat by McKenzie
- That the threat was not 'imminent' nor 'almost immediate' as Connor was given a week to obtain the money from Hector
- That Connor voluntarily associated with a violent gang as would be unlikely to be allowed the defence

In the case of Hector hitting Connor with the baseball bat and causing a serious injury requiring hospitalisation:

- Hector finding Connor in his house seems likely to make him think he could be attacked, though Connor does try to immediately escape
- Hector could try and diffuse the situation, but this is not essential
- Hitting Connor with a baseball bat could be a disproportionate level of force given that Connor had not touched Hector and was trying to escape
- If Hector honestly believes he is about to be attacked that should suffice and negate any mistake

Reach a reasoned conclusion in each instance.

Credit any other relevant point(s).

	AO1	Mark	AO2 1a/1b	Mark
Level 4	<ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. 	7–8	<ul style="list-style-type: none"> Excellent application of legal rules to a given scenario. Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. 	10–12
Level 3	<ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. 	5–6	<ul style="list-style-type: none"> Good application of legal rules to a given scenario. Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. 	7–9
Level 2	<ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. 	3–4	<ul style="list-style-type: none"> Basic application of legal rules to a given scenario. Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. 	4–6
Level 1	<ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of statutes and case law is limited. 	1–2	<ul style="list-style-type: none"> Limited application of legal rules to a given scenario. Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. 	1–3
Level 0	No response or no response worthy of credit.	0	No response or no response worthy of credit.	0

- 7* 'The defence of intoxication fails to meet the requirements of modern society and needs to be reformed urgently.' Discuss the extent to which this statement is accurate.

Assessment Objectives	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks. AO3 1a: Analyse and evaluate legal rules and principles. 12 marks.
Additional guidance	The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.

AO1 Indicative content

Discuss the extent to which this statement is accurate.

Answers **may**:

Define common law defence – inability to form *mens rea* due to alcohol, drugs or other substances – *Sheehan and Moore, Kingston, Heard*.
Explain that judge decides if there is evidence of intoxication to go to jury – *Groark*.

Explain voluntary intoxication:

- Can negate *mens rea* for specific intent offences – *Beard, Sheehan and Moore, Lipman*
- Excepting theft at best only a partial defence
- Does not work if intoxication due to 'Dutch courage' – *Gallagher*
- No defence to crimes of basic intent – *Majewski, Richardson and Irwin*

Explain involuntary intoxication:

- Complete defence
- Can apply when prescribed medication is taken as directed and has an unpredictable effect – *Majewski, Bailey, Hardie*
- Can apply where defendant does not know they are taking an intoxicating substance, as in laced drinks; no defence if any awareness of intoxication – *Allen, Kingston*

Explain the link between intoxication and mistake

- Rarely a defence – *Lipman, O'Grady, Hatton, Fotheringham*, s76 Criminal Justice and Immigration Act 2008
- Exception in s5 Criminal Damage Act 1971 – *Jaggard v Dickinson*

Reference to Criminal Law theory and theories of criminal justice and punishment, including retribution, deterrence, incapacitation, rehabilitation and reparation.

Credit any other relevant point(s)

AO3 Indicative content

Answers **may**:

Discuss any or all of the following areas:

- Distinction between voluntary and involuntary can be unclear
- All intoxicating substances are treated similarly whether legal or illegal
- No account taken of impact on an individual
- Focus on end result – problem of coincidence
- Distinction between specific and basic intent can change – problem of fall-back
- Public policy to criminalise drink/drugs but no distinction between types of offender
- Hard to balance personal responsibility with public protection

Reform proposals:

- Butler Committee 1975 – offence of ‘dangerous intoxication’ rejected
- Law Commission 1993 – defence of voluntary intoxication to all crimes; 1995 recommended codifying existing law and in Offences Against the Person Bill 1998 – not enacted
- Law Commission 2009 – Intoxication and Criminal Liability – remove specific/basic intent divide, retain voluntary/involuntary intoxication distinction

Presumption that no intoxication but if evidence exists then intoxication presumed to be voluntary. Would be defence if offence required integral fault element such as intention, belief or dishonesty but no defence otherwise.

