



Mark Scheme (Results)

Summer 2023

Pearson Edexcel International GCSE  
Advanced Level In Law (YLA1/02)

Paper 2: The Law in Action

Question number	State one difference between liability in the tort of negligence and liability in contract law.  <b>Answer</b>	Marks
1(a)	<p style="text-align: center;"><b>(1 AO1), (1 AO2)</b></p> <p><b>One mark for stating one difference between liability in negligence and liability in contract law (1 AO1), and one mark for a brief explanation/enhancement (1 AO2).</b></p> <ul style="list-style-type: none"> <li>• Negligence relates to liability for a duty of care/ breach of a duty of care (A01), contract law relates parties entering into an agreement/ breach of contract (A02)</li> <li>• To take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour (1 AO1) such as where a person purchases a drink for a friend to consumer (1 AO2), e.g. <i>Donoghue v Stevenson</i>.</li> <li>• Accept any other appropriate examples.</li> </ul>	<b>(2)</b>

Question number	Briefly explain the meaning of duty of care in the tort of negligence. <b>Answer</b>	Marks
1(b)	<p style="text-align: center;"><b>(2 AO1), (2 AO2)</b></p> <p><b>One mark for each description of the meaning of duty of care, up to two marks (2 AO1), and one mark for each appropriate expansion/example, up to two marks (2 AO2).</b></p> <ul style="list-style-type: none"> <li>• Taking care to avoid the acts and omissions as can reasonably be foreseen would be likely to injure your neighbour / reasonable care owed by defendant to claimant (1 AO1), such as selling drinks unfit for human consumption (1 AO2)</li> <li>• Where the legal relationship between the claimant and defendant are regarded as sufficiently close (1 AO1), such as a doctor to his patient/ parent to child (1 AO2)</li> <li>• Reference to cases such as <i>Donoghue v Stephenson</i>, <i>Caparo Industries v Dickman</i>, <i>Bourhill v Young</i>, <i>Law Society v KPMG Peat Marwick</i></li> </ul> <p><b>NB:</b> Credit any explanation of the Caparo test</p>	<b>(4)</b>

Question number	Evaluate whether Raj has breached his duty of care to Grace and what damages, if any, Grace may receive. <b>Indicative content</b>	Marks

<p><b>1(c)</b></p>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (4 AO3), (6 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Discussion of the reasonable man test e.g. Blyth v Birmingham Waterworks</li> <li>• Discussion of the risk factors affecting the reasonable man, that it is irrelevant Raj is a trainee hairdresser e.g. Paris v Stepney, Bolton v Stone, Nettleship v Weston, Marshall v Osmond</li> <li>• Analysis of possible risk factors affecting the standard of care expected of a reasonable man who is a trained hairdresser</li> <li>• Evaluation that includes how risk factors may lower or higher the standard expected of a reasonable man, i.e. Raj is blind in one eye, affecting the seriousness of injury, e.g. Paris v Stepney BC</li> <li>• Evaluation of the concept of contributory Negligence Law Reform (Contributory Negligence) Act 1945, whether Grace has contributed to her injuries though getting Raj to colour her hair knowing he was a trainee hairdresser, e.g. Nettleship v Weston</li> <li>• Discussion of remedies available to Grace because of a breach of Raj’s duty of care, i.e. general and special damages</li> <li>• Analysis of heads of damages, e.g. damage to property and expenses incurred, loss of future earnings, pain and suffering</li> <li>• Evaluation of damages applied to Raj, e.g. special damages, expenses and quantifiable loss incurred up to claim, mitigation, loss of future earnings and loss of amenity.</li> </ul> <p>Credit any relevant application of the law of negligence.</p>	<p><b>(14)</b></p>
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<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	0	A completely inaccurate response.
Level 1	1–3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4–6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7–10	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11–14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

<b>Question number</b>	Analyse whether Chris is legally required to accept the offer made by Sue. <b>Indicative content</b>	<b>Marks</b>
<b>2(a)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Definition of offer e.g. An offer is a statement of the terms upon which the person making the offer is willing to enter a contract: it can be written or verbal.</li> <li>• Identification that goods displayed on a market stall are not usually regarded as an offer but an invitation to treat</li> <li>• Identification that the video game and console are an invitation to treat, i.e. merely an indication of a willingness to start negotiations and is not an offer.</li> <li>• Analysis of Chris’s requirement to accept Sue’s offer for the video game focusing on the fact that this may only be for display and/or that Sue may be under 18, i.e. Selling the product to Sue may be illegal, e.g. Fisher v Bell, Pharmaceutical Society of GB v Boots</li> <li>• Analysis of sale of console, i.e. as the label has the word ‘May’ this implies that the statement is uncertain as to whether Chris’s willingness to sell and is therefore not regarded as an offer e.g. Gibson v Manchester City Council</li> <li>• Analysis of communication of offers, i.e. that only in exceptional situations does the law regard them as being able to be accepted unilaterally e.g. Carlill v Carbolic Smoke Ball Co.</li> </ul> <p>NB: Only accept references to offer or invitation to treat</p>	<b>(6)</b>

