

LAW

Paper 9084/11

Paper 11

General comments

Although there were some very good performances from certain candidates in a number of Centres, the overall standard was disappointing. The better answers were well written and there was some good use of primary and secondary sources, but many failed to use sources well, if at all, and there were many short answers which lacked depth of analysis or thought. The candidates in this cohort generally coped well with the restraints of time and wrote answers of equal length and quality for all three questions attempted, but there were also a worrying number of papers which had short third answers, suggesting poor time management.

The poor performance of candidates at the lower end of the mark spectrum can be attributed to a number of factors. The main factor was poor preparation for writing examination answers. It was also clear that some questions were misread or misunderstood. In some cases candidates did not complete the whole paper and often did not seem ready to answer three questions. They appeared to struggle to find a third question on the paper to answer. This suggests that candidates were not always fully prepared for the demands of a paper at this level and the full range of questions which may be set. There was also a lack of reference to authority in the weaker papers, even in answers to question two on statutory interpretation. Background knowledge was often superficial and basic, particularly in answers to question three where the focus of the discussion was often poor.

One of the aspects that still gives cause for concern is that there continues to be a marked lack of critical analysis.

The paper was of a similar level of difficulty to that set in previous years and none of the questions were considered to be particularly difficult.

Comments on specific questions

Question 1

This question was based on a factual scenario and candidates were asked to consider the role of the courts in dealing with the situation set. There were two possible avenues for candidates to consider. Firstly the way the criminal courts would deal with the situation and secondly the way the civil courts would deal with any claim for compensation. Candidates generally found it difficult to distinguish between civil and criminal proceedings and had little knowledge of the relevant procedure. Very few papers identified Jason's likely criminal offences, which were speeding and careless driving. Candidates also found it difficult to identify which courts would have jurisdiction. These omissions are worrying as this is a fundamental aspect of the Law and Legal Liabilities course. The candidates are expected from the outset to be able to distinguish between civil and criminal proceedings and to be able to identify the courts in which the case will be heard. Finally the sanctions in each case were often confused. There was confusion between the award of damages in a civil court and compensation which would be granted in a criminal court or as a result of criminal proceedings. On the whole the responses to this question were very disappointing.

Question 2

This was a general question about principles of sentencing, although deterrence was cited as the main principle to be discussed. Candidates showed a good overall grasp of the main principles of sentencing and some used examples of relevant sentences to illustrate their answers. This was good and was an encouraging aspect to the papers. However there were also a number of candidates who failed to mention deterrence at all, and this affected their overall mark dramatically. There were some answers which included knowledge of recent sentencing policy. This was a very pleasing aspect of the papers.

Question 3

This question focused on the rules of equity. It is always a popular question and, as always, the candidates had no difficulty in discussing the historical background to the question. However, in this cohort of answers far too few candidates referred to the new rights introduced through equity, and there were few detailed answers on the modern developments through equity. The question specifically required reference to recent case law, and a number of candidates either did not refer to any cases or confined their answer to only one, such as *D.C. Builders v Rees*. However on the whole this question was well-answered and the most competent candidates were able to relate the concepts of the trusts and mortgage, with references made to their modern usages with some useful supporting cases, particularly on remedies.

Question 4

This question focused on juries and was popular. However, the quote at the start from Mr Justice Finnemore about the jury was either disregarded or used very inadequately, despite the fact that the question had invited the candidates to look at the quotation. This was worrying as it suggests that candidates are not properly prepared to respond to the question set, but instead to simply write a prepared answer. There were a number of inaccuracies, including a number of answers which suggested that the jury can pass sentence. These errors were fundamental errors. However, a very encouraging aspect was the fact that candidates were more prepared to use recent case law to illustrate their answers. As a result, answers to this question often proved to be the best answer of the paper for many candidates.

Question 5

This question focused on the role and significance of the House of Lords. Candidates were invited to explain that the role of the House of Lords was to deal only with the most important cases, and not simply to act as a second appeal court after a request to the Court of Appeal has been turned down. The better answers looked beyond simply discussing the procedure and mechanics of appeals to the House of Lords. A number of answers did this well and concentrated on the 1966 Practice Statement and the relevant case law. There were, however, a large number of answers which simply looked at the whole appeal system and these answers did not really answer the question set. Again it highlights the need for candidates to have some flexibility when they answer the questions, even where they have successfully identified the topic.

