

LAW

<p>Paper 9084/11 English Legal System</p>

Key messages

- Candidates need to be prepared for the potentially narrow focus of the compulsory questions and ensure they address this in their answer.
- The use of legal authority is crucial across all answers, and this can take the form of cases, statutes, reports, statistics or academic opinion.
- Candidates should be encouraged to pay attention to the command verbs used at the start of a question; for example, '*Identify*' requires no more than a list – to expand on any more detail is a waste of precious exam time.
- Ensure that the question answered is the question set and particularly in the evaluation questions, link answers back to the wording in the question.
- If time management is an issue, candidates should be encouraged to answer the higher tariff questions first to ensure that they do not run out of time.
- When citing legal authority, the years are not necessary for cases, but should be included for statutory authority.

General comments

This was the second summer of the new specification, and it seemed to present some challenges to candidates. The compulsory nature of the first five questions on the paper seemed to be particularly challenging as there was evidence of many candidates missing out whole questions or lacking focus in their answers. This reveals some areas where understanding could be strengthened, suggesting that revision could be more focused.

Time management seems to have improved, and some candidates wisely attempted the more demanding **Section B** questions first. This is to be encouraged, although candidates should remember to number the questions accordingly so that the Examiner can award credit against the correct questions.

Regarding the overall examination structure, it seems that valuable time is being spent on rewriting or paraphrasing the questions, which is not necessary. Additionally, there was a lack of legal authority in the responses overall; it is essential in Law that all points made are supported with relevant legal authority – this could take the form of cases, statutes, reports, statistics, news stories or academic opinion. Where cases are cited, candidates are reminded that they should explain **why** the case illustrates the point they are making. A good technique for this is to encourage candidates to frame their discussion, such as: '*as seen in the case of...., where.....*'. A sentence or two following the '*where*' will usually be enough to illustrate the point.

The division of the AO2 and AO3 assessment objectives is now established, and it may be worth noting the difference between the two, using the example below:

<p>'a disadvantage of juries is that the way the verdict is reached is not known and juries could use unscrupulous ways of doing this as seen in R v Young where the jury used a Ouija board and R v Alexander and Steen where the jury was persuaded by the barrister'.</p>

In this example, the **bold** text illustrates an AO3 point of evaluation, which is supported by the underlined AO2 application by using case support. Based on this example, a candidate who merely produces a list of evaluation points, with no support, development or legal authority is unlikely to reach the higher mark bands but may obtain some AO3 marks for some evaluation.

Comments on specific questions

Section A

Due to the small number of marks attributed to these questions, candidates are advised to focus their answers on the question being asked. To aid with this, paying attention to command verbs will help candidates judge the length required of the answer. Several responses were over a page long for some questions in this section which is disproportionate to the number of marks available. Further, candidates are reminded of the need to be specific and use correct legal terminology to access the higher mark bands.

Question 1

Identify the two divisions of the Court of Appeal.

Few candidates achieved full marks on this question. There was evidence of some guesswork with answers such as 'House of Commons/Lords', together with examples of other courts. There was also reference to 'Upper/Lower Divisions' and the names of the Divisions of the High Court.

Question 2

Identify two types of alternative dispute resolution (ADR).

This was an accessible question with most candidates able to correctly identify two forms of dispute resolution from negotiation, mediation, conciliation or arbitration. Candidates are reminded that the command verb of 'identify' requires only a list. Precious examination time is wasted giving a definition of ADR or any of the types.

Question 3

Identify five sources of persuasive precedent.

Candidates seemed to find this question challenging, with many candidates choosing it to leave it unanswered.

Weaker responses were confused by the question and instead offered types of precedent as an answer and there was also some confusion with law reform methods.

Question 4

Describe three reasons why a judge might excuse or defer a person from serving on a jury.

The key words in this question were **excuse or defer** which was missed by many candidates who instead talked about **ineligibility** to sit on a jury. Candidates are reminded that excusals and deferrals are different to ineligibility and challenges. As such, this question produced mixed responses.

The implication of challenging a juror, like a judge excusing someone with connections to people in the case, was accepted as a benefit of the doubt, but only if the connection was related to the excusal. Credit was given for reasons such as: English being a second language, mental illness or episodes during the trial, being deaf, blind, or having another disability that makes serving impossible, military personnel called to duty, pregnant or new mothers, exams, holidays, or essential work obligations (such as doctors, nurses, or teachers) that prevent the person from serving.

Centres should be advised that whilst deaf jurors were accepted in this series as a benefit of the doubt, since 2021, British Sign Language (BSL) interpreters are permitted to take part in jury service to aid a deaf juror. These provisions were contained in the Police, Crime, Sentencing and Courts Act 2022.

Question 5

Assess the need for society to have both civil and criminal law.

The most common approach which scored highly was to answer this question with a definition of civil and criminal law and then provide an outline of the key differences. Most candidates could outline the differences between civil and criminal law, for example, civil law is between two individuals, criminal law is between the

state and an individual, but only stronger responses developed this further with some narrative around why we need these areas of law.

As with the last series, candidates scored higher on AO3 than on AO2 as only the stronger responses developed the AO3 points or supported with legal authority for the additional AO2 marks.

For example, one point could be: ‘Criminal law is the area of law where the State can prosecute an individual for wrongdoing, such as murder or theft. This area of law is necessary to protect society from harmful individuals, to maintain law and order and also to deter individuals from committing crime.’

Here, the AO3 mark is awarded for the evaluation point and then the rest of the point is credited with AO2 as it shows development and supporting analysis of the point on representation.

Weaker responses misused terminology, for example, using ‘guilty’ when referring to the civil law and ‘liable’ for criminal law. It is important to note that the misuse of legal terminology presents an unconvincing answer and such responses are not likely to achieve the higher levels of marks when demonstrating such inaccuracies.

Some candidates chose to discuss political views or topics like religion, ethics, and morals in response to this question. These points could not be credited unless they were directly relevant to the question.

Section B

Most noteworthy in this section is the continued amount of repetition in **part (b)** from **part (a)**. Candidates are reminded that different skills are being tested; **part (a)** is examining AO1 Knowledge and Understanding and **part (b)** is examining AO2 Analysis and Application and AO3 Evaluation and candidates cannot be credited for the same information twice.

Question 6

(a) Explain the literal and mischief rules of statutory interpretation.

This was a popular choice among candidates and produced some good answers, with some evidence of supporting case law for both the literal and the mischief rules.

Candidates are generally more confident with the literal rule, with most candidates able to provide a correct definition. Where case law was used to support the literal rule, common citations were Whiteley v Chappel, Fisher v Bell and London North East Railway Company v Berriman.

The Mischief Rule provided responses that were somewhat informal, with little reference to case law. There was also some confusion as to what the Mischief Rule is, with several candidates demonstrating some confusion with the purposive approach in the language used, for example, referring to ‘intention’ rather than the ‘gap’ Parliament was trying to fill. There was very little reference to Heydon’s Case, but Smith v Hughes and Pepper v Hart were commonly cited.

(b) Assess the extent to which the rules of statutory interpretation prevent judges from making law.

This question required an assessment of all rules of statutory interpretation. Many candidates repeated the knowledge demonstrated in **part (a)** to this question part, with little development in terms of analysis and evaluation.

Candidates were expected to conclude that the literal and golden rules provide little scope for judicial creativity but that the mischief and purposive rules allow for slightly more undemocratic law making. This was not the case for the majority of candidates. Case law was credited in places with some implicit evaluation, for example where Re Sigsworth was cited as an ‘absurd’ result. To improve, candidates are advised to practice the skills of AO2 and AO3 as these were the lowest scoring questions on the paper.

A good tip is for candidates to use the wording from the questions in their answers to help keep them focused on the question.

Question 7

(a) Explain how the police should make a lawful arrest without a warrant.

This was a popular choice of question although many candidates chose to focus on stop and search rather than arrest.

Stronger responses identified the requirements of a lawful arrest, using sections of the Police and Criminal Evidence Act 1984 and some relevant terms from the statute related to the requirements for a lawful arrest. Weaker responses discussed arrest with limited accuracy and spent a disproportionate amount of the response talking about detention rights when they arrive at the police station, such as the right to a phone call, legal advice and rules around samples, which was not wholly relevant to the question.

Candidates are reminded that the command verb 'explain' requires more than simply a list.

(b) Assess how the law on arrest without a warrant strikes a fair balance between the powers of the police and the rights of the individual.

As seen in **Question 6(b)**, there was a lot of repetition here from **part (a)** with candidates explaining police powers, with little development or evaluation that answers the question. As a point of guidance, candidates should be encouraged to link back to the question with connectives such as *'This strikes a fair balance because.....'*.

Overall, the evaluation points were often quite vague, lacked clarity and were very rarely supported with case law or statutory provisions. The AO3 points had a tendency to be list like with little or no development for the additional AO2 credit; these answers were unlikely to be awarded higher than Band 2 as they only demonstrated 'some' analysis and evaluation.