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding is demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

<b>Question number</b>	Evaluate whether Barack has given sufficient consideration and intention to form a contract with the lottery company, Kato and Kato's wife.  <b>Indicative content</b>	<b>Marks</b>
<b>2(b)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (4 AO3), (6 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Discussion of consideration, i.e. means that each party to a contract must give something of some value e.g. £1 for lottery ticket something of value Chappell v Nestle</li> <li>• Discussion of consideration must move from the promisee to promisor e.g. As Kato's wife offers nothing of value in consideration of the £50,000 then this is not consideration. Tweddle v Atkinson</li> <li>• Discussion of what constitutes an intention to create legal relations, i.e. the parties to a contract must intend the agreement to be legally binding. This is implied in commercial agreements, but presumed not to exist in social and domestic agreements</li> <li>• Distinguishing between the executed and executory consideration, e.g. purchase of lottery ticket executed and champagne executory</li> <li>• Analysis of past consideration for the promise to pay for the 12 champagne bottles</li> <li>• Evaluation as to whether there is an intention to create legal relations between Barack and Kato for the lottery ticket and winnings, e.g. Simpkins v Pays</li> <li>• Evaluation of the effect of the phrase 'binding in honour only' has on the intention to create legal relations between the lottery company and Barack, e.g. Ferrera v Littlewoods Pools</li> <li>• Evaluation whether the intention to create legal relations between Barack, Kato and Kato's wife constitute a commercial or social agreement, e.g. Balfour v Balfour</li> <li>• Possible remedies available to Barack because of the breach of contract with the lottery company, e.g., specific performance, damages.</li> </ul> <p><b>NB:</b> No credit for discussions of formation of a contract, e.g. offer</p>	<b>(14)</b>

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	0	A completely inaccurate response.
Level 1	1–3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4–6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7–10	<p>Accurate knowledge and understanding is demonstrated.</p> <p>Knowledge and understanding is supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11–14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	Describe <b>two</b> situations when ‘occupiers’ may argue that they have discharged their duty of care under the Occupiers’ Liability Act 1957. <b>Answer</b>	Marks
3(a)	<p style="text-align: center;"><b>(2 AO1), (2 AO2)</b></p> <p><b>Up to two marks for describing situations where an ‘Occupier’ may argue they have discharged their duty of care under the Occupiers’ Liability Act 1957 (2 AO1), and one mark for each appropriate expansion/example, up to two marks (2 AO2).</b></p> <ul style="list-style-type: none"> <li>• By giving a warning to keep the visitor safe <b>(1 AO1)</b>, the act states that this can be satisfied by a notice or locked door <b>(1 AO2)</b>, e.g. Woollins v British Celanese</li> <li>• By involving a specialist visitor, it is implied they will protect themselves from risks <b>(1 AO1)</b>, such as calling an electrician to deal with an electrical fault <b>(1 AO2)</b>, e.g. Roles v Nathan.</li> <li>• By discharging their duty of care to take reasonable steps in the circumstances <b>(1 AO1)</b>, e.g. surrounded a lake with tall fences to prevent visitors falling in</li> <li>• Other suitable descriptions.</li> </ul>	<b>(4)</b>

<b>Question number</b>	Analyse the rights and remedies of Jaya against Rohit in connection with the trespass to land. <b>Indicative content</b>	<b>Marks</b>
<b>3(b)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Intrusion by a person upon the land in possession of another</li> <li>• Identification that trespass is actionable in court whether or not the claimant has suffered damage. However, rights over trespass are not normally brought to court without damage to land or persistent trespass</li> <li>• Identification of the requirements to be a claimant and defendant</li> <li>• Identification of damages and injunction as remedies, e.g. injunction is a court order that instructs a person that they are not allowed to commit a certain act.</li> <li>• Analysis of Jaya’s claim to deciding whether Rohit’s activities amount to trespass, unauthorised interference, direct invasion of land, dumping rubbish likely to be unreasonable</li> <li>• Analysis of no requirement to prove damage to land</li> <li>• Remedies such as damages for clearing rubbish and loss of earnings and the possibility of an injunction</li> <li>• Use of appropriate cases such as <i>Ellis v Loftus Iron Co</i>, <i>Anthony v Haney</i>, <i>Canary Wharf Investments Ltd &amp; Ors v Brewer</i>, <i>Intu Milton Keynes Ltd &amp; Ors v Taylor &amp; Persons Unknown</i></li> </ul> <p><b>NB:</b> No credit for the application of Occupiers’ Liability Act 1984</p>	<b>(6)</b>

