



General Certificate of Education

Law 6161

**Unit 4 (LAW4) Criminal Law (Offences
against the person) or
Contract Law**

Mark Scheme

2008 examination - June series

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

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LAW4**Assessment Objectives One and Two****General Marking Guidance**

You should remember that your marking standards should reflect the levels of performance of candidates, mainly 18 years old, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive Marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.

Mark Range

You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.

Levels of Response for Essay Marking

When reading an essay, it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?

Citation of Authority

Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.

Assessment Objective Three

Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

Level 3 Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.
8-10 marks

Level 2 Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning.
4-7 marks

Level 1 Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning.
1-3 marks

Level 0 Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning.
0 marks

NOTE

In the mark scheme which follows, there are two standard mark band descriptors:

- The substantive law question mark bands – question parts (a) and (b);
- The evaluative question mark bands – question part (c).

There are versions of both for a scheme with **three** items of potential content and for a scheme with **two** items of potential content.

These mark bands are set out at the beginning and are to be applied to each relevant question part. They are not repeated for each question part.

Substantive law question mark bands (3 potential content)

- 21 - 25 the candidate *soundly* explains and applies the rules of law in **two** of (A)-(C) (**max 21**), and *clearly* explains and applies the rules of law in the other (**max 23** for *some* explanation and application of rules of law in the other) **or** the candidate *soundly* explains and applies the rules of law in **one** of (A)-(C) and *clearly* explains and applies the rules of law in the other **two** (**max 21**).
- 16 - 20 the candidate *soundly* explains and applies the rules of law in **one** of (A)-(C), and *clearly* explains and applies the rules of law in another **or** the candidate *clearly* explains and applies the rules of law in any two of (A)-(C) (**max 18**) and presents *some* explanation and/or application of the other **or** presents *some* explanation and application of the rules of law in all three of (A)-(C) (**max 16**).
- 11 - 15 the candidate *soundly* explains and applies the rules of law in **one** of (A)-(C) **or** the candidate *clearly* explains and applies the rules of law in one of (A)-(C) and presents *some* explanation and/or application of the rules of law in any other one of (A)-(C) **or** the candidate presents *some* explanation and application of any two of (A)-(C) (**max 13**) **or** the answer focuses on explanation of rules of law with no significant application (**max 15** if *sound* on two, **max 13** if *clear* on two, **max 11** if *some* on two) **or** the answer focuses on application to the facts with no significant legal framework (**max 12** where the answer displays a *sound* and *comprehensive* understanding of the elements of the analysis).
- 6 - 10 the candidate presents *some* explanation and/or application of any of the rules of law in (A)-(C).
- 1 - 5 the candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and application can emerge **or** though the candidate attempts to explain and/or apply rules of law, the explanation and/or application are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 the candidate presents no information relevant to the question.

Substantive law question mark bands (3 potential content) – list of maximum marks

- 25 two sound, one clear
 23 two sound, one some
 21 two sound **or** one sound, two clear
 20 one sound, one clear **or** two clear, one some (explanation and/or application)
 18 two clear
 16 three some
 15 one sound **or** two sound explanation **or** one clear, one some (explanation and/or application) **or** three clear explanation
 13 one clear **or** one sound explanation **or** two clear explanation **or** two some
 12 sound application
 11 one clear explanation **or** two some explanation
 10 one some explanation and/or application
 05 relevant fragments **or** relevant but incoherent
 00 completely irrelevant

Substantive law question mark bands (2 potential content)