Stronger responses discussed cases such as Taylor v Thames Valley Police (2004), where it was claimed that the police had not informed Taylor of the reasons for his arrest. There was also some weak evaluation about young BAME males being three times more likely to be stopped and searched; where the candidate developed this into arrest, the benefit of the doubt was given and positively credited.

Question 8

(a) Explain how lay magistrates are selected.

This was another popular question and, on the whole, most candidates could provide a basic explanation of how lay magistrates are selected. There was some confusion around the focus on selection. Most candidates interpreted this as an invitation to discuss eligibility criteria, such as age and job role, rather than the selection process of interview and selection. There was some confusion with juries and with the Judicial Appointments Commission, which has no involvement with the selection of magistrates.

The ideal approach was to discuss the way in which posts for the magistracy are advertised, the 2-stage interview and its requirements and then a short narrative about the training and mentoring process.

(b) Assess the extent to which the selection process ensures that the most suitable people become lay magistrates.

There were some very brief answers to this question, seemingly because candidates ran out of time. A sensible approach to this question would have been to assess how open the advertising process has become recently, the rigour of the training programme and how the process ensures a diversity balance, represents the local community and how the 2-stage interview assesses for the correct judicial attitudes and skills.

The same confusion tended to be apparent in this question part as well, so if a candidate had discussed juries in **part (a)**, they continued that in this question; likewise discussions of the judiciary also came through here.

LAW

<p>Paper 9084/12 English Legal System</p>

Key messages

- Candidates need to be prepared for the potentially narrow focus of the compulsory questions and ensure they address this in their answer.
- The use of legal authority is crucial across all answers, and this can take the form of cases, statutes, reports, statistics or academic opinion.
- Candidates should be encouraged to pay attention to the command verbs used at the start of a question; for example, '*identify*' requires no more than a list – to expand on any more detail is a waste of precious exam time.
- Ensure that the question answered is the question set and particularly in the evaluation questions, link answers back to the wording in the question.
- If time management is an issue, candidates should be encouraged to answer the higher tariff questions first to ensure that they do not run out of time.
- When citing legal authority, the years are not necessary for cases, but should be included for statutory authority.

General comments

This was the second summer of the new specification, and it seemed to present some challenges to candidates. The compulsory nature of the first five questions on the paper seemed to be particularly challenging as there was evidence of many candidates missing out whole questions or lacking focus in their answers. This reveals some areas where understanding could be strengthened, suggesting that our revision should be more focused.

Time management seems to have improved, and some candidates wisely attempted the more demanding Section B questions first. This is to be encouraged, although candidates should remember to number the questions accordingly so that the examiner can award credit against the correct questions. Regarding the overall examination structure, it seems that valuable time is being spent on rewriting or paraphrasing the questions, which is not necessary. Additionally, there was a lack of legal authority in the responses overall; it is essential in Law that all points made are supported with relevant legal authority – this could take the form of cases, statutes, reports, statistics, news stories or academic opinion. Where cases are cited, candidates are reminded that they should explain **why** the case illustrates the point they are making. A good technique for this is to encourage candidates to frame their discussion, such as: '*as seen in the case of....., where.....*'. A sentence or two following the '*where*' will usually be enough to illustrate the point.

The division of the AO2 and AO3 assessment objectives is now established, and it may be worth noting the difference between the two, using the example below:

<p>'a disadvantage of juries is that the way the verdict is reached is not known and juries could use unscrupulous ways of doing this as seen in R v Young where the jury used a ouija board and R v Alexander and Steen where the jury was persuaded by the barrister'</p>
--

In this example, the **bold** text illustrates an AO3 point of evaluation, which is supported by the underlined AO2 application by using case support. Based on this example, a candidate who merely produces a list of evaluation points, with no support, development or legal authority is unlikely to reach the higher AO2 mark bands but may obtain some AO3 marks for some evaluation.

Comments on specific questions

Section A

Due to the small number of marks attributed to these questions, candidates need to focus their answers on the question being asked. To aid with this, paying attention to command verbs will help candidates judge the length required of the answer. Several responses were over a page long for some questions in this section which is disproportionate to the number of marks available. Further, candidates are reminded of the need to be specific and use correct legal terminology to access the higher mark bands.

Question 1

Identify two bodies which regulate the conduct of barristers or solicitors.

Few candidates achieved full marks on this question, with many candidates choosing to leave it unanswered. Most responses named one of the regulatory bodies but not two. Some responses used incorrect terminology, for example, Solicitors **Regulatory** Authority, or the Bar Standards **Council**. Candidates are reminded that they need to be accurate in terms of their legal terminology.

Question 2

Identify two cases in which the Supreme Court or the House of Lords used the Practice Statement.

Candidates seemed to find this question challenging. A common issue was citing cases that were overruled, rather than the case where the Practice Statement was used, for example R v Caldwell was not credited as the case that used the Practice Statement was R v R&G, which overruled R v Caldwell. There was also confusion with some Court of Appeal cases, which were also not credited. R v R was often cited, but this was also incorrect, as the Practice Statement was not used in this case; the House of Lords overturned the decision on appeal. A common citation was the London Street Tramways v London City Council case; candidates are reminded that this case held that the House of Lords **should be bound** by their own decisions and not able to depart under any circumstances.

A minority of candidates accurately cited two cases fully. Candidates are reminded of the need to be specific and accurately cite the case. Due to the command verb being '*identify*', it was not necessary for candidates to include the facts of the cases.

Question 3

Identify five conditions which might be imposed on a defendant who is granted bail.

This question was answered successfully by the vast majority of candidates. Stronger responses listed five conditions in any combination as stated in the Mark Scheme. As a point of guidance, candidates should be advised that the word '*identify*' requires little more than a list of five conditions that can be attached to bail. Candidates wasted precious exam time with a detailed explanation of each condition which was not required for a question that attracts only 5 marks.

Weaker responses were confused by the question and instead talked of reasons why bail may be refused, rather than conditions – for example, if there is a risk that the defendant will abscond, commit another offence or interfere with witnesses.

Question 4

Describe two types of challenge to potential jurors in the Crown Court.

This question provided a mixed response, with some candidates able to identify two challenges, usually challenge for the cause and to the array and provided a short explanation for the full range of marks. Stronger responses also supported their explanations with some cases – for example, R v Ford, R v Wilson and the Romford Jury.

Weaker responses discussed general disadvantages of juries which was inaccurate as jury challenge is a very specific legal process. In these cases, responses described what the jury might find challenging, for example, not understanding the case, possibility of being bribed or tampered with, upsetting trial content and Ouija boards.

As a point of guidance, answers were disproportionately long for this question part in comparison to the number of marks available for the question. For example, time was wasted discussing the role of the jury.

Question 5

Discuss the advantages of using lay magistrates in the criminal justice system.

This question required discussion of only the advantages of lay magistrates and as such, any reference to disadvantages was not credited. On the whole, most candidates could identify two advantages of magistrates, although candidates scored higher on AO3 than on AO2 as only the stronger responses developed these points or supported with legal authority for the AO2 marks.

A sensible approach to this question would be to consider around four advantages and develop these well with a sensible argument and some legal authority for the full range of marks.

For example, one point could be: ***‘Magistrates are generally representative of society. This is seen in recent diversity statistics which suggest that 51 per cent of magistrates are male and 49 per cent are female. There is also an increasing representation of BAME magistrates, possibly due to the increased advertising and recruitment campaigns being undertaken by the Magistrates’ Association’***

Here, the AO3 mark is awarded for the evaluation point and then the rest of the point is credited with AO2 as it shows development and supporting analysis of the point on representation.

Stronger responses mentioned AO3 points such as representativeness, cost, local knowledge, use of the legal adviser and fewer appeals.

Weaker responses had the misconception that lay magistrates sit as a panel of two with a professional judge and that their role is to advise the judge. They thought that lay magistrates are legally qualified and some commented that their role was to ensure that the judge could not be bribed. This idea shares some similarity with Sir Robin Auld’s proposals, but not entirely. It’s either the case that these candidates confused proposed reforms for the current state of the criminal justice system or that they confused the criminal justice system of their own country with that of England and Wales.

Further up the scale, answers wandered into disadvantages as well, which, although interesting to read, was not focused on the question. Candidates should be reminded to read the question carefully to prevent providing information that cannot be credited.

Section B

This is a new style question and most noteworthy in this section is the continued amount of repetition that features in **part (b)** from **part (a)**. Candidates need to be reminded that different skills are being tested; **part (a)** is examining AO1 Knowledge and Understanding and **part (b)** is examining AO2 Analysis and Application and AO3 Evaluation and candidates cannot be credited for the same information twice.

Question 6

(a) Explain what is meant by judicial independence.

Candidates who answered this question seemed to find it challenging. There was some confusion with the appointment of judges, with many candidates discussing the difference between inferior and superior judges. Unfortunately, there was also some confusion with statutory interpretation and several responses discussed types of criminal offences, all of which was not relevant to the question and was therefore not credited. Judicial Precedent also featured heavily in some weaker answers. Some candidates began their answer by introducing the concept that judicial independence is the judge's ability to make any decision he wants. They then lost focus by discussing avoidance techniques and the availability of the Practice Statement.