Question 6

The last question invited candidates to consider the difference between qualifying as a Solicitor and qualifying as a Barrister. The question expected a critical analysis of whether there was any justification for a divided profession, and also whether the divided profession presented any particular difficulties for a candidate who wished to have a career in law. This question was not answered well by the majority of candidates. Facts about the two professions were often known but were not well-applied, and there were many answers which did not reflect recent changes in the two professions, such as the fact that it is now possible to practice in the courts as a solicitor and that there is now access even to the highest courts for a suitably qualified solicitor advocate.

LAW

Paper 9084/12

Paper 12

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Although there were some very good performances from certain candidates in a number of Centres, the overall standard was disappointing. The better answers were well written and there was some good use of primary and secondary sources, but many failed to use sources well, if at all, and there were many short answers which lacked depth of analysis or thought. The candidates in this cohort generally coped well with the restraints of time and wrote answers of equal length and quality for all three questions attempted, but there were also a worrying number of papers which had short third answers, suggesting poor time management.

The poor performance of candidates at the lower end of the mark spectrum can be attributed to a number of factors. The main factor was poor preparation for writing examination answers. It was also clear that some questions were misread or misunderstood. In some cases candidates did not complete the whole paper and often did not seem ready to answer three questions. They appeared to struggle to find a third question on the paper to answer. This suggests that candidates were not always fully prepared for the demands of a paper at this level and the full range of questions which may be set. There was also a lack of reference to authority in the weaker papers, even in answers to question two on statutory interpretation. Background knowledge was often superficial and basic, particularly in answers to question three where the focus of the discussion was often poor.

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LAW

Paper 9084/13

Paper 13

General comments

There has been an overall rise in standards for 9084, particularly Paper 1, in recent years, but this trend was not continued with this paper. Compared to previous years this was a rather disappointing performance. The candidates often performed poorly on this paper and this can be explained by a number of reasons. The main reason was that questions were misread and misunderstood. A number of candidates did not complete the whole paper and often did not seem properly prepared to answer three questions. This could suggest that candidates were not always fully prepared for the range of questions and the demands of a paper at this level. There continued to be a lack of reference to authority, even in answers to Question 4 on statutory interpretation, although it was less marked in this question. Background knowledge was sometimes superficial and basic. There was also an overall lack of critical analysis. The paper was of a similar level of difficulty to that set in previous years and none of the questions were considered to be particularly difficult.

Comments on specific questions

Question 1

This question focused on the process of law making in England and Wales. Generally, answers tended to emphasize the parliamentary process and delegated legislation too much, and many failed to identify the role of the courts in law making. Many of those answers which concentrated on the parliamentary process and delegated legislation were very good and were well answered. Some candidates concentrated almost exclusively on the development of common law and equity and so gained few marks. The responses to this question suggest that some candidates are unable to respond flexibly to wide ranging questions.

Question 2

This was not a popular question and candidates had difficulty in identifying the main aims of sentencing. It appears that where examination questions cite a practical example of a defendant who is to go before the courts for sentencing, candidates have more difficulty than they do when the question is more generalised about sentencing and its aims. These answers were often poorly illustrated and poorly explained. Answers generally listed sentences known rather than looking at what was appropriate for the defendant. The defendant had committed robbery and so sentences appropriate to a violent offence were anticipated. Sentences more appropriate to less violent offences were largely inappropriate. Principles were only dealt with in a superficial way in the majority of answers.

Question 3

This question was very popular and many candidates gave their best answers here. However there were often answers which did not identify the appointment or consider the role of judges in any detail. By way of contrast, knowledge of magistrates was good but there was little evidence of any real understanding of their appointment. Most answers focused on the role of magistrates and there were often detailed accounts of the difference between summary and indictable offences.

Question 4

This question was a very popular question and was generally very well done. It asked candidates to discuss the options open to a judge when he/she finds the law to be ambiguous or unclear. The answer also asked for decided cases to be used to illustrate the answer. Candidates showed a good grasp of the three main rules of statutory interpretation and the majority went beyond these rules and explored other rules of statutory interpretation and the use of other sources such as Hansard. Many candidates did not address



other matters, such as the need to critically consider the issues that arise when the judiciary has the power to interpret legislation.

Question 5

This was a less popular question. Many candidates were unable to consider both parts of the question set. Most favoured the role of the police and were able to explain the role sensibly and well. Most answered the question in a brief and superficial way. There was very little critical analysis.