- 21 - 25 the candidate *soundly* explains and applies the rules of law in (A) and (B) (**max 21**), or the candidate *soundly* explains and applies the rules of law in **one** of (A)-(B) and *clearly* explains and applies the rules of law in the other (**max 23**).
- 16 - 20 the candidate *soundly* explains and applies the rules of law in **one** of (A)-(B) (**max 18**) and presents *some* explanation and application of the other or the candidate *clearly* explains and applies the rules of law in both of (A)-(B) **or** the candidate clearly explains and applies the rules of law in one of (A)-(B) and presents *some* explanation and application of the other (**max 18**).
- 11 - 15 the candidate *clearly* explains and applies the rules of law in one of (A)-(B) or the candidate presents *some* explanation and application of both of (A)-(B) (**max 13** if one only) or the answer focuses on explanation of rules of law with no significant application (**max 15** if *sound* on two, **max 13** if *sound* on one or *clear* on two, **max 11** if *clear* on one or *some* on two) or the answer focuses on application to the facts with no significant legal framework (**max 12** where the answer displays a *sound* understanding of the elements of the analysis).
- 6 - 10 the candidate presents *some* explanation and/or application of any of the rules of law in (A)-(B).
- 1 - 5 the candidate merely introduces fragments of information or unexplained examples from which no coherent explanation and application can emerge or though the candidate attempts to explain and/or apply rules of law, the explanation and/or application are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 the candidate presents no information relevant to the question.

Substantive law question mark bands (2 potential content) – list of maximum marks

- | | |
|----|--|
| 25 | two sound |
| 23 | one sound, one clear |
| 20 | one sound, one some or two clear |
| 18 | one sound or one clear, one some |
| 15 | one clear or two some or two sound explanation |
| 13 | one some or one sound explanation or two clear explanation |
| 12 | sound application |
| 11 | one clear explanation or two some explanation |
| 10 | one some explanation and/or application |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Evaluative question mark bands (3 potential content)

- 21 - 25 the candidate *soundly* evaluates relevant aspects of the rules of law in two of (A)-(C) (**max 21**) and *clearly* evaluates relevant aspects of the rules of law in the other (**max 23** for *some* evaluation of the other) or *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) and *clearly* evaluates relevant aspects of the rules of law in the other two (**max 21**).
- 16 - 20 the candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) and *clearly* evaluates relevant aspects of the rules of law in **one** other or the candidate *clearly* evaluates relevant aspects of the rules of law in **two** of (A)-(C) (**max 18**) and presents *some* evaluation of the other or the candidate presents *some* evaluation of the rules of law in all of (A)-(C) (**max 16**).
- 11 - 15 the candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) or the candidate *clearly* evaluates relevant aspects of the rules of law in **one** of (A)-(C) (**max 13**) and presents *some* evaluation of relevant aspects of the rules of law in **one** or the candidate presents *some* evaluation of relevant aspects of the rules of law in **two** of (A)-(C) (**max 13**).
- 6 - 10 the candidate presents *some* evaluation of relevant aspects of the rules of law in any of (A)-(C).
- 1 - 5 the candidate merely introduces fragments of information or unexplained examples from which no coherent explanation or evaluation can emerge or though the candidate attempts to explain and/or evaluate relevant rules of law, the explanation and/or evaluation are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 the candidate presents no information relevant to the question.

Evaluative question mark bands (3 potential content) – list of maximum marks

- | | |
|----|--|
| 25 | two sound, one clear |
| 23 | two sound, one some |
| 21 | two sound or one sound, two clear |
| 20 | one sound, one clear or two clear, one some |
| 18 | two clear |
| 16 | three some |
| 15 | one sound or one clear, one some |
| 13 | one clear or two some |
| 10 | one some |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Evaluative question mark bands (2 potential content)

- 21 - 25 the candidate *soundly* evaluates relevant aspects of the rules of law in (A)-(B) or *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(B) and *clearly* evaluates relevant aspects of the rules of law in the other (**max 23**).
- 16 - 20 the candidate *soundly* evaluates relevant aspects of the rules of law in **one** of (A)-(B) (**max 18**) and presents *some* evaluation of the other, **or** the candidate *clearly* evaluates relevant aspects of the rules of law in both of (A)-(B) **or** the candidate *clearly* evaluates relevant aspects of the rules of law in **one** of (A)-(B) and presents *some* evaluation of the other (**max 18**).
- 11 - 15 the candidate *clearly* evaluates relevant aspects of the rules of law in **one** of (A)-(B) **or** the candidate presents *some* evaluation of relevant aspects of the rules of law in both of (A)-(B) (**max 13** for **one**)
- 6 - 10 the candidate presents *some* explanation and/or evaluation of relevant aspects of the rules of law in either of (A)-(B).
- 1 - 5 the candidate merely introduces fragments of information or unexplained examples from which no coherent explanation or evaluation can emerge **or** though the candidate attempts to explain and/or evaluate relevant rules of law, the explanation and/or evaluation are so fundamentally undermined by error and confusion that the answer remains substantially incoherent.
- 0 the candidate presents no information relevant to the question.