Stronger responses talked about elements of judicial independence, such as the separation of powers, the independence of the judiciary from political bias, the security of tenure and the freedom from financial pressures. This was well supported in the strongest responses with cases such as *Re Pinochet* and also the *Gina Miller* case. **Part (a)** was generally more accessible than **part (b)** for the majority of candidates who chose this question.

(b) Assess the extent to which judges are truly independent.

Weaker responses presented a repetition of the knowledge points in **part (a)** with little or no development. Some candidates presented a generic evaluation of precedent, but this attracted limited credit as it was not focused on the question.

Overall, case law was not used particularly well in this question and candidates are reminded of the need for legal authority to support AO3 Evaluation points. There was also very little reference to the Constitutional Reform Act 2005, which would have provided a good basis for evaluating how the judiciary has become more independent with the introduction of the Supreme Court and the removal of the likelihood of political interference due to the revised role of the Lord Chancellor.

A good tip for candidates is to use the wording from the questions in their answers to help keep them focused on the question.

Question 7

(a) Explain the intrinsic and extrinsic aids used by judges in statutory interpretation.

This question produced the full range of responses. Stronger responses were able to identify a range of both intrinsic and extrinsic aids, conceding that there were fewer intrinsic aids to discuss than extrinsic. Candidates who only discussed either intrinsic or extrinsic aids were unlikely to achieve higher than Band 2.

Weaker responses were often a general answer on statutory interpretation, venturing into a discussion of rules and approaches. Where these were used as a framework for discussing which aids are appropriate for each rule, positive credit was given.

Candidates are reminded that the command verb '*explain*' requires more than simply a list. For example, stronger responses could cite cases such as Davis v Johnson and Pepper v Hart when discussing Hansard as well as some of the conditions for the use of Hansard in interpreting statutes.

(b) Discuss how useful intrinsic and extrinsic aids are in the task of statutory interpretation.

There was a lot of repetition for this question part from **part (a)** with candidates explaining the aids to interpretation again with no development or evaluation that answers the question. As a point of guidance, candidates should be encouraged to link back to the question with connectives such as '*This aid is useful because.....*'. Evaluation points overall tended to be informal and imprecise and were very rarely supported with case law. As with other questions in this section, the AO3 points were generally too list-like with little or no development for the additional AO2 credit; these answers were unlikely to achieve higher than Band 2 as they only demonstrate '*some*' analysis and evaluation.

Stronger responses discussed how the aids are useful because they help judges maintain Parliamentary sovereignty and ensure that the intention of Parliament is upheld, but that there is a risk of judicial creativity with some extrinsic aids.

Question 8

(a) Explain how civil cases are allocated for trial.

On the whole, most responses provided a basic explanation of the values for each of the three tracks. Only stronger responses could develop this further with a more detailed explanation of the features of each track, such as narrative around expert witnesses, legal representation, speed, cost and the inquisitorial nature of the tracks.

There were some informal answers, with lots of generic commentary on civil law and, in particular, the Divisions of the High Court, which were not really relevant in as much detail as was provided. There was also some confusion with appeals and the general court structure. Candidates are reminded of the need for accurate legal terminology; there was incorrect reference to the 'medium

track', the 'royal track' or the 'small track'. In questions such as this, terminology is imperative as inaccuracies present a weak and unconvincing answer overall.

Weaker responses seemed to wander into an answer on magistrates and criminal law generally with talk of 'offences' and 'guilt', which is terminology associated with criminal law, not civil law.

Centres should be reminded of the introduction of the intermediate track in 2023 and some revised amendments to the claims limits:

[A new intermediate track– All change for the civil procedure rules – Becket Chambers \(becket-chambers.co.uk\)](https://www.becketchambers.co.uk)

New intermediate track and new values for claims:

[Civil Procedure \(Amendment No. 2\) Rules 2021 and Practice Direction update 129 – GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[guide-to-part-26-of-the-civil-procedure-rules.pdf \(officialinjuryclaim.org.uk\)](https://www.officialinjuryclaim.org.uk)

From the next series, we would expect to see reference to the new intermediate track. This introduction will also provide some good evaluative content as the new track tries to standardise and create a degree of certainty in relation to process and costs.

(b) Discuss the extent to which the allocation of cases enables the civil courts to deal with them justly and at reasonable cost.

Responses were often brief for this question, seemingly because candidates ran out of time. A sensible approach to this question would have been to assess the effectiveness of each track, with some narrative around cost, speed, delay and legal representation.

Candidates tended to focus on ADR in this question, which may be a relevant evaluative point as far as it being an advantage to avoid having to go to court, but too much time was spent focusing on the types of ADR and when they might be used.

LAW

<p>Paper 9084/13 English Legal System</p>

There were too few candidates for a meaningful report to be produced.

LAW

<p>Paper 9084/21 Criminal Law</p>

Key messages

This session saw an increase in candidates and centres, which is to be encouraged. Many candidates and centres show a good understanding of the new syllabus and its contents, which can be accessed on the School Support Hub. Reading the mark scheme alongside this report might be helpful examination preparation for candidates and centres; the breakdown of marks is clearly shown between AO1 Knowledge and Understanding, AO2 Analysis and Application and AO3 Evaluation, demonstrating how candidates can move through the levels in each of the assessment criteria. The rubric of the question paper appeared to be clear for candidates and there were few examples of rubric error. Some candidates were unable to complete all of **Question 2** or **Question 3**, suggesting they had not revised widely enough.

Here are some key messages:

- There is no need to write out the scenario or parts of the source material before beginning an answer.
- Candidates should use only the source material provided in **Question 1** to resolve the scenarios – there is no credit for using wider aspects of criminal law.
- **Question 1** marks are gained by the selection and application of the appropriate material for each scenario; doing so displays application and reasoning skills so there is no credit for referring to, and discounting, source material which is not relevant.
- **Question 1** requires candidates to reason to a conclusion viable on the facts – in this session it related only to the application of the *actus reus* elements of theft.
- **Question 2** and **Question 3** are not linked; candidates need to make sure their preparation and revision is broad so that they can answer each part of their chosen question.
- Highlighting or underlining key words in **Question 2** and **Question 3** will help candidates pick out how best to answer a question – for example **Question 3(b)** focused on the offence of obtaining services dishonestly in s11 Fraud Act 2006 and not making off without payment which is an offence under s3 Theft Act 1978.
- **Question 2** or **Question 3(a)** focuses on AO1 Knowledge and Understanding – maximum marks can be reached with a bullet pointed list.
- **Question 2** or **Question 3(b)** is an extended writing response; the 25 marks are spread between the three assessment objectives referred to above. The mark scheme shows how material can best be used to move through the mark levels and it is important to cover AO1, AO2 and AO3 material to reach the higher levels.
- Questions can be answered in any order as long as this is made clear in the answer booklet.
- It is important to allocate time wisely so all questions can be attempted.
- Thinking and planning is a useful and important skill as it enables candidates to use what they know in the most relevant way when answering a question. This also helps with presentation as some answers, especially to **Question 2** or **Question 3(b)**, become hard to read where a candidate writes out a large amount of information without it necessarily being relevant to the question which has been asked.

General comments

In **Section A Question 1** each scenario was answered by almost all candidates. In **Section B** there was a good spread of answers for **Question 2** and **Question 3** with a preference for the essay question in **Question 3(b)**. There were a number of scripts with blank responses to some of the questions, most often to **Question 2** and **Question 3**.

Comments on specific questions

Section A

Question 1

- (a) The two AO1 marks were awarded for referencing any two of the relevant sections of s3(1), s4(1), s4(3) and s5(1). The best responses worked methodically through the scenario. In terms of analysing and applying the law Amanda met s3(1) as she appropriated when she picked the apples; she assumed the rights of the owner and treated them as her own by taking them home. Under s4(1) the apples Amanda picked are property as they are tangible items. Amanda did not meet s4(3) when she picked the apples as the trees are wild but she does so when she advertises the apples for sale and when she makes a gain of £20. Amanda also meets s5(1) as the apples are property belonging to another as Bob owns the forest.
- (b) The two AO1 marks were awarded for referencing any two of the relevant sections of s3(1), s4(1), s5(1), s5(3), s5(4), and the *A – G Ref (No1 of 1983)(1985)*. The best responses worked methodically through the scenario. In terms of analysing and applying the law, Charles met s3(1) when he was given too much change; he appropriated by treating the money as his own and so he assumed the rights of the owner. Under s4(1) money is property. Charles also met s5(4) as, although he was given the money by mistake, he put it in his pocket having seen the error and then he bought a magazine. The money Charles was given originally belonged to Priya under s5(1) and so Charles met s5(3) as he was obligated to deal with the money in a particular way and did not do so in relation to the change. Alternatively, candidates could use s5(4) and *A – G Ref (No1 of 1983)(1985)* to say Charles had a legal obligation to return the money which he failed to meet as he kept it and bought the magazine.
- (c) The two AO1 marks were awarded for referencing any two of the relevant sections of s3(1), s4(1), s5(1) and *Ricketts v Basildon Magistrates (2011)*. The best responses worked methodically through the scenario. In terms of analysing and applying the law, Maurice met s3(1) in relation to the money when he picked up the £5 note as he assumed the rights of the owner and treated it as his own when he spent it on his lunch. He also appropriated the coat when he put it on and the trousers when he took them from the bin. Under s4(1) the money and the clothes are property. Under s5(1) the £5 belonged to another but it was probably the case that the owner could not be found given that no one is in sight when Maurice picks up the money. Also under s5(1) the coat and trousers belonged to another; the best answers used *Ricketts v Basildon Magistrates (2011)* to conclude that the coat belonged to the donor as it was left in bags outside the charity shop and the trousers belonged to the charity shop as they were taken from bins at the back of the shop which were clearly marked with the charity's name.