Question 6

This question focused on the protection of human rights under English Law. Many candidates showed a detailed understanding of the ECHR and the Human Rights Act 1998. Many answers included a long and detailed list of various articles under the Act. These answers were not generally able to attract marks from the highest bands since the answer was really looking for critical analysis rather than a list of rights. This was a disappointing response. Where answers linked the factual scenario to the question there was some attempt at critical analysis, but often answers failed to identify the correct article for Mrs Joshi to use in order to be able to claim the right to have her husband's body cremated in the open air.

LAW

Paper 9084/21

Paper 21

General comments

Standards for this paper have generally risen over the past few years. Candidates have recognised the need to examine any source material included with the paper. However it should be noted that candidates are not always flexible in their approach to the source material; they are not always prepared to adapt to the different types of questions, and answers often have significant gaps where points have been missed. These mistakes can easily be avoided if candidates carefully read the examination paper. As in previous years there were some disappointing responses to some parts of the questions, which reflected a lack of flexibility when reading the sources given with the paper, or often a total failure to refer to the sources at all. At times the use of source material was good, but all too often a candidate would fail to be specific about sections within a particular statute, or a reference to a particular part of a case or judgement was not always understood. Often, candidates fail to respond to the questions on this paper in continuous prose and instead use lists. Note form should only be used if a candidate has run out of time at the end of a paper. Neither question proved to be more popular than the other, although some Centres seemed to be better prepared for the question on delegated legislation. Overall the standard for this paper was reasonable, although lower than in previous years.

Comments on specific questions

Question 1

This question was based on extracts from two cases: *R v Home Secretary, ex parte Fire Brigade Union* [1985] and *R v Secretary of State for Education and Employment, ex parte National Union of Teachers* [2000]. Some parts were generally well answered, but there were a number of mistakes, which were made by a number of candidates. The question was based on a statutory instrument. The first part of the question required a discussion of the legislation involved. The second part of the question looked at how a challenge can be made to delegated legislation. The focus here was on the control exercised by the courts, which arises if the legislation can be identified as *ultra vires*. Part (iii) was generally well answered. It involved candidates exploring whether delegated legislation can be challenged in Parliament. There were some very good responses, which included some detailed understanding of how both affirmative and negative resolutions work. The final part of the question expected a detailed analysis of the role of delegated legislation today. There were some encouraging responses which looked at advantages such as the saving of time, the use of technical expertise and the possible saving of money. Better candidates used the case law and were also able to identify the possible disadvantages of the use of delegated legislation, such as the lack of democratic involvement and the transfer of law making to non-elected lawmakers. However the weaker candidates gave short, very general answers to this part of the question, which carried a maximum of twenty marks. These candidates lost a considerable number of marks by failing to respond in sufficient detail.

Question 2

This question looked at a factual scenario which could have given rise to a criminal offence. The scenario was based on the defendant's rights under PACE 1984 and there were two detailed sections given from the Act. The question expected a detailed analysis of the separate sections and this proved to be quite challenging for some candidates.

- (a) Candidates needed to focus on the circumstances when a police officer may have the power to arrest a defendant without warrant. A very good answer identified the possible criminal act committed by the defendant and the grounds under which the police officer could arrest the defendant. Most candidates were able to explain that the police officer had extensive powers and so the police officer had the right to make an arrest. This part of the question was generally well answered, with good use of the source given.



- (b) The second part of the question looked at the rights of a security guard to make an arrest based on the scenario. Very good candidates identified the difference between this part and the earlier part and showed that a security guard had reduced power of arrest compared to a police officer. They were able to identify that the security guard can only arrest a defendant where they are in the act of committing an offence, rather than in anticipation of them committing an offence. This was sometimes poorly answered because most candidates failed to recognise that there was a difference, but generally the responses were very good.
- (c) This part of the question required a detailed look at the powers of a member of the public to arrest someone who was in the act of committing a criminal offence. A significant number of candidates thought that members of the public had no powers at all to arrest a defendant, but these were in the minority and generally the answers were good and were able to apply the source material well. Candidates referred to the statute, but often only in passing and it was not always applied in detail. Very good answers identified the fact that it was important to establish whether the defendant had actually left the supermarket without paying.
- (d) This question asked candidates to outline the rights of an individual on arrest and also to discuss whether the rights of a defendant were adequately protected by PACE. There were some good answers, which showed that they had a detailed and wide-ranging understanding of both the context of PACE and why it had been passed, and also of the kind of safeguards that a defendant might expect to receive under the Act. The number of candidates who could cite sections of PACE to illustrate their answers was good. By way of contrast, a number of answers were not very detailed or well-illustrated and did not include a sufficiently wide range of references to the statute. A number of answers concentrated too much on the Human Rights Act 1998 which, although relevant, was not the main focus of this question.