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

<b>Question number</b>	Assess Nela's rights and remedies in respect of the injuries she has sustained. <b>Indicative content</b>	<b>Marks</b>
<b>3(c)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (3 AO3), (3 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of breach of requirements for Occupiers' Liability Act 1984, danger, duty of care, reasonable care, contributory negligence, damages</li> </ul> <p>Analysis of the liability:</p> <ul style="list-style-type: none"> <li>• Occupier, premises, trespasser is someone who is not a lawful visitor (S1(2))</li> <li>• Duty – Dangerous state of premises not dangerous activity</li> <li>• Duty in respect of danger (S1(3)) – Filip is aware of danger, knows someone else may come into the vicinity of the danger, danger is one that Filip may reasonably be expected to offer some protection against S1(4)</li> </ul> <p>Evaluation of liability:</p> <ul style="list-style-type: none"> <li>• Discharging duty, likelihood of trespass, seriousness of injury, cost of precautions, age of trespasser with Nela being young</li> <li>• Contributory negligence/volenti, Nela trying to break in over a very high wall as a trespasser and head injury. Special rules for children, i.e. danger an attractive feature</li> <li>• Analysis of remedy of damages under S1(8) for personal injury to Nela, pain and suffering and damage</li> <li>• Reference to cases such as Keown v Coventry NHS, Donoghue v Folkestone, Scott v Associated British Ports, Platt v Liverpool City Council, Tomlinson v Congleton Borough Council</li> <li>• Allow an alternative claim on the basis that the pond and garden may be an allurements to a child and Nela has an implied licensee and visitor</li> </ul> <p><b>NB:</b> Credit any relevant application of the law of negligence.</p>	<b>(10)</b>

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1–2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
<b>Level 2</b>	<b>3–4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
<b>Level 3</b>	<b>5–6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
<b>Level 4</b>	<b>7–10</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

<b>Question number</b>	Identify, from the scenario, which actions of Romeo are likely to be treated as intention or recklessness to commit a crime.  <b>Answer</b>	<b>Marks</b>
<b>4(a)</b>	<p style="text-align: center;"><b>(4 AO2)</b></p> <p><b>One mark for each point identifying the likely actions that could be treated as intention or recklessness in the scenario, up to four marks.</b></p> <ul style="list-style-type: none"> <li>• Romeo’s direct intention to enter the house unlawfully to steal money (1)</li> <li>• Romeo’s direct intention to enter the house/open window unlawfully to trespass (1)</li> <li>• Romeo reckless as to damaging the ‘fragile table’ (1)</li> <li>• Romeo taking an unjustified risk as to destroying the ‘priceless ornament’ (1)</li> <li>• Romeo reckless in knocking over the home owner and causing serious injury (1).</li> <li>•</li> </ul> <p>Accept any other relevant application</p>	<b>(4)</b>

<b>Question number</b>	Analyse the extent to which Robert may plead intoxication as a defence to a charge of causing criminal damage to his friend's property. <b>Indicative content</b>	<b>Marks</b>
<b>4(b)</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (2 AO3)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Definition of the defence of intoxication e.g. defence established by common law principals based on the inability to form the MR of the criminal offence</li> <li>• Identification of the principles under the defence, e.g. The distinction between involuntary and voluntary intoxication</li> <li>• Analysis that Robert could argue he made an intoxicated mistake as to damaging his friend's property</li> <li>• Analyse that as the crime committed is criminal damage S5 of the Criminal Damage Act allows a defence of intoxication for an honest belief</li> <li>• Analyse that Robert is voluntarily intoxicated which would ordinarily have been seen as a reckless course of action and no defence to a basic intent crime, e.g. Majewski v DPP</li> <li>• Analyse that Robert could argue that he made an honest mistake belief that his friend would consent to causing the damage under S5 of the Criminal Damage Act, e.g. Jaggard v Dickinson</li> </ul> <p><b>NB:</b> allow credit for any appropriate use of case law regarding the defence of intoxication</p>	<b>(6)</b>

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	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1-2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
<b>Level 2</b>	<b>3-4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
<b>Level 3</b>	<b>5-6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner, and supported by appropriate legal authorities.</p>