Section B

Question 2

- (a) The five AO1 marks were awarded for any of the points below:
- S10(1) is the offence of aggravated burglary.
 - There must be a burglary within the meaning of s 9(1)(a) or s 9(1)(b).
 - 'At the time' means when the offence is committed.
 - 'Has with him' means physical carrying of a weapon or even a remote detonator.
 - Any firearm or imitation firearm includes an airgun or air pistol and anything which appears to be a firearm even if it cannot be discharged.
 - Any weapon of offence means an article made or adapted to cause injury to or incapacitate a person, or intended for such use.
 - Any explosive means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose.
- (b) The best responses used relevant and detailed factual information to support their analysis and evaluation. Weaker responses tended to be more factual in their approach; some included a conclusion which was a simple evaluative answer to the question and a good number included no analysis or evaluation at all. The mark scheme makes it clear that to move up the mark levels candidates need to engage with each of the three assessment criteria and that AO1 Knowledge and Understanding attracts a maximum of 10 marks.

The AO1 marks were awarded for factual content on the law of handling stolen goods as found in s22 Theft Act 1968. Goods must already be stolen at the time of the handling as seen in *Haughton v Smith* (1975) and money or other goods received from the sale of stolen goods are also stolen. Handling can mean receiving by taking possession or control; arranging to receive at a preparatory stage goods which are in fact stolen; undertaking or arranging to undertake in their retention, removal or realisation by another person or for the benefit of another person as seen in *R v Bloxham* (1983); retention as seen in *R v Pitchley* (1972) and *R v Kanwar* (1982); removal by carrying or transporting; disposal by transforming, destroying, throwing or giving away and realisation by selling or exchanging goods for something else of value. For the *mens rea* the defendant must either know or believe the goods are stolen at the time they carry out the *actus reus* as seen in *R v Moys* (1984). The defendant must also be dishonest by the same criteria as in theft. The mode of trial and the sentencing limits are relevant factual information.

In terms of analysis of criminal damage the best responses raised issues connected with the offence. All analytical points could be credited but might include:

- The range of possible elements in this offence reflects the need for different types of *actus reus*.
- The cases create an issue of complexity as the statutory definition has been unpicked.
- Juries have to be sure of a lot of different elements to be able to convict.

In terms of evaluation, the best responses often built on the analytical points already made or made new ones. All evaluative points could be credited but might include:

- The offence is something of a catch-all which makes it very effective in extending liability.
- Handling is usually committed by someone receiving stolen goods and provides a good deterrent.
- Juries may not convict due to uncertainty in an offence with many elements which can lead to ineffectiveness.

Question 3

(a) The five AO1 marks were awarded for any of the points below:

- S11 Fraud Act 2006 requires an act; the offence cannot be committed by omission.
- The services must be actually obtained.
- Services are not defined but can include, for example, climbing over a wall to watch a football match without paying an entrance fee.
- The defendant has to be dishonest and pay nothing or not pay in full.
- The defendant must know the services are, or might be, available only on the basis of payment and intend to not pay.
- S11 is triable either way; the maximum penalty at the Crown Court is five years' imprisonment.

(b) The best responses used relevant and detailed factual information to support their analysis and evaluation. Weaker responses tended to be more factual in their approach; some included a conclusion which was a simple evaluative answer to the question and some included no analysis or evaluation at all. The mark scheme makes it clear that to move up the mark levels candidates need to engage with each of the three assessment criteria and that AO1 Knowledge and Understanding attracts a maximum of 10 marks.

The AO1 marks were awarded for factual content on the law relating to omissions. Although an *actus reus* is usually voluntary, in some instances liability comes from failing to act when there is a duty to do so. This can be from: a statutory duty such as under s6 Road Traffic Act 1988; a contractual duty, often based on employment, as in *R v Pittwood* (1902); a duty based on relationship, such as between a parent and child or other family members as seen in *R v Gibbins and Proctor* (1918) and *R v Evans* (2009); a duty undertaken voluntarily such as caring for someone who is vulnerable as seen in *R v Stone and Dobinson* (1977); a duty arising from public office, such as police officers, as seen in *R v Dytham* (1979) and a duty arising due to a dangerous situation if the defendant fails to prevent harm as seen in *R v Miller* (1983) and *R v Evans* (2009).

In terms of analysis of omissions, the best responses raised a range of issues. All analytical points could be credited but might include:

- *Actus reus* is a key element of a criminal offence and so a visible failure to act is vital.
- Relying on the need for a positive and voluntary *actus reus* leaves gaps in the law.
- There are issues of unfairness as those who do not do what they should can avoid liability.
- Duties can be inconsistent as they do not always take account of issues such as the feasibility of discharging the duty, the complexity of relationships and the pressures defendants might be under.

In terms of evaluation the best responses often built on the analytical points already made or made new ones. All evaluative points could be credited but might include:

- The range of duties has been expanded over time to cover gaps which makes the law fairer.
- Most developments are made by judges so change is incremental and reflects society's needs, which makes the law effective.
- As there is no Good Samaritan law there is no obligation to rescue unless there is a duty; critics argue this is morally and legally wrong, making the law unfair and ineffective.

LAW

<p>Paper 9084/22 Criminal Law</p>

Key messages

This session saw an increase in candidates and centres, which is to be encouraged. Many candidates and centres show a good understanding of the new syllabus and its contents, which can be accessed on the School Support Hub. Reading the mark scheme alongside this report might be helpful examination preparation for candidates and centres; the breakdown of marks is clearly drawn between AO1 Knowledge and Understanding, AO2 Analysis and Application and AO3 Evaluation, demonstrating how candidates can move through the levels in each of the assessment criteria. The rubric of the question paper appeared to be clear for candidates and there were few examples of rubric error. Some candidates were unable to complete all of **Question 2** or **Question 3**, suggesting they had not revised widely enough.

Here are some key messages:

- There is no need to write out the scenario or parts of the source material before beginning an answer.
- Candidates should use only the source material provided in **Question 1** to resolve the scenarios – there is no credit for using wider aspects of criminal law.
- **Question 1** marks are gained by the selection and application of the appropriate material for each scenario; doing so displays application and reasoning skills so there is no credit for referring to, and discounting, source material which is not relevant.
- **Question 1** requires candidates to reason to a conclusion viable on the facts – in this session it was to settle on the appropriate sentencing category.
- **Question 2** and **Question 3** are not linked; candidates need to make sure their preparation and revision is broad so that they can answer each part of their chosen question.
- Highlighting or underlining key words in **Question 2** and **Question 3** will help candidates pick out how best to answer a question – for example **Question 2(a)** focused on the *actus reus* of making off without payment and **Question 2(b)** focused only on the offences in s1 Criminal Damage Act 1971.
- **Question 2** or **Question 3 (a)** focuses on AO1 Knowledge and Understanding – maximum marks can be reached with a bullet pointed list.
- **Question 2** or **Question 3 (b)** is an extended writing response; the 25 marks are spread between the three assessment objectives referred to above. The mark scheme shows how material can best be used to move through the mark levels and it is important to cover AO1, AO2 and AO3 material to reach the higher levels.
- Questions can be answered in any order as long as this is made clear in the answer booklet.
- It is important to allocate time wisely so all questions can be attempted.
- Thinking and planning is a useful and important skill as it enables candidates to use what they know in the most relevant way when answering a question. This also helps with presentation as some answers, especially to **Question 2** or **Question 3 (b)**, become hard to read where a candidate writes out a large amount of information without it necessarily being relevant to the question which has been asked.

General comments

In **Section A Question 1** each scenario was answered by almost all candidates. In **Section B** there was a good spread of answers for **Question 2** and **Question 3**. There were a number of scripts with blank responses to some of the questions and this was seen in all parts of **Question 2** and **Question 3**.