Other wider issues:

- Financial arguments – cost to NHS and anti-social behaviour resulting from people using alcohol balanced against tax revenue
- Problems of creating an effective law for those who are intoxicated due to drugs, especially for driving. Link made to Criminal Law theory and theories of criminal justice and punishment relevant to the question. Reach any sensible conclusion.

Credit any other relevant point(s).

	AO1	Mark	AO3 1a	Mark
Level 4	<ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. 	7–8	<ul style="list-style-type: none"> Excellent analysis and evaluation of a wide range of legal rules and principles. The response is wide ranging and has a well sustained focus on the question. The key points are fully discussed and fully developed to reach a valid conclusion. <p><i>There is a well-developed line of reasoning which is clear and logically structured. The information presented is relevant and substantiated.</i></p>	10–12
Level 3	<ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. 	5–6	<ul style="list-style-type: none"> Good analysis and evaluation of a range of legal rules and principles. The response has a mainly consistent focus on the question. Most of the key points are well discussed and well developed to reach a valid conclusion. <p><i>There is a line of reasoning presented with some structure. The information presented is in the most-part relevant and supported by some evidence.</i></p>	7–9
Level 2	<ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. 	3–4	<ul style="list-style-type: none"> Basic analysis and evaluation of legal rules and principles. The response is partially focused on the question. Some of the key points are discussed and partially developed to reach a basic conclusion. <p><i>The information has some relevance and is presented with a basic structure. The information is supported by basic evidence.</i></p>	4–6
Level 1	<ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of statutes and case law is limited. 	1–2	<ul style="list-style-type: none"> Limited analysis of legal rules and principles. The response has limited focus on the question. Discussion of any key points is minimal. <p><i>The information is limited and communicated in an unstructured way. The information is supported by limited evidence and the relationship to the evidence may not be clear.</i></p>	1–3
Level 0	No response or no response worthy of credit.	0	No response or no response worthy of credit.	0

8 Advise whether Andrew is criminally liable for the murder of both Bradley and Heidi. Do **NOT** consider any defences.

Assessment Objectives	<p>AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.</p> <p>AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.</p>
Additional guidance	<p>The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.</p>

AO1 Indicative content

Answers **may**:

Define and explain the common law offence of murder:

Define the *actus reus* of murder:

- Causing death of a human being
- Under the King or Queen's Peace
- Within any country of the realm.

Define the *mens rea* of murder:

- 'Malice aforethought' – either an intent to kill (express malice aforethought); or, an intent to cause grievous bodily harm (implied malice aforethought) – *Moloney*
- Direct intent – *Moloney, Mohan*
- Indirect/oblique intent – *Nedrick, Woollin, Matthews and Alleyne*

Define the principle of coincidence of *actus reus* and *mens rea* – the *transaction* theory:

- Principle that extends the rule that the *actus reus* and *mens rea* elements of a crime must occur at the same time
- One exception to the rule under 'coincidence' is the transaction theory where the *actus reus* is part of a larger sequence of events, where it may be sufficient that a defendant forms the *mens rea* at some point during the sequence – *Thabo Meli, Le Brun*

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include the following:

In the case of Bradley's death by Andrew – **actus reus**:

The *actus reus* appears likely to be proven

- The shot to Bradley is the cause of Bradley's death both factually and legally
- Bradley is a human being and 'dies an hour later' which means brain stem death
- Even though Bradley is a soldier, he is home on leave so is not acting in a military capacity and is therefore under the Queen's Peace
- Bradley is 'at home' so we assume that this is within the United Kingdom (UK), but even if it was not, British citizens can still be charged with murder if the unlawful killing was committed outside the UK