Evaluative question mark bands (2 potential content) – list of maximum marks

- | | |
|----|--|
| 25 | two sound |
| 23 | one sound, one clear |
| 20 | one sound, one some or two clear |
| 18 | one sound or one clear, one some |
| 15 | one clear or two some |
| 13 | one some |
| 10 | one some explanation and/or evaluation |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Maxima**Substantive law question mark bands (3 potential content) – list of maximum marks**

| | |
|----|--|
| 25 | two sound, one clear |
| 23 | two sound, one some |
| 21 | two sound or one sound, two clear |
| 20 | one sound, one clear or two clear, one some (explanation and/or application) |
| 18 | one sound, one some or two clear or one clear, two some |
| 16 | three some |
| 15 | one sound or two sound explanation or one clear, one some (explanation and/or application or three clear explanation |
| 13 | one clear or one sound explanation or two clear explanation or two some |
| 12 | sound application |
| 11 | one clear explanation or two some explanation |
| 10 | one some explanation and/or application |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Substantive law question mark bands (2 potential content) – list of maximum marks

| | |
|----|--|
| 25 | two sound |
| 23 | one sound, one clear |
| 20 | one sound, one some or two clear |
| 18 | one sound or one clear, one some |
| 15 | one clear or two some or two sound explanation |
| 13 | one some or one sound explanation or two clear explanation |
| 12 | sound application |
| 11 | one clear explanation or two some explanation |
| 10 | one some explanation and/or application |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Evaluative question mark bands (3 potential content) – list of maximum marks

| | |
|----|--|
| 25 | two sound, one clear |
| 23 | two sound, one some |
| 21 | two sound or one sound, two clear |
| 20 | one sound, one clear or two clear, one some |
| 18 | one sound, one some or two clear |
| 16 | three some |
| 15 | one sound or one clear, one some |
| 13 | one clear or two some |
| 10 | one some |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Evaluative question mark bands (2 potential content) – list of maximum marks

| | |
|----|--|
| 25 | two sound |
| 23 | one sound, one clear |
| 20 | one sound, one some or two clear |
| 18 | one sound or one clear, one some |
| 15 | one clear or two some |
| 13 | one some |
| 10 | one some explanation and/or evaluation |
| 05 | relevant fragments or relevant but incoherent |
| 00 | completely irrelevant |

Descriptors

| Level | Explanation | Application |
|--------------|---|--|
| Sound | The answer correctly identifies and accurately explains the relevant rule(s) in the central aspects of the potential content. Where appropriate, the explanations are supported by relevant statutory and/or case authority and illustration (which is adequately developed where necessary to explain the <i>ratio</i> and/or assist in the application to the facts). Where there are more marginal aspects of the rules, there may be some minor omissions or inaccuracies in the explanation of the rule(s) and/or supporting statutory/case authority and illustration. | The answer selects and emphasises the relevant facts from the scenario and makes close reference to them when explaining how the rules (including any supporting statutory and/or case authority) apply to afford a solution. Where appropriate, the application explores the effect of different interpretations of the rule(s) and/or of conflicting rules and/or of different interpretations of the facts. The solution suggested is clearly based on the explanation and application of the rules and is sustainable. |
| Clear | The answer correctly identifies and accurately explains significant parts of the rule(s) in the central aspects of the potential content, though there are omissions of some part(s) of the rule(s), or errors in the explanation, in those central aspects. There may be a little overemphasis on marginal aspects of the rules at the expense of some of the more central aspects. In the higher part of the level, statutory and/or case authority and illustration are used but there may be a little confusion and error in selection and/or explanation or the explanation may be limited. At the lower end of the level, there may be little evidence of statutory and/or case authority and illustration or more evident inaccuracies. | The answer selects and emphasises some of the relevant facts from the scenario and makes reference to them when explaining how the rules (including any supporting statutory and/or case authority) apply to afford a solution. The application, though otherwise persuasive, may fail to canvass credible alternative solutions (based on alternative interpretations of the law or of the facts) or there may be a little error or confusion in the application to the facts. The solution suggested is broadly based on the explanation and application of the rules, though there may be some evident weakness. |
| some | The answer correctly identifies and accurately explains a very limited part of the relevant rule(s) in the central aspects of the potential content. There may be a very evident imbalance between explanation of central and of more marginal aspects of the rule(s). Alternatively, the answer explains a more substantial part of the relevant rule(s) in the central aspects of the potential content but the explanations suffer from significant omission, error or confusion. Explanations may emerge only out of attempts to introduce relevant case authority and illustration. If introduced at all, statutory and/or case authority and illustration may be of marginal relevance or the explanation may be highly superficial or subject to significant inaccuracies or not properly used to support the explanation of the relevant rule(s). | The answer selects and emphasises one or two relevant facts from the scenario and makes reference to them without being able to suggest a coherent application. More broad-ranging attempts to identify and make reference to relevant facts display confusion or error. Alternatively, the answer tends to make simple assertions or assumptions about the way in which the rule(s) apply to the facts, so that application is general and unspecific, being unrelated to particular facts. The application fails to canvass credible alternative solutions (based on alternative interpretations of the law or of the facts). Little use is made of whatever statutory or case authority and illustration is incorporated in explanations. The solution suggested is only imprecisely related to the explanation of the rule(s). |