Comments on specific questions

Section A

Question 1

- (a) The two AO1 marks were awarded for referencing the appropriate levels of harm and culpability. The best responses worked methodically through the scenario. In terms of analysing and applying the law, greater harm was appropriate as Anthony caused serious economic loss through the theft of £50,000, the victim was at home, significant physical harm was done by Anthony breaking Peter's leg and violence was done using an iron bar. Higher culpability was appropriate as Anthony led the gang, he planned the burglary, he was equipped for burglary with the iron bar and this was present on entry as it was used to break into Peter's house. There were aggravating factors as Anthony had three previous convictions for burglary and the offence was committed at night. In conclusion, the appropriate sentencing level was Category 1. Anthony would be high on the sentencing scale.
- (b) The two AO1 marks were awarded for referencing the appropriate levels of harm and culpability. The best responses worked methodically through the scenario. In terms of analysing and applying the law, lesser harm was appropriate as although the neighbour returned Soraya only broke a window, the theft did not cause a significant degree of economic loss as the picture was only worth £10, no physical or psychological harm was caused to the victim and no violence was used or threatened as the hammer was not used as a weapon. Lower culpability was appropriate as although Soraya was equipped for burglary with a hammer, she was exploited by her brother. There were mitigating factors as the picture was of little value, Soraya had no previous convictions and she showed remorse. In conclusion, the appropriate sentencing level was Category 3. Soraya would be low on the sentencing scale.
- (c) The two AO1 marks were awarded for referencing the appropriate levels of harm and culpability. The best responses worked methodically through the scenario. In terms of analysing and applying the law, greater harm was appropriate as Caleb smashed a vase which he knew was of sentimental value to Anna and this could have caused her psychological injury or significant trauma. There were some elements of higher culpability as Caleb was equipped for burglary as he had a gun which also meant a weapon was present on entry. However, lower culpability was more appropriate as he had a learning disability linked to the commission of the offence; Anna's refusal to lend him money caused him to lose his temper and commit the offence one hour later. There were aggravating factors as Caleb was on bail at the time of the offence and there was abuse of a position of trust in relation to Anna, his elderly friend, but there were also significant mitigating factors due to a lack of maturity linked to his age and his learning disability. In conclusion the appropriate sentencing level was Category 2. Caleb would be low on the sentencing scale.

Section B

Question 2

- (a) The five AO1 marks were awarded for any of the points below with a focus on the *actus reus* of the offence:
- Making off without payment is found in 3 Theft Act 1978.
 - The defendant leaves the place where payment is expected as a question of fact.
 - Goods must have been supplied or a service has been done or there is no offence.
 - Payment is required on the spot when the goods or services have been provided and it must be proved that payment on the spot was required or expected.
 - The defendant has not paid as required and must be the amount due.
- (b) The best responses used relevant and detailed factual information to support their analysis and evaluation. Weaker responses tended to be more factual in their approach; some included a conclusion which was a simple evaluative answer to the question and a good number included no analysis or evaluation at all. The mark scheme makes it clear that to move up the mark levels, candidates need to engage with each of the three assessment criteria and that AO1 Knowledge and Understanding attracts a maximum of 10 marks.

The AO1 marks were awarded for factual content on the law of criminal damage as defined in s1 Criminal Damage Act 1971. S1(1) is the basic offence where the *actus reus* is to destroy or damage property belonging to another without lawful excuse. The destruction or damage is a matter of fact and degree; it can include temporary or permanent physical damage and/or impairment of value or usefulness as seen in *Hardman v Chief Constable of Avon and Somerset (1986)*, *Morphitis v Salmon (1990)* and *R v Fiak (2005)*. Property is defined in s10(1); it must be tangible and can be real or personal but belong to another through custody and control. Lawful excuses are found in s5 and are based on a subjective belief honestly held. The *mens rea* is intention or recklessness, with the latter defined subjectively as in *R v Cunningham (1957)* and *R v G (2004)*. S1(2) is the aggravated offence; the significant features are an intention or recklessness to endanger life and there is no defence of lawful excuse. S1(3) is Arson where the damage must be caused by fire and lawful excuse can be a defence as seen in *R v Denton (1982)*. The mode of trial and the sentencing limits are relevant factual information.

In terms of analysis of criminal damage, the best responses raised issues connected with the offence. All analytical points could be credited but might include:

- Criminal damage is an important but varied offence which can make it complex.
- Key terms are not always clearly defined which can be challenging for juries.
- Some key concepts such as recklessness have changed their meaning and can lack clarity.

In terms of evaluation, the best responses often built on the analytical points already made or made new ones. All evaluative points could be credited but might include:

- The statute has clarified the law in many ways but complexity can make the law ineffective.
- Some fundamental key terms lack clarity leading to inconsistent verdicts which impacts on the law's effectiveness.
- The range of offences can make the law very effective.
- The grading of sentencing helps with effectiveness and can deter potential offenders.

Question 3

(a) The five AO1 marks were awarded for any of the points below:

- Intention is the highest level of mens rea and only required for a very small number of offences.
- It is defined in common law as a decision to bring about, in so far as it lies within the accused's power, the prohibited consequence whether they desired the consequence or not.
- The leading case is *R v Mohan (1975)*.
- The defendant's motive or reason for doing the act is irrelevant.
- It is the clearest form of intention but is not always evident.
- Direct intent is distinguished from indirect/oblique intent.

(b) The best responses used relevant and detailed factual information to support their analysis and evaluation. Weaker responses tended to be more factual in their approach; some included a conclusion which was a simple evaluative answer to the question and some included no analysis or evaluation at all. The mark scheme makes it clear that to move up the mark levels, candidates need to engage with each of the three assessment criteria and that AO1 Knowledge and Understanding attracts a maximum of 10 marks.

The AO1 marks were awarded for factual content on the law as defined in the Fraud Act 2006. S2 is fraud by false representation. The *actus reus* is making a representation which is false, express or implied, to a person or a machine and no consequences are necessary as seen in *R v Hamilton (2008)*. There must be dishonesty, a knowledge or a belief that the representation is untrue or misleading and an intention to make a gain or cause a loss as seen in *R v Barton and Booth (2020)*, *R v Kapiteke (2010)* and s34 Theft Act 1968. S3 is fraud by failing to disclose information. The *actus reus* is where there is a legal duty to do so as seen in *R v D (2019)*. S4 is fraud by abuse of position. The *actus reus* is where a person is expected to safeguard, or not to act against, the financial interests of another person and they abuse that position, often due to a legal fiduciary duty, as seen in *R v Valujevs (2014)*, *R v Marshall (2009)* and *R v Gayle (2008)*. S11 is obtaining services dishonestly where there is an act enabling the obtaining of services that are not paid for or not paid for in full. There must be dishonesty, knowledge that the services are, or might be, being

made available on the basis of payment plus an intention to make a gain or cause a loss. The mode of trial and the sentencing limits are relevant factual information.

In terms of analysis of fraud, the best responses raised issues connected with the offences. All analytical points could be credited but might include:

- The law is complex and lengthy.
- Terms in the Act are quite specific but not all are defined which can lead to issues of interpretation and consistency.
- There is an overlap with theft in dishonesty and the test can be subject to change.
- Some parts of the Act are general and so the wrong conduct can be criminalised.
- As s2 is very broad it can lead to unforeseen consequences and make guilt too easy.

In terms of evaluation, the best responses often built on the analytical points already made or made new ones. All evaluative points could be credited but might include:

- As the law is complex and lengthy, it can lead to inconsistency and so can be ineffective.
- The lack of clear definitions of all terms allows the law to adapt which makes it effective.
- Issues around the test for dishonesty can impact on effectiveness.
- If the wrong sort of conduct can be criminalised and broad laws lead to unforeseen consequences the law is less effective as it does not necessarily act as a deterrent.

LAW

<p>Paper 9084/23 Criminal Law</p>

There were too few candidates for a meaningful report to be produced.

LAW

<p>Paper 9084/31 Law of Contract</p>
--

Key messages

To achieve marks in the higher bands, candidates should:

- Read the questions carefully.
- Address the specific topic in the question.
- Avoid writing all the facts of cases. Legal principle/reasoning is all that is required.

General comments

Overall, there was a wide spread of marks awarded to the candidates who sat the paper. Exemplary work was evident, showcasing detailed explanations and coherence throughout the responses. This reflects the hard work of candidates and the thorough preparation provided by their teachers. Many candidates demonstrated a comprehensive understanding of legal principles and effectively used a wide range of citations to support their application and analysis.

To achieve marks in the higher bands, candidates should incorporate evaluation, analysis, and application throughout their responses. It is not sufficient to state all the relevant law (AO1) at the beginning and then briefly add evaluation, analysis, and application (AO2 and AO3) at the end in a short conclusion. High-performing candidates successfully integrated AO1, AO2, and AO3 throughout their essays, ensuring a balanced and continuous application of these elements.

While demonstrating an understanding of cases is crucial, candidates should avoid retelling all the facts of the cases. Instead, they should focus on the legal principles and reasoning derived from the cases. Additionally, it is important for candidates to know the names of the cases rather than just the facts, as this shows a deeper understanding of the material.

Candidates should pay careful attention to the command words in questions, as these direct them to the relevant areas of focus. Including irrelevant material does not receive credit and wastes valuable examination time.

In conclusion, candidates performed well when they demonstrated detailed legal knowledge, applied and analysed this knowledge throughout their responses, and focused on the legal principles of cases rather than just the facts. By following these guidelines and utilising past exam materials, candidates can improve their performance in future examinations.

