

A LEVEL

Examiners' report

LAW

H415

For first teaching in 2019

H415/03 Autumn 2020 series

Introduction

Our examiners' reports are produced to offer constructive feedback on candidates' performance in the examinations. They provide useful guidance for future candidates.



Reports for the Autumn 2020 series will provide a broad commentary about candidate performance, with the aim for them to be useful future teaching tools. As an exception for this series they will not contain any questions from the question paper nor examples of candidate answers.

The reports will include a general commentary on candidates' performance, identify technical aspects examined in the questions and highlight good performance and where performance could be improved. The reports will also explain aspects which caused difficulty and why the difficulties arose, whether through a lack of knowledge, poor examination technique, or any other identifiable and explainable reason.

A full copy of the question paper and the mark scheme can be downloaded from OCR.

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Paper 3 series overview

The strongest responses in this paper were those where the candidate focussed really well on the specific question and demonstrated accurate and wide ranging subject knowledge.

Exam technique is vitally important on this paper, responses where the candidate displayed extensive subject knowledge but did not use it effectively to address the specific focus of the question did not gain the marks that would have been expected with that level of knowledge.

<i>Candidates who did well on this paper generally did the following:</i>	<i>Candidates who did less well on this paper generally did the following:</i>
<ul style="list-style-type: none"> • Structured their response into clear paragraphs which contained factual knowledge and application or evaluation skills relevant to the question • Included a clear and well defined conclusion to answer the question, particularly when answering Questions 5 and 8 and 11 and 14. 	<ul style="list-style-type: none"> • Displayed general knowledge on a topic without focussing on the specific aspect required for the question • Included case law which was not directly relevant to the question • Omitted clear conclusions or responses to the questions set.

Section overview

In section A of the paper there was a stark contrast between the approach candidates took to the two questions. Question 1 concerned justice and stronger responses were able to discuss the approach of a number of different key thinkers and apply their ideas to a range of areas of law from the specification. The strongest responses compared the approaches of different key thinkers and developed their responses well by looking at counter arguments to their initial propositions. These candidates avoided repetition in their conclusion but were able to compare and analyse their previous discussion in order to answer the specific question.

The approach to Question 2 tended to focus on issues which the law has dealt with rather than the ideas of specific thinkers. When this was done well, candidates were able to illustrate their answer with reference to specific laws or incidents which had arisen. Less effective responses displayed an awareness of relevant issues but in more general way, lacking specific details or legal content. In some cases, candidates discussed areas where the law has made use of technology, for example, in crime fighting. This gained minimal credit unless it was made relevant to the question, for example, in regulating the indiscriminate collection of data from those arrested.

Option overview

In option 1, human rights, candidates generally showed a good level of awareness of specific articles of the ECHR and how they have been applied in case law. Questions 4 and 7, however, concerned laws other than those contained in the articles and in many cases candidates' knowledge was vague and not well developed. In Question 4, some responses discussed irrelevant areas of law such as burglary, and in Question 7 there were few accurate accounts of the law on harassment and malicious communications.


There were some well-developed responses to Questions 5 and 8 on the right to a fair trial but many were lists of the requirements of a fair trial with little analysis or accompanying discussion. Candidates also need to read the question carefully – the question was about criminal trials but some responses contained material which was relevant to civil trials.

In option 2, contract law, candidates generally showed a good level of awareness of the rules of contract formation. Offer, acceptance and consideration were illustrated with accurate case law in many responses and a good level of awareness of the rules.


In Question 9 some responses confused the rules for pre-existing contractual obligations, for example those in *Stilk v Myrick*, with the rules for performance of a public duty, for example in *Glasbrook v Glamorgan*. Stronger responses to this question were able to explain and apply both the basic rule and the exceptions to the rules, for example the rule on past consideration and the situations when it can be considered to be good consideration. Less effective responses were limited to just the basic rule.

Question 10 was about privity. Although most responses contained an explanation of the rule itself there were few accurate explanations of the Contract (Rights of Third Parties) Act 1999 which is crucial to answering any question on this topic.

Question 12 was about economic duress. More effective responses were able to explain and apply the rules in a methodical way however there were many responses which confused this area of law with others such as remedies and undue influence, the latter is no longer an examinable topic on this specification.

	Misconception	One common misconception is that special cases, as explained in the case Jackson v Horizon Holidays, allows third parties to sue in their own right. This is incorrect, the rule allows the contracting party to sue on behalf of a third party, but not for the third party themselves to sue.
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Key teaching and learning points – comments on improving performance

	AfL	Paragraph structure is a vital skill for candidates and should be a focus for teaching. Each paragraph should contain a mixture of AO1 knowledge and either AO2 or AO3 skills, providing answer scaffolds helps students to gain this skill which can make a big difference to their attainment.
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