In the case of Bradley's death by Andrew – **mens rea**:

The *mens rea* appears likely to be proven

- There is clear evidence that Andrew had direct intent to kill Bradley, as it was his aim, purpose or desire to kill, or his true desire to bring about the consequences of death having shot Bradley in the chest
- Failing any proof of an intent to kill, there is evidence of a direct intent to cause serious harm and would satisfy implied malice aforethought

In the case of coincidence of *actus reus* and *mens rea* – transaction theory:

- That there was *actus reus* and *mens rea* present at some point in the sequence in shooting Bradley (*mens rea*) and him dying at the quarry (*actus reus*)
- As long as the two elements of the offence of murder occur at some point in the sequence, the transactions will be joined, and Andrew can be guilty of murder

In the case of Heidi's death – **actus reus**:

The *actus reus* appears likely to be proven

- Andrew shoots Heidi which is the cause of her death both factually and legally
- Heidi is a human being and 'dies as a result' which clearly means brain death
- Even though Andrew is a soldier, he is home on leave so is not acting in a military capacity and is therefore under the Queen's Peace
- Andrew is 'at home' so we assume that this is within the United Kingdom (UK), but even if it was not, British citizens can still be charged with murder if the unlawful killing was committed outside the UK

In the case of Heidi's death – **mens rea**:

The *mens rea* appears likely to be proven

- While there may not have been a direct intent to kill Heidi, as Andrew was unaware she was in the corner and it is unlikely to have been his aim, purpose or desire to kill, or his true desire to bring about the consequences of her death
- In the absence of direct intent, it may be possible to prove indirect/oblique intent – the jury would be entitled to find Andrew's intent if death or serious bodily harm had been a virtual certainty and that Andrew appreciated that such was the case, based on all the evidence – firing a shot at a low height into a dark and very crowded room

Credit any other relevant point(s).

	AO1	Mark	AO2 1a/1b	Mark
Level 4	<ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. 	7–8	<ul style="list-style-type: none"> Excellent application of legal rules to a given scenario. Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. 	10–12
Level 3	<ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. 	5–6	<ul style="list-style-type: none"> Good application of legal rules to a given scenario. Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. 	7–9
Level 2	<ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. 	3–4	<ul style="list-style-type: none"> Basic application of legal rules to a given scenario. Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. 	4–6
Level 1	<ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of statutes and case law is limited. 	1–2	<ul style="list-style-type: none"> Limited application of legal rules to a given scenario. Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. 	1–3
Level 0	No response or no response worthy of credit.	0	No response or no response worthy of credit.	0

9 Advise whether Thomas is guilty of any attempted offences.

Assessment Objectives	<p>AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles. 8 marks.</p> <p>AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology. 12 marks.</p>
Additional guidance	<p>The 'indicative content' is an example of valid content. Any other valid content is acceptable and should be credited in line with the levels of response. It is not expected for candidates to cover all of the indicative content.</p>

AO1 Indicative content

Answers **may**:

Define and explain the law on attempted crimes:

- Criminal Attempts Act 1981 was a piece of codifying legislation in terms of key definitions of *actus reus* and *mens rea*
- *Actus reus* of an attempt found in section 1 (1) CAA 1981 – doing an act which is more than merely preparatory – *Gullefer, Jones, Campbell, Geddes, Tosti and White*
- *Mens rea* of an attempt – *Widdowson, Whybrow, Mohan, Walker and Hayles*
- Particular relevance of recklessness in relation to circumstances – *AG Ref. (No. 3 of 1992)* (1994)
- Conditional intent – *Easom, Husseyn, AG Ref. (No. 1 and 2 of 1979)* (1979)
- Sentencing provisions can be as for the full offence

Define and explain the law on attempting impossible crimes:

- Position relating to impossibility addressed in sections 1 (2) and 1 (3) CAA81 – *Anderton v Ryan, Shivpuri, Jones* (2007)

Credit any other relevant point(s).