Comments on specific questions

Section A

Question 1

Successful responses to this scenario question on performance and breach identified all three key issues. To achieve the highest marks, candidates needed to explore these issues in sufficient depth. Most candidates effectively addressed the breach of contract issue with AB Ltd and, to a lesser extent, the issues involving Gladshire and the offices and wallpaper.

The less successful responses often reached conclusions prematurely. These responses tended to make firm assertions without adequately considering possible alternatives, resulting in a lack of balance and depth

in their analyses. This hurried approach hindered their ability to demonstrate a comprehensive understanding of the issues.

In conclusion, while many candidates were able to identify the relevant issues in the scenario, there was a general tendency to provide insufficient depth and balanced analysis. To improve, candidates should ensure they explore all issues thoroughly, consider alternative perspectives, and avoid rushing to conclusions. This approach will help achieve higher marks and provide a more nuanced and comprehensive response.

Question 2

The question on Intention to Create Legal Relations (ITCLR) was popular among candidates. Most responses effectively identified the key ITCLR issues, with only a small proportion of candidates addressing irrelevant topics.

The strongest responses provided a detailed explanation of the law, supported by a wide range of case law. These candidates skilfully reasoned all issues presented in the question with convincing arguments, resulting in high marks. Their thorough application of legal principles and extensive case support demonstrated a strong grasp of ITCLR.

Weaker responses often lacked detailed explanation of the relevant legal principles. These responses often had inconsistent analysis and evaluation. While there was generally reasonable application concerning the house issue, many candidates did not recognise that the car and shopping issues required a different reasoning approach. Candidates must understand how ITCLR principles should be applied in varying contexts to differentiate between the issues.

To improve performance, candidates should focus on several key areas. Firstly, providing a detailed explanation of the law is crucial. This includes a thorough discussion of ITCLR and its application, supported by a broad range of case law. Secondly, candidates should aim for consistency in their analysis and evaluation, applying the law accurately to the facts and ensuring that different issues are reasoned appropriately based on their specific circumstances. Finally, recognising that different scenarios may necessitate different legal reasoning is essential. Candidates should practise distinguishing between various issues and applying the relevant legal principles accordingly.

Many candidates demonstrated a good understanding of ITCLR and offered reasonable legal applications. Candidates can improve on delivering detailed explanations, consistent analysis, and recognising the need for different reasoning in diverse contexts.

Section B

Question 3

This question on capacity (minors) was exceptionally popular among candidates. The very best responses showcased exemplary AO1, with candidates providing detailed explanations of the different categories of contracts and their implications under the Minors' Contracts Act 1987 (MCA). These candidates demonstrated a strong understanding of the requirements for valid and voidable contracts, effectively distinguishing between these concepts.

Outstanding responses were marked by not only comprehensive explanations but also wide-ranging analysis and evaluation (A&E). These candidates skilfully applied their knowledge to explore the nuances of the MCA and provided insightful arguments that significantly enhanced the quality of their responses.

Less successful responses were characterised by a limited range of arguments, both in scope and depth. These responses often lacked the thoroughness and critical engagement seen in higher-scoring answers, resulting in weaker overall evaluations and analyses.

In summary, many candidates excelled in explaining the MCA and its impact on different contract categories, achieving high marks through detailed AO1 and insightful A&E. Candidates should aim to broaden their arguments and deepen their analysis to enhance their performance on similar questions in the future.

Question 4

Responses were mixed to this question on the Consumer Rights Act 2015 (CRA). The most successful responses demonstrated a thorough understanding of the CRA, showcasing detailed knowledge of specific

sections and their provisions. These candidates were able to construct wide-ranging and coherent arguments addressing the question with precision and depth.

In contrast, less successful responses often lacked the necessary detail. Candidates in this category explained the provisions of the CRA in a very general or incomplete manner and frequently misapplied various sections of the law. Their analysis and evaluation (A&E) were similarly narrow in scope and lacked depth, resulting in weaker overall responses.

The weakest responses deviated from the core question by discussing how the CRA deals with exemption clauses, which was outside the scope of the question asked.

In summary, the most effective responses were marked by detailed knowledge and coherent arguments directly relevant to the question. To improve, candidates should focus on accurately detailing and applying the provisions of the CRA and ensuring their analysis and evaluation are comprehensive and aligned with the specific question requirements.

Question 5

A question on the formation of a contract, in particular acceptance, is a consistently popular topic, and this was no exception. The most successful responses excelled in providing detailed explanations of acceptance, demonstrating excellent AO1 knowledge. These candidates effectively addressed the various ways an offer can be accepted and discussed the associated rules with clarity. Furthermore, they offered perceptive comments on whether or not these rules introduced uncertainty into contract formation, providing well-rounded and insightful analysis.

In contrast, less successful responses tended to drift into discussions surrounding issues of offer rather than focusing specifically on acceptance. This deviation from the core topic limited the opportunity for these responses to achieve higher marks across all assessment objectives (AO's). By not maintaining a focused discussion on acceptance, these responses missed the chance to fully explore and evaluate the nuances of the topic as required.

In summary, candidates are encouraged to stay focused on the specific aspect of the question, in this case, acceptance, to fully demonstrate their understanding and analytical skills. By concentrating on the designated area and addressing it in depth, candidates can enhance their ability to achieve higher levels of performance.

LAW

<p>Paper 9084/32 Law of Contract</p>
--

Key messages

To achieve marks in the higher bands, candidates should:

- Read the questions carefully.
- Address the specific topic in the question.
- Avoid writing all the facts of cases. Legal principle/reasoning is all that is required.

General comments

Overall, there was a wide spread of marks awarded to the candidates who sat the paper. Exemplary work was evident, showcasing detailed explanations and coherence throughout the responses. This reflects the hard work of candidates and the thorough preparation provided by their teachers. Many candidates demonstrated a comprehensive understanding of legal principles and effectively used a wide range of citations to support their application and analysis.

To achieve marks in the higher bands, candidates should incorporate evaluation, analysis, and application throughout their responses. It is not sufficient to state all the relevant law (AO1) at the beginning and then briefly add evaluation, analysis, and application (AO2 and AO3) at the end in a short conclusion. High-performing candidates successfully integrated AO1, AO2, and AO3 throughout their essays, ensuring a balanced and continuous application of these elements.

While demonstrating an understanding of cases is crucial, candidates should avoid retelling all the facts of the cases. Instead, they should focus on the legal principles and reasoning derived from the cases. Additionally, it is important for candidates to know the names of the cases rather than just the facts, as this shows a deeper understanding of the material.

Candidates should pay careful attention to the command words in the questions, as these direct them to the relevant areas of focus. Including irrelevant material not only receives no credit but also wastes valuable examination time.

In conclusion, candidates performed well when they demonstrated detailed legal knowledge, applied and analysed this knowledge throughout their responses, and focused on the legal principles of cases rather than just the facts. By following these guidelines and utilising past exam materials, candidates can improve their performance in future examinations.

Comments on specific questions

Section A

Question 1

Candidates generally understood the three legal issues related to minors but often explored only two in depth, namely necessities and beneficial contracts of service (education, training and employment). Both of these were correctly identified as important, though responses varied and were sometimes contradictory. The distinction between necessities and luxuries in work clothes was another common focus, with varied depth of analysis. Most candidates easily achieved AO1, showing a solid understanding of legal principles. Higher grades were awarded for balancing the evaluation of minor contracts with conflicting interests. Many

candidates did not mention the Minors' Contracts Act (MCA) 1987 and focused on protecting adults rather than minors.

Candidates are strongly advised to avoid retelling the scenario within their response as this wastes time and does not earn marks. The most effective responses, seen in discussions of XY Plumbers and AB Clothing, avoided this and provided clear legal coverage. Successful responses balanced legal principles with practical application, especially regarding the MCA 1987.

The issue of loans and parents acting as guarantors was addressed in terms of both voidable contracts and **Section 2** MCA 1987. The best responses focused clearly on **Section 2**, demonstrating thorough legal coverage and application.

To improve, candidates should avoid lengthy scenario retelling and focus on answering questions directly. They should balance discussions to include perspectives of both minors and adults and pay particular attention to the MCA 1987. Clear and direct application of legal principles, avoiding contradictions, will enhance performance.

Question 2

This question was popular among candidates and offered ample opportunity to achieve high marks by addressing the issues, in particular the counter offer. Many candidates did not recognise that a counter offer extinguishes the original offer and is itself an offer requiring acceptance. Despite this, some candidates gained marks under AO3 by demonstrating an understanding of the legal concepts of offer and acceptance.

On the whole, candidates demonstrated good knowledge of the issues of request for information and counter offer. Some confused these concepts, either treating the scenario as an invitation to treat (ITT) and missing the counter offer, or vice versa. This key issue was often repeated throughout responses, with stronger responses correctly linking the termination of the original offer by the counter offer and explaining that the effectiveness of revocation was irrelevant.

There was evidence of the inclusion of irrelevant areas such as the postal rule, indicating a lack of careful reading and understanding of the scenario. This resulted in responses covering all known concepts of offer and acceptance without focusing on the scenario specifics.

To improve, candidates should focus on the specific rules relevant to the scenario and avoid including irrelevant information. A clear understanding of counter offers and their implications is crucial for success in similar questions.