LAW

Paper 9084/22

Paper 22

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- (b) The second part of the question looked at the rights of a security guard to make an arrest based on the scenario. Very good candidates identified the difference between this part and the earlier part and showed that a security guard had reduced power of arrest compared to a police officer. They were able to identify that the security guard can only arrest a defendant where they are in the act of committing an offence, rather than in anticipation of them committing an offence. This was sometimes poorly answered because most candidates failed to recognise that there was a difference, but generally the responses were very good.
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LAW

Paper 9084/23

Paper 23

General comments

A paper on source material has been part of the examination for 9084 A Level Law for over six years. Over the years candidates have responded well to the requirements of the paper, in particular the need to examine any source material included. There have been many encouraging aspects to the candidates' responses. The use of source material is sometimes good but the need to be specific about a particular statute or judgement is not always understood. This was evident in this June 2010 paper. Unfortunately there were several individual parts of both questions which were misread or misunderstood and candidates did not always respond well to questions which were based wholly on the source material.

Comments on specific questions

Question 1

This question involved three cases all based on the principle of vicarious liability. The cases were very similar but each had a different principle of law. The question was based on a factual scenario set within a building firm, where an employee having been forbidden to carry passengers whilst delivering supplies offers a lift to a passenger who is later injured. The other scenario looks at the liability of the factory when the employee injures a fellow workman whilst working within the factory.

- (a) In this part candidates were expected to identify who might be liable for injuries suffered to a passenger whilst the employee is on his way home from work. Candidates seemed to understand the requirements of the question and were able to utilise the source materials provided. Weaker candidates tended to focus more on the fact that Ahmed had been forbidden to take passengers and less on the fact that Ahmed had picked up the hitchhiker after he had completed his delivery, therefore not during the course of his employment.
- (b) In this part the candidates needed to consider the liability of the employers (where the accident had occurred on the premises of the employer), even though the employee was driving the vehicle negligently. The good candidates identified that this was an authorised act which was carried out in an unauthorised manner.
- (c) Many candidates answered this part very well. The question asked candidates to discuss the ratio decidendi of a case. They also had to identify the ratio of the case of *Twine v Beans Express*. Most candidates could identify what was meant by the ratio and most also successfully explained the ratio of the source given. However a majority did not make the link between the source given and binding precedent.
- (d) There were very few good answers to this part of the question. Candidates were expected to outline the effect of a decision of the House of Lords on later cases. They were expected to provide a wide ranging discussion of the role of the House of Lords and the impact on this role of the 1966 Practice Statement. Some candidates had a rather sketchy knowledge of the relevant case law but, overall, cases were used well. Some weaker answers focused on the role of the Court of Appeal and did not necessarily discuss how decisions by the House of Lords affect the Court of Appeal. Excellent candidates were able to include the advantages and disadvantages of precedent in relation to the House of Lords generally.



Question 2

This question looked at issues arising from the Treasure Act 1996. The source material concentrated exclusively on various sections of the Act. The better candidates handled the source material very well and were able to identify the relevant section with ease and apply it to the issues arising out of the different scenarios.

- (a) Candidates needed to focus here on two separate scenarios. They were expected to show that they fully understood what is meant by treasure under the Act. Most candidates were able to refer to the correct part of the Treasure Act. Some weaker candidates became confused and spent a lot of time discussing the silver content of the coins, which was not the issue here. Very few candidates correctly recognised the significance of the percentage in relation to the silver content of the button. Most candidates assumed that the button had a ten per cent silver content. This was not stated in the question.
- (b) The second part of the question looked at the steps that the claimant must take when she believes that an item is treasure. Of particular importance was the need to contact the coroner in the district in which the object was found. Candidates generally identified this well and scored high marks on this section.
- (c) This part of the question also required a specific reference to the statute and a discussion of when a claimant can claim a reward. Candidates generally answered this part well and were able to identify that the reward is dependent on whether the Secretary of State thinks it is appropriate. However there were many candidates who thought that a reward could automatically be claimed.
- (d) The final part of the question explored the rules of language of statutory interpretation. This part was generally not well answered. Stronger candidates discussed issues relating to problems encountered in statutory interpretation and then moved to a discussion of the rules of language and their role. When illustrated with relevant case law these answers were good. However a significant proportion of candidates focused on the rules of statutory interpretation and this resulted in very little credit being awarded, as the responses did not relate to the question set. This suggested that although candidates had a good knowledge of the main rules of statutory interpretation, this was not sufficiently wide-ranging and did not include a detailed understanding of the other rules such as the rules of language.