AO2 Indicative content

Answers **may** include the following:

In the case of Rishi's surfboard:

- Thomas' act appears to be one which is only capable of mere preparation as he is prevented on the approach by Rishi's dog barking – *Gullefer, Geddes, Campbell*
- Thomas' act may be one capable of (although unlikely) of being 'more than merely preparatory' under s.1(1) Criminal Attempts Act as he may have been close enough to the surfboard – *Jones, Boyle and Boyle*
- Thomas' intent was to commit the full offence (here possibly theft) – requiring proof of a decision to bring about the offence no matter whether the accused desired it or not – *Mohan, Whybrow*

In the case of throwing the rock at Mr Smith:

- Thomas' act is one capable of being 'more than merely preparatory' under s.1(1) Criminal Attempts Act as he actually throws the rock and it is only because Mr Smith bends over that he is not hit by the rock – *Jones, Boyle and Boyle*
- Thomas' act is capable (although unlikely) to be one of mere preparation – in throwing the rock, Thomas goes beyond contemplation and planning into the crime proper – *Gullefer, Geddes Campbell*
- Thomas' intent was to commit the full offence (here possibly ABH or GBH) – requiring proof of a decision to bring about the offence no matter whether the accused desired it or not – *Mohan, Whybrow*

In the case of Jill's handbag:

- Thomas may still be liable for an attempted crime even though it is likely the offence is one of attempting the impossible – the crime was factually impossible as there was no specific subject matter, i.e. the purse he intended to take – s.1(2), *Shivpuri, Jones*.
- It is unlikely that the issue of conditional intent will apply here as Thomas' aim was to singularly steal her purse, not simply anything in the bag or anything of value
- Thomas' act is one capable of being 'more than merely preparatory' under s.1(1) Criminal Attempts Act as he actually puts his hand into Jill's handbag in order to steal – *Jones, Boyle and Boyle*
- Thomas' act is capable (although unlikely) to simply be one of mere preparation – in putting his hand in the handbag, Thomas goes beyond contemplation and planning into the crime proper – *Gullefer, Geddes Campbell*
- Thomas' intent was to commit the full offence (here possibly theft) – requiring proof of a decision to bring about the offence no matter whether the accused desired it or not – *Mohan, Whybrow*

Credit any other relevant point(s).

	AO1	Mark	AO2 1a/1b	Mark
Level 4	<ul style="list-style-type: none"> Excellent knowledge and understanding of the English legal system, rules and principles. The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law. 	7–8	<ul style="list-style-type: none"> Excellent application of legal rules to a given scenario. Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used. 	10–12
Level 3	<ul style="list-style-type: none"> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law. 	5–6	<ul style="list-style-type: none"> Good application of legal rules to a given scenario. Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used. 	7–9
Level 2	<ul style="list-style-type: none"> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed. There will be some reference to statutes and case law. 	3–4	<ul style="list-style-type: none"> Basic application of legal rules to a given scenario. Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used. 	4–6
Level 1	<ul style="list-style-type: none"> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail. Citation of statutes and case law is limited. 	1–2	<ul style="list-style-type: none"> Limited application of legal rules to a given scenario. Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used. 	1–3
Level 0	No response or no response worthy of credit.	0	No response or no response worthy of credit.	0

10* 'The defence of intoxication fails to meet the requirements of modern society and needs to be reformed urgently.' Discuss the extent to which this statement is accurate.

As per Question 7

Assessment Objectives Grid

Questions	AO1	AO2 1a/1b**	AO3 1a	AO3 1b	Total
1–2	8	0	0	0	8
3–4	0	0	0	12	12
5 or 8	8	12	0	0	20
6 or 9	8	12	0	0	20
7* or 10*	8	0	12	0	20
Total	32	24	12	12	80

**AO2 elements 1a and 1b will be awarded jointly

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