Section B

Question 3

This question on terms within a contract produced a range of responses. Some candidates demonstrated good legal knowledge of the appropriate case law and definitions. To access high marks, candidates needed to include in-depth analysis.

Candidates generally demonstrated good knowledge of the different classifications of terms in contract law, addressing all three classifications effectively. Many relied on a limited range of cases when exploring the concept of innominate terms. There was a noticeable improvement in the attempts and a range of analysis on this question compared to others, particularly regarding the development of the innominate term.

While some responses successfully discussed the classification of terms, others did not fully engage with the question on 'status' and instead diverted into topics such as representations versus terms, express versus implied terms, breaches, exclusion clauses, and the awarding of remedies in contract law. These digressions indicated a lack of focus on the core topic of term classification.

In summary, candidates showed a solid understanding of term classification and effectively covered all three classifications. To improve, candidates need to engage directly with the question and provide thorough analysis supported by a broader range of case law, particularly for innominate terms. Additionally, candidates should stay focused on the core topic and avoid digressions into unrelated areas of contract law.

Question 4

This question was popular among candidates, offering a chance to consider the main definitions of consideration and discuss the interplay between existing duties and consideration. Many responses successfully related these concepts. Some responses only covered one aspect thoroughly. Although many candidates mentioned the key elements of existing duties, only a few provided insightful discussions on the rationale behind the concepts, which stood out in exceptional responses.

Stronger responses focused clearly on the concept of consideration, specifically focusing on existing duties. They effectively explained and applied key authorities and went further to address commercial contracts and *Williams v Roffey* as well as the issue of practical benefit. Additionally, they covered public duties and referenced a range of police cases, demonstrating a strong grasp of these legal principles. These candidates showed a thorough understanding of the relevant rules and their application, leading to high-quality responses.

Many responses were able to explain the areas of existing duties well but often lacked depth in their analysis and evaluation of when these duties amount to valid consideration. There was often the inclusion of irrelevant topics such as part payment, past consideration, promissory estoppel, and the exceptions to these rules. These digressions indicated a lack of focus and did not contribute to answering the question, thus receiving no credit.

In summary, candidates performed well when they focused on relevant areas and provided detailed explanations and applications of key cases. To improve, candidates need to avoid irrelevant content and ensure a thorough analysis and evaluation to fully address the question.

Question 5

Candidates generally approached the question on frustration in a broad manner. Many were able to cover both the circumstances that lead to frustration and the limitations of the doctrine, often with a wide range of cases. Stronger responses provided a full range of legal authorities and included clear, accurate details on the limits to frustration. These candidates also made correct references to the Law Reform (Frustrated Contracts) Act 1943, demonstrating an understanding of its implications and application. Strong answers consistently engaged with the assessment focus of the question, discussing both when frustration will and will not apply throughout their essays.

Many candidates described rather than named the cases, particularly when discussing the limitations of frustration. While there was better analysis in these sections, the lack of specific case names reduced the precision of their arguments. Some candidates seemed confused in explaining the financial remedies under the Law Reform (Frustrated Contracts) Act 1943, or they incorrectly covered the pre-1943 common law approach, which has been overruled by the Act.

In summary, candidates performed well when they provided a comprehensive range of legal authorities, accurately detailed the limits to frustration, and correctly referenced the Law Reform (Frustrated Contracts) Act 1943. Candidates can improve on naming cases, explaining financial remedies accurately, avoiding outdated legal approaches, and integrating assessment throughout their responses. Responses which demonstrated clear knowledge, understanding of all relevant cases, and a logical approach to both circumstances and limitations of frustration were awarded the highest marks.

LAW

Paper 9084/33
Law of Contract

There were too few candidates for a meaningful report to be produced.

LAW

<p>Paper 9084/41 Law of Tort</p>
--

Key messages

For Section A:

- Students should identify the relevant legal issues in the factual scenario rather than restating the facts.
- Students should explain and apply the appropriate legal rules to reach a clear and logical conclusion.
- Students should focus on key issues within the scenario, analyse the facts, and apply the relevant legal rules to address those issues.
- Students should ensure their conclusion is reasoned and supported by the correct application of law.

For Section B:

- Students should demonstrate their knowledge of the legal rules, while also critically evaluating and analysing those rules as they relate to the question.
- Students should explain the relevant legal rules and address the specific issue identified in the question.
- Students should avoid writing everything they know about a topic—focusing instead on using their knowledge to directly answer the question.
- Students should carefully read the question, identify exactly what is being asked, and concentrate on addressing that specific issue in their answer.

Overall:

- Students should understand the purpose and aims of the legal rules so they can apply them effectively in their answers.
- Students should provide accurate and detailed explanations of the legal rules, supporting their answers with relevant case law or legislation whenever possible.
- Students should ensure that their answers are precise, well-structured, and focused on the specific questions posed in the exam.

General comments

While some candidates demonstrated a high level of both knowledge and skill in their responses, others would have benefited from better preparation for this style of paper.

The strongest responses demonstrated both a detailed knowledge and understanding of the relevant legal rules, an ability to select and apply the rules to the factual scenarios in **Section A** and critically analyse the rules in **Section B**. Some candidates tended to focus on the repetition of legal rules without the required analysis or application. These responses did not demonstrate an appropriate level of understanding and in general tended not to address the key issues in the questions.

All candidates benefit from utilising questions from past examination papers as part of their learning and revision to understand the demands of this examination. It is vital that candidates understand the question and answer it appropriately, specifically addressing the requirements of the question. It is not sufficient to identify the subject matter of the question and then write in general terms about the topic. Candidates must focus on the question and use their knowledge and understanding of the topic to answer the specific question effectively.

When using past examination papers in their preparation, candidates should not assume that the same questions will be asked in subsequent years. It is not advisable to prepare answers based on questions

asked on past papers. While certain topics will appear on subsequent papers, the focus of the question will change and therefore a prepared response will not adequately answer the question.

Some responses demonstrated an excellent knowledge of the law and were focused on the specific requirements of the question. Others needed to use their knowledge of the law more effectively to address the issues raised in the question. Candidates should endeavour to use their knowledge in a way which answers the specific question which has been asked.

A small number of responses did not adhere to the rubric, in most cases this entailed candidates attempting less than the required number of questions. Candidates should be reminded that it is essential to follow the rubric for this paper and attempt one question from **Section A** and two questions from **Section B**.

Comments on specific questions

Section A

Question 1

Candidates were generally able to identify that the facts of the scenario concerned negligence, nervous shock and vicarious liability.

Stronger responses accurately explained the legal rules of negligence, nervous shock, and vicarious liability. These explanations were detailed, precise, and supported by relevant authority. Strong answers covered the elements of negligence, the definition of nervous shock, victim categorization as primary or secondary, and the rules for establishing liability for each. Additionally, such responses clearly explained vicarious liability, including how to identify a contract of employment and ensure the employee was acting within the scope of their job.

Successful responses applied the legal rules to the facts in the scenario and addressed key issues such as whether Ann could be classified as a primary or secondary victim, whether she was acting as a rescuer, the losses which might be compensated and whether CD Transport could be vicariously liable for the actions of Ben.

The strongest responses were able to reach a coherent and convincing conclusion based on the application of the law to the facts of the scenario.

Weaker responses were focused on a discussion of the facts without an explanation of the relevant law. Some of these responses did not provide sufficiently accurate or detailed explanation of the relevant law therefore undermining the analysis and application of the law to the facts of the scenario. In addition, some weaker responses stated whether Ann was a primary or secondary victim but did not explain or justify this assertion. There was often no reference to the issue of vicarious liability. In other responses there was extensive discussion of the facts without any explanation of the law which tended to undermine any conclusion reached by the candidate.

To achieve the higher mark bands, candidates must ensure that all aspects of the question are addressed.

Question 2

This question required an explanation of the tort of trespass to land and the liability of the occupier for harm caused to a trespasser arising from the state of the occupier's land.

In the strongest responses, candidates accurately explained the legal rules of trespass to land, including unlawful entry, intention, and remedies, then applied these rules to analyse the facts and reach a justified conclusion. They also identified occupiers' liability, explaining the duty under the Occupiers' Liability Act 1984 and possible defences and remedies. Weaker responses missed the issue of trespass, focusing solely on occupiers' liability and often did not explain the duty under the law and concluding liability without legal justification.

In some weaker responses, candidates relied on the Occupiers' Liability Act 1957 without sufficient reasoning to justify this approach. Others based their answers on negligence, earning some credit, but these responses often lacked accuracy in explaining the law and had limited analysis and application.

To achieve the higher mark bands, candidates must ensure that all aspects of the question are addressed.

Section B

Question 3

This question was attempted by a significant number of candidates. The question required an explanation of the legal rules governing liability under *Rylands v Fletcher* and an analysis of the statement that the rules are so restrictive that it is difficult for a claimant to succeed in a claim under this tort.