LAW

Paper 9084/31

Paper 31

General comments

Success in the examination is dependent upon the ability of the candidate to clearly demonstrate the skills identified in the three assessment objectives explained in the examination syllabus specification. Perennially candidates fail to pay sufficient attention to those objectives. Excessive numbers of candidates fail to realise their potential because they concentrate throughout their study of the syllabus on the rote learning of fact and principle and apparently do not practise the skill of applying their knowledge to answer the actual question asked of them. Whilst it has been said many times before, questions in **Section A** require the candidates to focus on both knowledge and understanding of legal rules and on the critical analysis and evaluation of those rules; teaching and learning should reflect this requirement. Candidates do not progress beyond band three of the mark scheme (i.e. 12 marks out of a possible 25) without including appropriate assessment, analysis or evaluation of the requisite rules (as stated in the question rubric), however well they appear to be known. Questions in **Section B** also require candidates to focus on knowledge and understanding of rules, but the emphasis is on the application of them to a scenario-based problem and on drawing clear conclusions. Again, candidates will not progress beyond band three of the mark scheme unless rules have been identified and demonstrably applied to the scenario, with clear conclusions drawn. A sentence or short paragraph drawing unexplained conclusions, after pages of regurgitated notes which have not been related to the scenario in question, will never suffice.

Some Centres have obviously taken note of past reports and have prepared candidates well for particular issues raised by questions on previous papers; however, many of their candidates failed to spot that whilst the topic covered may well have been the same, the actual question set was not!

Rules must be taught in total context and candidates must learn to be far more selective when choosing material to include in their answers- they should discard anything that does not need to be used. This question paper brought out very variable responses from candidates and in the majority of cases, where candidate performance fell below the required standard, it was the result of purely descriptive responses.

Centres are once again urged to include examination technique and practice as an essential element of their teaching and learning strategies and, with a critical eye, to consider issues arising out of syllabus topics in addition to the substantive law itself; use of the recommended course text book might help the many Centres who clearly choose to use other textbooks. This is particularly advised with regard to questions posed in **Section A** of what will always be a challenging paper.

Comments on specific questions

Section A

Question 1

This question was not attempted by many candidates and produced very mixed results. Candidates do not seem to know what "critically assess" means. Candidates generally seemed to understand what conditions, warranties and innominate terms are, but were almost totally incapable of expressing any sort of informed view of whether their introduction to the law has made it any more certain or uncertain for parties bringing or defending actions for breach of a contractual term.

Question 2

Most candidates simply wrote all they knew about mistake and misrepresentation. Very little analysis was carried out and, as a result, good marks were seldom seen.



Question 3

It is difficult to understand why so many candidates choose to attempt questions when the resulting answer has to be based on guesswork. Many candidates simply decided to 'write all I know about remedies'. The concept of quantum meruit awards was well understood by a tiny proportion of candidates.

Section B

Question 4

This was the most popular question on the paper and the majority of candidates were able to gain some marks. However, many candidates interpreted it as either a consideration question or an intent question; few were able to identify that both elements were present. Candidates who thought promissory estoppels relevant gained no marks for this.

Question 5

On the whole this question was dealt with reasonably well, but far too many candidates wrote all they could on offer, acceptance and invitation to treat. Conclusions were frequently very superficial and sometimes far too hesitant and woolly.

Question 6

This was another popular question, with few candidates failing to identify exemption clauses and to list a number of relevant cases. It was, however, worrying to see how many candidates failed to discuss UCTA's potential relevance and to draw appropriate conclusions.