Criminal Law (Offences against the Person)

1

Total for this question: 75 marks

- (a) Discuss the criminal liability of Ewan arising out of the cutting of the initials, and of Femi arising out of the message that she sent to Ewan. (25 marks)

Potential Content

- (A) In relation to Ewan – the offences of assault (battery) occasioning abh, unlawful and malicious wounding, and infliction of gbh, distinguishing between the levels and kinds of injury intended and foreseen
- (B) In relation to Femi – the offence of assault (raising an issue of fear of immediate personal violence), and of assault occasioning abh (based on possible psychiatric injury and raising a causation issue – what was the true cause of the depression?).
- (C) The defence of consent – the standard rule in relation to consent and personal injury; the exception for ‘body adornment’; the relevance of a failure to disclose information about infection.

- (b) Discuss the criminal liability of Ewan for the involuntary manslaughter of Gemma and of Harry. (25 marks)

Potential Content

- (A) In relation to Gemma – the offence of unlawful act manslaughter based on the possible crime of battery/abh/gbh etc.; *actus reus* and *mens rea* elements of the intermediate crime, and the remaining requirements of ‘dangerousness’ and causation (this latter is unproblematic). Reckless manslaughter as an alternative.
- (B) In relation to Harry – the offence of gross negligence manslaughter. The elements of the offence, including the requirement to prove a breach of duty, the obvious risk of death, and the jury’s role in determining whether the conduct was ‘so bad in all the circumstances’.
- (C) The defence of involuntary intoxication – consideration of the meaning and effect of involuntary intoxication, including whether it can be a defence to gross negligence manslaughter.

Note: Where a candidate approaches both (A) and (B) as gross negligence manslaughter only, then either (A) or (B) is **max some** (thus, the highest scoring combination for (A) and (B) will be one sound, one some).

(c) Choose **one** of the following:

In relation to murder (including voluntary manslaughter), consider what criticisms may be made of the current law. (25 marks)

OR

In relation to involuntary manslaughter, consider what criticisms may be made of the current law. (25 marks)

OR

In relation to non-fatal offences against the person, consider what criticisms may be made of the current law. (25 marks)

Potential Content

Murder and voluntary manslaughter

- (A) General structural issues – the relationship between murder and manslaughter, the mandatory penalty of life imprisonment, should homicide be more or less structured.
- (B) Murder issues – the elements of murder: *actus reus* and *mens rea*.
- (C) Partial defence (voluntary manslaughter) issues.

Involuntary manslaughter

- (A) Unlawful act issues.
- (B) Gross negligence issues.
- (C) General overview issues (such as scope of involuntary manslaughter, relationship with rest of homicide – discussion of liability of corporations is not required but will be credited).