The strongest responses outlined the action's development, explained the elements for establishing liability, and supported their analysis with appropriate authority. They assessed difficulties claimants face, such as the multiple elements required, the uncertainty of terms like "non-natural" and "escape," and the role of foreseeability. Some noted the challenges posed by a range of possible defences. These responses concluded with a clear, well-supported analysis of the law.

Weaker responses were often focused primarily on explaining the law, though in some cases the explanations lacked depth or contained inaccuracies. Many did not fully address the difficulty of bringing a successful claim or simply suggested that the rules are too restrictive without providing sufficient reasoning to support this conclusion.

Question 4

This question required candidates to evaluate the elements required to establish a defence of *volenti non fit injuria*.

The strongest responses evaluated the basis of the defence and analysed and evaluated specific elements such as knowledge and understanding of the risk and the extent to which an employee can freely consent to a risk in an employment context. In these responses, candidates were able to identify and analyse the key strengths and weaknesses associated with the defence and reach a reasoned conclusion in relation to its effectiveness.

Weaker responses primarily focused on explanation, with limited or sometimes surface-level evaluation of the elements. In some cases, the explanations lacked detail or contained inaccuracies, which made it challenging to effectively evaluate the elements or the defence as a whole.

Question 5

This question required an explanation of the elements required to establish liability for assault and battery and to assess whether the distinction between the two forms of trespass to the person serves any practical purpose.

Strong responses provided a detailed and accurate explanation of the legal rules for the two categories of trespass to the person, supported by relevant authority. They addressed the question's issue by assessing whether the distinction between assault and battery remains practical. Additionally, they explained the purpose of each type of trespass and justified the distinction, noting that, since the tort is actionable per se, it may benefit claimants over negligence, where harm must be proven.

Weaker responses focused on explanation of the legal rules but did not address the issue raised in the question. In some responses the explanation was superficial or inaccurate. Some weaker responses seemed to confuse the elements of assault with those of battery. There was often an emphasis on the criminal offences of assault and battery without analysis of the issues in the context of the law of tort.

In some of weaker responses, candidates explained the legal rules but did not use that explanation to reach a conclusion as to whether the distinction between assault and battery no longer serves any practical purpose.

LAW

<p>Paper 9084/42 Law of Tort</p>
--

Key messages

For Section A:

- Students should identify the relevant legal issues in the factual scenario rather than restating the facts.
- Students should explain and apply the appropriate legal rules to reach a clear and logical conclusion.
- Students should focus on key issues within the scenario, analyse the facts, and apply the relevant legal rules to address those issues.
- Students should ensure their conclusion is reasoned and supported by the correct application of law.

For Section B:

- Students should demonstrate their knowledge of the legal rules, while also critically evaluating and analysing those rules as they relate to the question.
- Students should explain the relevant legal rules and address the specific issue identified in the question.
- Students should avoid writing everything they know about a topic—focusing instead on using their knowledge to directly answer the question.
- Students should carefully read the question, identify exactly what is being asked, and concentrate on addressing that specific issue in their answer.

Overall:

- Students should understand the purpose and aims of the legal rules so they can apply them effectively in their answers.
- Students should provide accurate and detailed explanations of the legal rules, supporting their answers with relevant case law or legislation whenever possible.
- Students should ensure that their answers are precise, well-structured, and focused on the specific questions posed in the exam.

General comments

While some candidates demonstrated a high level of both knowledge and skill in their responses, there were some who would have benefited from better preparation for this style of paper.

The strongest responses demonstrated both a detailed knowledge and understanding of the relevant legal rules, an ability to select and apply the rules to the factual scenarios in Section A and critically analyse the rules in Section B. Weaker responses tended to focus on the repetition of legal rules without the required analysis or application. These responses did not demonstrate an appropriate level of understanding in general tended not to address the key issues in the questions.

All candidates benefit from utilising questions from past examination papers as part of their learning and revision to understand the demands of this examination. It is vital that candidates understand the question and answer it appropriately, specifically addressing the requirements of the question. It is not sufficient to identify the subject matter of the question and then write in general terms about the topic. Candidates must focus on the question and use their knowledge and understanding of the topic to answer the specific question effectively.

When using past examination papers in their preparation, candidates should not assume that the same questions will be asked in subsequent years. It is not advisable to prepare answers based on questions asked on past papers. While certain topics will appear on subsequent papers, the focus of the question will change and therefore a prepared response will not adequately answer the question.

Some responses demonstrated an excellent knowledge of the law and were focussed on the specific requirements of the question. Others needed to use their knowledge of the law more effectively to address the issues raised in the question. Candidates should endeavour to use their knowledge in a way which answers the specific question which has been asked.

A small number of responses did not adhere to the rubric, in most cases this entailed candidates attempting less than the required number of questions. Candidates should be reminded that it is essential to follow the rubric for this paper and attempt one question from Section A and two questions from Section B.

Comments on specific questions

Section A

Question 1

Most candidates who attempted this question were able to identify potential claims in private nuisance and *Rylands v Fletcher*.

Stronger responses accurately explained the elements of private nuisance, potential defences, and remedies, supported by relevant authority. They effectively applied the legal rules to the scenario, focusing on key issues like unreasonable land use, locality, and duration of the activity. Additionally, they examined the fuel leak as a possible *Rylands v Fletcher* claim, providing a detailed explanation of the tort's elements, defences, and remedies, and applied the law to the scenario, reaching a logical conclusion.

Weaker responses identified the issue as one of private nuisance only. In some responses, the issue of the fuel leak was treated as a case of negligence, which was difficult to argue convincingly given the facts of the scenario. In such responses, the explanation of the law was minimal therefore undermining the application and analysis. Weaker responses often lacked a convincing conclusion as it was not fully supported by legal argument.

To achieve the higher mark bands candidates must ensure that all aspects of the question are addressed.

Question 2

This question concerned the tort of negligence, with a particular focus on the rules governing duty of care, the defence of contributory negligence, damages, the standard of care applicable to medical professionals and causation. Credit was also awarded for a discussion of vicarious liability in relation to both the police and the hospital.

Stronger responses accurately explained the legal rules of negligence. Regarding Conor and Helen, they provided a detailed explanation of establishing a duty of care, with specific reference to the police and the *Robinson v CC West Yorkshire* (2018) decision. For Helen and Dr. Frank, they focused on standard of care and causation, explaining the relevant legal rules. These responses effectively applied the law to the facts and reached coherent, logical conclusions for each potential claim.

Weaker responses provided a more general explanation of negligence and did not fully address the key issues in the scenario. Some explanations of the law were less precise, particularly regarding the duty of care owed by the police. Additionally, there was some misunderstanding of contributory negligence, with a few candidates treating it as Helen's liability rather than a defence for Conor.

To achieve the higher mark bands, candidates must ensure that all aspects of the question are addressed.

Section B

Question 3

This question was attempted by a significant number of candidates. The question required an explanation of the legal rules governing the recovery of damages for nervous shock with a particular focus on the application of the rules to rescuers and bystanders.

Strong responses outlined the rules for recovering damages for nervous shock due to negligence, distinguishing between primary and secondary victims and detailing the legal rules governing the recovery of damages for each. These responses referenced relevant authority and analysed the rules' application to rescuers and bystanders, addressing criticisms and reform proposals. Clear arguments were supported by judicial decisions and law reform reports, leading to well-supported conclusions.

Weaker responses often focused solely on explaining the law, sometimes lacking depth or precision. Some did not address the rules' application to rescuers and bystanders, instead evaluating nervous shock rules generally, without addressing the question's core issue. Conclusions were reached but were unsupported by the legal explanation and did not address the main issue.

Question 4

This question required candidates to examine the legal rules governing the recovery of damages for a negligent misstatement.

The best responses explained pure economic loss and the development of legal rules, highlighting key cases like *Hedley Byrne v Heller*. These responses provided a detailed account of the elements required to establish liability, supported by relevant authority. Strong responses also analysed inconsistencies in the application of rules that could cause injustice, examining issues like liability in social relationships, reasonable reliance, and voluntary assumption of responsibility. Clear, justified conclusions were reached based on sound legal explanations.

Weaker responses focused primarily on explanation, with limited or surface-level evaluation of the legal rules. Some explanations were brief or imprecise, weakening the analysis. In some cases, these responses offered general evaluations of the tort but did not address the issues of inconsistency and injustice.

Question 5

This question concerned the tort of trespass to land. Candidates were required to examine the purpose of the tort of trespass to land.

Strong responses provided a detailed and accurate account of the legal rules governing trespass to land, explaining each element of the tort with reference to relevant authority. These responses also discussed the available defences and remedies. Additionally, they evaluated whether trespass to land offers essential protection to landowners, considering aspects like airspace intrusion by drones and the actionable *per se* nature of the tort. Through analysis, candidates reached clear, justified conclusions.

Weaker responses focused on explaining legal rules but failed to address the question. Some explanations lacked depth or accuracy, leading to unsupported conclusions. In some cases, these responses discussed occupiers' liability and detailed the Occupiers' Liability Acts of 1957/1984, but this material was not relevant to the question and earned little credit.

LAW

Paper 9084/43
Law of Tort

There were too few candidates for a meaningful report to be produced.