LAW

Paper 9084/32

Paper 32

General comments

Success in the examination is dependent upon the ability of the candidate to clearly demonstrate the skills identified in the three assessment objectives explained in the examination syllabus specification. Perennially candidates fail to pay sufficient attention to those objectives. Excessive numbers of candidates fail to realise their potential because they concentrate throughout their study of the syllabus on the rote learning of fact and principle and apparently do not practise the skill of applying their knowledge to answer the actual question asked of them. Whilst it has been said many times before, questions in **Section A** require the candidates to focus on both knowledge and understanding of legal rules and on the critical analysis and evaluation of those rules; teaching and learning should reflect this requirement. Candidates do not progress beyond band three of the mark scheme (i.e. 12 marks out of a possible 25) without including appropriate assessment, analysis or evaluation of the requisite rules (as stated in the question rubric), however well they appear to be known. Questions in **Section B** also require candidates to focus on knowledge and understanding of rules, but the emphasis is on the application of them to a scenario-based problem and on drawing clear conclusions. Again, candidates will not progress beyond band three of the mark scheme unless rules have been identified and demonstrably applied to the scenario, with clear conclusions drawn. A sentence or short paragraph drawing unexplained conclusions, after pages of regurgitated notes which have not been related to the scenario in question, will never suffice.

Some Centres have obviously taken note of past reports and have prepared candidates well for particular issues raised by questions on previous papers; however, many of their candidates failed to spot that whilst the topic covered may well have been the same, the actual question set was not!

Rules must be taught in total context and candidates must learn to be far more selective when choosing material to include in their answers- they should discard anything that does not need to be used. This question paper brought out very variable responses from candidates and in the majority of cases, where candidate performance fell below the required standard, it was the result of purely descriptive responses.

Centres are once again urged to include examination technique and practice as an essential element of their teaching and learning strategies and, with a critical eye, to consider issues arising out of syllabus topics in addition to the substantive law itself; use of the recommended course text book might help the many Centres who clearly choose to use other textbooks. This is particularly advised with regard to questions posed in **Section A** of what will always be a challenging paper.

Comments on specific questions

Section A

Question 1

This question was not attempted by many candidates and produced very mixed results. Candidates do not seem to know what "critically assess" means. Candidates generally seemed to understand what conditions, warranties and innominate terms are, but were almost totally incapable of expressing any sort of informed view of whether their introduction to the law has made it any more certain or uncertain for parties bringing or defending actions for breach of a contractual term.

Question 2

Most candidates simply wrote all they knew about mistake and misrepresentation. Very little analysis was carried out and, as a result, good marks were seldom seen.



Question 3

It is difficult to understand why so many candidates choose to attempt questions when the resulting answer has to be based on guesswork. Many candidates simply decided to 'write all I know about remedies'. The concept of quantum meruit awards was well understood by a tiny proportion of candidates.

Section B

Question 4

This was the most popular question on the paper and the majority of candidates were able to gain some marks. However, many candidates interpreted it as either a consideration question or an intent question; few were able to identify that both elements were present. Candidates who thought promissory estoppels relevant gained no marks for this.

Question 5

On the whole this question was dealt with reasonably well, but far too many candidates wrote all they could on offer, acceptance and invitation to treat. Conclusions were frequently very superficial and sometimes far too hesitant and woolly.

Question 6

This was another popular question, with few candidates failing to identify exemption clauses and to list a number of relevant cases. It was, however, worrying to see how many candidates failed to discuss UCTA's potential relevance and to draw appropriate conclusions.

LAW

Paper 9084/33

Paper 33

General comments

Success in the examination is dependent on the ability of the candidate to clearly demonstrate the skills identified in the three assessment objectives explained in the examination syllabus specification. Perennially candidates continue to fail to pay sufficient attention to those objectives. Excessive numbers of candidates fail to realise their potential because they concentrate throughout their study of the syllabus on the rote learning of fact and principle and apparently do not practise the skill of applying their knowledge to answer the actual question asked of them. Whilst it has been said many times before, questions in **Section A** require the candidates to focus on both knowledge and understanding of legal rules and on the critical analysis and evaluation of those rules; teaching and learning should reflect this requirement. Candidates do not progress beyond band three of the mark scheme (i.e. 12 marks out of a possible 25) without including appropriate assessment, analysis or evaluation of the requisite rules (as stated in the question rubric), however well they appear to be known. Questions in **Section B** also require candidates to focus on knowledge and understanding of rules, but the emphasis is on the application of them to a scenario-based problem and on drawing clear conclusions. Again, candidates will not progress beyond band three of the mark scheme unless rules have been identified and demonstrably applied to the scenario, with clear conclusions drawn. A sentence or short paragraph drawing unexplained conclusions after pages of regurgitated notes which have not been related to the scenario in question will never suffice.