Note: Candidates may obtain maximum marks by dealing either with two or with three PC items in the above options. Those who deal with three will be expected to introduce less detail than those who deal with two. However, irrespective of the number of PC items dealt with, candidates should be marked on whichever of the schemes gives the greater credit.

Non-fatal offences

- (A) Structural issues (connected, for instance, with sentencing). Language and associated issues.
- (B) Specific *actus reus* and *mens rea* issues.

2

Total for this question: 75 marks

- | | | |
|-----|--|------------|
| (a) | Discuss the criminal liability of Alvin in relation to Bez, Chris and other customers, arising out of the incident in the pub. | (25 marks) |
|-----|--|------------|

Potential Content

- (A) In relation to the initial incident in waving the glass around – the offence of assault committed against Bez, Chris and other customers. In relation to the injuries to Chris – assault occasioning abh and unlawful and malicious infliction of gbh (issues of causation and of the degree of injury).
- (B) In relation to Alvin's diabetes – the possible defence of insanity, based on the failure to take the insulin.

- | | | |
|-----|--|------------|
| (b) | Discuss the criminal liability of Chris for the murder of Danni. | (25 marks) |
|-----|--|------------|

Potential Content

- (A) The elements of the offence of murder – in particular, *mens rea*: sufficiency of intent to do serious injury, likelihood that Chris intended serious injury to Danni.
- (B) The defence of provocation – issues both of subjective and objective tests. Nature and context of the provocation. Relevance to the objective test of personality change and aggressive characteristics.
- (C) The defence of diminished responsibility – abnormality, origins, substantial impairment of responsibility. Discussion of insanity may operate to enhance a discussion of diminished responsibility. (Discussion of insanity alone merits **max clear**).

(c) Choose **one** of the following:

In relation to murder (including voluntary manslaughter), consider what criticisms may be made of the current law. (25 marks)

OR

In relation to involuntary manslaughter, consider what criticisms may be made of the current law. (25 marks)

OR

In relation to non-fatal offences against the person, consider what criticisms may be made of the current law. (25 marks)

Potential Content

Murder and voluntary manslaughter

- (A) General structural issues – the relationship between murder and manslaughter, the mandatory penalty of life imprisonment, should homicide be more or less structured.
- (B) Murder issues – the elements of murder: *actus reus* and *mens rea*.
- (C) Partial defence (voluntary manslaughter) issues.

Involuntary manslaughter

- (A) Unlawful act issues.
- (B) Gross negligence issues.
- (C) General overview issues (such as scope of involuntary manslaughter, relationship with rest of homicide – discussion of liability of corporations is not required but will be credited).

Note: Candidates may obtain maximum marks by dealing either with two or with three PC items in the above options. Those who deal with three will be expected to introduce less detail than those who deal with two. However, irrespective of the number of PC items dealt with, candidates should be marked on whichever of the schemes gives the greater credit.

Non-fatal offences

- (A) Structural issues (connected, for instance, with sentencing). Language and associated issues.
- (B) Specific *actus reus* and *mens rea* issues.

3

- (a) Taking into account the rules on formation of contract, consider whether Jez has any rights and remedies against Ian, and whether Ken is entitled to the extra £500 from Ian. *(25 marks)*

Potential Content

- (A) In relation to Jez – the formation issues: offer and acceptance, acceptance by telephone to written offer, the relevance of the recorded message and its erasure. Remedy of damages.
- (B) In relation to Ken – the formation issues: the agreement for the work at the price stated; the issue of consideration in circumstances where extra payment is promised for the same work. Remedy.

- (b) Taking into account the rules on mistake and misrepresentation, consider the rights and remedies of Ian and Luke in connection with the sale of the shed. *(25 marks)*

Potential Content

- (A) In relation to the misunderstanding over the two sheds – legal approach to mistake in contract: objective approach to construction of contract; kinds of mistake, especially mutual mistake; effect on contract if operative mistake; consequent remedies, whether operative or non-operative mistake.
- (B) In relation to the lack of a window in the shed supplied – the rules on misrepresentation, including inducement to enter contract: the nature of misrepresentation; the kinds of misrepresentation; the remedies for misrepresentation in rescission and/or damages.