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Centres are once again urged to include examination technique and practice as an essential element of their teaching and learning strategies and, with a critical eye, to consider issues arising out of syllabus topics in addition to the substantive law itself; use of the recommended course text book might help the many Centres who clearly choose to use other textbooks. This is particularly advised with regard to questions posed in **Section A** of what will always be a challenging paper.

Comments on specific questions

Section A

Question 1

Presumably this was viewed as a difficult question, as it was not attempted by many candidates. Although the handful of candidates who did attempt it successfully identified differences in the two pieces of legislation, only a very small minority were able to comment on the need for them both, as required by the question.

Question 2

This was a very popular question. It was straightforward and there were no real problems. Most candidates answered it adequately and quite a few provided excellent answers, supported by relevant authority. Quite a few discussed 'options to keep offers open' when the offeree provides extra. Most candidates performed



within mark band three because of lack of selectivity and lack of detailed focus. Too many candidates confused pure revocation or withdrawal of offers with lapse of offers.

Question 3

This was another surprisingly popular question; the main problem was a failure to provide adequate analysis, as many responses were superficial. Many candidates glossed over the distinctions between the types of misrepresentation and the varying remedies associated with each. Most candidates responded reasonably well in respect to the circumstances when rescission might not be granted, and a few provided excellent answers.

Section B

Question 4

Based on past experience of similar questions, it was pleasantly surprising that most candidates did a reasonable job with this question and provided relevant authority. Where they did fall down, however, it was on the issues of the measure of damages and mitigation of losses; about half of those attempting an answer to this question overlooked these aspects altogether.

Question 5

Most candidates correctly identified the principle of contractual capacity with respect to minors. A number of candidates failed to discuss the law with respect to contracting with minors and launched directly into their conclusions. A proportion of those that did discuss the law seemed somewhat confused with beneficial contracts of service, thinking that any broadly beneficial contract would be binding. Few really grasped the implications of the second scenario and failed to consider both the potential voidable nature of the contract had it not been considered sufficiently beneficial and whether it could have been avoided without liability.

Question 6

Although this was a popular question that nearly all candidates attempted, the marks were lower than might be anticipated. Many candidates failed to discuss the general rule that acceptance must be communicated in order to be effective in forming a binding contract. Most simply launched into a rote memory of the postal rule, with little or no discussion of whether it was appropriate. The number of candidates who, having found a binding contract early into their analysis, later found that it had somehow morphed into not being a contract at all was extremely disappointing. The majority of candidates performed only within mark bands 2 and 3, with very few reaching band 4. Having said that, the better candidates not only avoided the pitfall mentioned above, but discussed correctly the effect a binding contract between Kaleb and Lawrence would have on any attempt to sell the car to Tim.

LAW

Paper 9084/41

Paper 41

General comments

Quality of candidate response is a perennial issue and it is of great concern that candidates continue to present themselves for examination without either sufficient legal knowledge, the understanding of the subject matter necessary to meet the assessment objectives of the syllabus, or both.

In short, candidate outcomes will never improve without better and more appropriate candidate preparation; that is, preparation in terms of how to answer the questions actually posed. Working through question papers and mark schemes for previous series, together with a didactic approach which actively promotes candidate understanding of the aim and purpose of legal rules would seem to be the key to success.

Candidates must also be encouraged to present responses which refer to precise legal rules and which demonstrate the skills of analysis, assessment and discussion, rather than relying on answers based simply on a vague knowledge of 'the law' and/or factual regurgitation of pre-prepared material.

Comments on specific questions

Section A

Question 1

This proved to be a very popular question. The majority of candidates were able to give a good factual account of the rules. However, most candidates struggled with the analysis of the question. In most cases the analysis was either slight or non-existent, although quite a few of the better scripts did consider the availability of alternatives and use re civil liberties. This question proved to be a missed opportunity for many as it was not a very difficult task.

Question 2

This was also a popular question and again most candidates were able to give a good account of and some evaluation of the rules. However, many candidates failed to address the actual question. The small number of candidates that did focus on the question were able to achieve a high mark by evaluating the rules in that context. Any analysis of law was generally restricted to the 'floodgates' point and little else.

Question 3

This was a very unpopular question which attracted few good responses. Some candidates focused on damages rather than injunctions and most gave no more than a simple explanation.

Section B

Question 4

This question proved to be popular. Most candidates were able to give a reasonable explanation of the rules of both Negligence and Nuisance. Some good candidates were able to apply the rules effectively by identifying the relevant issues. However many candidates did not and instead presented a generic factual presentation with but cursory application.



Question 5

This was a very popular question. Most candidates were able to give a good account of the OLA 1957 and the relevant parts of UCTA, although in many cases it is clear that candidates do not fully appreciate that UCTA only applies to contractual situations. A lot of candidates got sidetracked with a consideration of trespass / OLA1984. Many candidates referred to the issue of warnings, but the law was often only partially explained and applied. Few candidates were able to fully engage with the subtleties of the scenario, so in most cases the application was rather weak.

Question 6

This was not a popular question. Some candidates simply treated this as a Negligence issue and some were able to do little more than translate the meaning of Res Ipsa Loquitur. Even the damages angle was handled poorly, with many candidates even omitting to deal with remoteness. A minority of candidates, however, were able to explain the rules adequately and apply them reasonably well.



LAW

Paper 9084/42

Paper 42

General comments

Quality of candidate response is a perennial issue and it is of great concern that candidates continue to present themselves for examination without either sufficient legal knowledge, the understanding of the subject matter necessary to meet the assessment objectives of the syllabus, or both.

In short, candidate outcomes will never improve without better and more appropriate candidate preparation; that is, preparation in terms of how to answer the questions actually posed. Working through question papers and mark schemes for previous series, together with a didactic approach which actively promotes candidate understanding of the aim and purpose of legal rules would seem to be the key to success.

Candidates must also be encouraged to present responses which refer to precise legal rules and which demonstrate the skills of analysis, assessment and discussion, rather than relying on answers based simply on a vague knowledge of 'the law' and/or factual regurgitation of pre-prepared material.

Comments on specific questions

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Question 5

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LAW

Paper 9084/43

Paper 43

General comments

Quality of candidate response is a perennial issue and it is of great concern that candidates continue to present themselves for examination without either sufficient legal knowledge, the understanding of the subject matter necessary to meet the assessment objectives of the syllabus, or both.

In short, candidate outcomes will never improve without better and more appropriate candidate preparation; that is, preparation in terms of how to answer the questions actually posed. Working through question papers and mark schemes for previous series together with a didactic approach which actively promotes candidate understanding of the aim and purpose of legal rules would seem to be the key to success.

Candidates must also be encouraged to present responses which refer to precise legal rules and which demonstrate the skills of analysis, assessment and discussion, rather than relying on answers based simply on vague knowledge of 'the law' and/or factual regurgitation of pre-prepared material.

Comments on specific questions

Section A

1. This question was answered by the majority of candidates. There was good knowledge of the development of negligence, with many candidates able to discuss examples of policy being allowed to take part in areas such as pure economic loss and nervous shock. This was pleasing, but lack of appropriately targeted material did mean that few scored high marks.
2. This was a popular question. Most candidates knew the rules and principles associated with the three elements of trespass to the person and were able to explain them reasonably coherently. However, the question asked candidates to do more than simply regurgitate received information. By and large the reference in the question to civil liberties was ignored, much to the detriment of the majority of candidates.
3. This again was a popular question, with most candidates able to define private nuisance and *Rylands v Fletcher* ad nauseam. However, as with **Question 2**, candidates were expected to use what they know and few did so satisfactorily.

There was little, if any, discussion on the contribution to environment protection and consequently few candidates observed that the torts primarily concern individual rights rather than being of environmental concern.

Section B

4. This was a very popular question which most candidates answered well, realising the Occupier Liability Act 1957 and its implications. Some, however, focused solely on negligence. Application of fact to the points within the scenario was generally of a disappointingly superficial nature.
5. Nervous shock made this a very popular choice; most candidates understand this area very well. However, despite the assumption of negligence indicted in the scenario, a significant number of candidates chose to focus answers almost exclusively on this. There were some excellent well-reasoned and supported responses, but far too many candidates remained uncertain of the position (especially of rescuers), and few compelling conclusions were drawn as a consequence.



6. This was a very unpopular question which was misinterpreted by all but a tiny minority of those candidates that attempted it. Those that did recognise that the only basis for action had to be trespass to land, due to the direct nature of interference, actually dealt with it fairly well. It was worrying to see many candidates trying to deal with this question as an issue in public nuisance, a topic which falls outside of the syllabus and one which candidates ought not to have even studied for this examination.