(c) Choose **one** of the following:

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on offer and acceptance. *(25 marks)*

OR

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on consideration. *(25 marks)*

OR

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on intention to create legal relations. *(25 marks)*

Potential Content

Offer and acceptance

- (A) Issues concerning offers: for example, problems of distinguishing between offers and invitations to treat, and between counter offers and requests for further information; rules on withdrawal of offers.
- (B) Issues concerning acceptance: for example, in different forms of communication, such as face-to-face, electronic and via the postal service; interpretation of prescriptive forms of acceptance.

Note: these issues may be approached as part of a consideration of broader problems, such as the 'battle of the forms' or the difficulties in adapting the rules to cope with new technology.

Consideration

- (A) Issues concerning adequacy of consideration.
- (B) Issues concerning sufficiency (past consideration, existing duties as consideration).

Intention to create legal relations

- (A) General issues concerning the need for intention and the relationship with consideration.
- (B) Issues concerning the classification of agreements and the associated presumptions.

4

Total for this question: 75 marks

- (a) Taking into account the rules on formation of contract, consider what rights and remedies, if any, are available to Nick against Mike, arising out of the work done on Mike's car, and Mike's subsequent promise. *(25 marks)*

Potential content

- (A) The formation issue in relation to intention to create legal relations in domestic and commercial agreements.
- (B) The formation issue in relation to consideration in a contract – in particular, the issue of past consideration and the possibility of constructing an implied promise.

Note: Nick's possible remedy (damages rather than specific performance) should be discussed as appropriate and associated with (A) or (B). Without such discussion, only one of (A) and (B) can be categorised as sound.

- (b) Taking into account the rules on frustration and on breach of contract, consider the rights and remedies of Nick and of Perry in relation to the contract for the repairs to the fleet of taxis. *(25 marks)*

Potential content

- (A) The issue of frustration or breach: possible frustration of the common venture; possible fault on Perry's part; possible alternative interpretation as breach.
- (B) Consequences of frustration (effect of the Law Reform (Frustrated Contracts) Act 1943 in that sums paid recoverable but subject to recompense for expenses incurred and benefit conferred) or of breach (damages for loss incurred).

(c) Choose **one** of the following:

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on offer and acceptance. *(25 marks)*

OR

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on consideration. *(25 marks)*

OR

What problems do you think exist in the rules on formation of contract? In your answer, discuss the rules on intention to create legal relations. *(25 marks)*

Potential content

Offer and acceptance

- (A) Issues concerning offers: for example, problems of distinguishing between offers and invitations to treat, and between counter offers and requests for further information; rules on withdrawal of offers.
- (B) Issues concerning acceptance: for example, in different forms of communication, such as face-to-face, electronic and via the postal service; interpretation of prescriptive forms of acceptance.

Note: these issues may be approached as part of a consideration of broader problems, such as the 'battle of the forms' or the difficulties in adapting the rules to cope with new technology.

Consideration

- (A) Issues concerning adequacy of consideration.
- (B) Issues concerning sufficiency (past consideration, existing duties as consideration).

Intention to create legal relations

- (A) General issues concerning the need for intention and the relationship with consideration.
- (B) Issues concerning the classification of agreements and the associated presumptions.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

A Level Law (LAW4)**(One question to be answered from 4)**

| UNIT 4 | AO1 | AO2 | AO3 |
|-------------------------|------------|------------|------------|
| Question 1 (a) | 7 | 18 | 10 |
| Question 1 (b) | 7 | 18 | |
| Question 1 (c) | 7 | 18 | |
| Question 2 (a) | 7 | 18 | 10 |
| Question 2 (b) | 7 | 18 | |
| Question 2 (c) | 7 | 18 | |
| Question 3 (a) | 7 | 18 | 10 |
| Question 3 (b) | 7 | 18 | |
| Question 3 (c) | 7 | 18 | |
| Question 4 (a) | 7 | 18 | 10 |
| Question 4 (b) | 7 | 18 | |
| Question 4 (c) | 7 | 18 | |
| Total marks | 21 | 54 | 10 |
| % of the A2 | 7.5 | 19 | 3.5 |
| % of the A Level | 3.75 | 9.5 | 1.75 |