Question number	Assess Arav's criminal liability for the property offences against Miriam. <b>Indicative content</b>	<b>Marks</b>
4(c)	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (3 AO3), (3 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <ul style="list-style-type: none"> <li>• Identification of the AR and MR of <b>Theft</b> under S1 Theft 1968, appropriation, property, belonging to another, dishonest, intention to permanently deprive.</li> <li>Analysis of the liability: <ul style="list-style-type: none"> <li>• Appropriation (S3) – appropriation with consent, deception and consented to, any assumption of the rights of the owner</li> <li>• Property (S4) - Includes money and all other property real and personal</li> <li>• Belonging to another (S5) – Any person owning or having possession or control</li> <li>• Dishonestly (S2) – Two stage R v Barton &amp; Booth test</li> <li>• Intention to permanently deprive (S6) – Intends to treat the thing as his own regardless of the others rights</li> </ul> </li> <li>• Evaluation of liability: <ul style="list-style-type: none"> <li>• £500 cash - appropriation under, R v Gomez, R v Hinks</li> <li>• Theft of watch – appropriation even though replaced</li> <li>• Arab likely to meet the , <u>R v Barton &amp; Booth</u>/Ivey test of dishonesty</li> <li>• Property belonging to another to be dealt with in particular way S5(3) or on trust S5(2)</li> <li>• Intention to permanently deprive even though replaced watch.</li> </ul> </li> <li>• Identification of AR and MR of <b>Burglary</b> under S9 Theft Act 1968, Trespass, intention to steal before or at time of trespass</li> <li>• Analysis of liability: Miriam's mother made it clear he had no right to re-enter property and use the key</li> <li>• Theft took place at the point the watch was picked up</li> <li>• Evaluation of liability: Arab appears to satisfy all the elements of Theft for the cash and watch</li> <li>• Reference to cases such as R v Morris, R v Lawrence, R v Gomez, R v Hinks, R v Ghosh, R v Lavender, Ivey v Genting Casinos, <u>R v Barton &amp; Booth</u>, R v Collins, R v Brown, Stevens v Gourley, R v Walkington, Barker v R, R v Mohan, AG Ref (No 1 &amp; 2).</li> </ul> <p><b>NB:</b> Full marks can be achieved by a detailed application of the law on theft or Burglary or a combination of both offences.</p>	<b>(10)</b>

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<b>Level 1</b>	<b>1–2</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
<b>Level 2</b>	<b>3–4</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
<b>Level 3</b>	<b>5–6</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
<b>Level 4</b>	<b>7–10</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

<b>Question number</b>	Evaluate Edward's legal rights and remedies under The Human Rights Act 1998.  <b>Indicative content</b>	<b>Marks</b>
<b>5</b>	<p style="text-align: center;"><b>(2 AO1), (2 AO2), (8 AO3), (8 AO4)</b></p> <p><b>Responses are likely to include:</b></p> <p>Identification of <b>Article 10</b> of The Human Rights Act:</p> <ul style="list-style-type: none"> <li>• Covers freedom of expression</li> <li>• Right to hold opinions</li> <li>• Right to impart information and ideas</li> <li>• Right to receive information and ideas</li> <li>• It is a qualified right</li> <li>• Interference with the right depends on the state showing that a restriction protects one or more of a list of legitimate aims</li> </ul> <p>For Article 10, consideration of:</p> <ul style="list-style-type: none"> <li>• Edward has right to hold opinions such as that the election was "stolen"</li> <li>• Edward has the right to impart information &amp; ideas including any that others may find shocking, disturbing or offensive, <i>Handyside v UK</i></li> <li>• Edward's imparting of political views in particular have been held to be well protected on election fraud, social media and in his book are protected by Article 10 even if offensive and disturbing to others,</li> <li>• Edwards views on social media and in his books need to be assessed under 6 criteria to establish if they are covered by article 10(2) or should be restricted, e.g. Whether the book and social media posts contribute to a debate of general interest &amp; the severity of the sanction, <i>Axel SpringerAG v Germany</i></li> <li>• Edward's book is described as "controversial" but he may argue that it adds to public debate with the sanction of being charged with a criminal offence being an unbalanced reaction to his right to expression as an author</li> <li>• Edward may also argue that even though his views both on the March against election fraud, his comments on social media and his controversial book infringe his rights to freedom of expression even though his views may be unpalatable, <i>Garuady v France</i></li> <li>• However, restricting Edwards rights can be allowed as long as its shown it is prescribed by law, it has a legitimate aim, is necessary in a democratic society and is within the margin of appreciation</li> </ul>	<b>(20)</b>

- Edwards comments on social media and his book may be restricted if it can be shown that it is for the prevention of crime, such as his words might incite disorder, either on the march or in his book or social media posts, *Surek v Turkey*
- Alternatively, Edward's social media ban may not infringe his rights if it can be shown that they were defamatory and/or could incite criminal activity such as the phrase "fight back", e.g. *Editorial Board of Parvoye Delo v Ukraine*
- Conclude that unless Edward's social media comments and comments in his book can be said to criminal or defamatory the criminal charge and ban are a breach of his rights under article 10

Identification of **Article 11** of The Human Rights Act:

- Covers freedom of peaceful assembly
- Freedom of association with others
- The right to form and to join trade unions for the protection of interests
- Right to hold opinions
- Right to impart information and ideas
- Right to receive information and ideas
- It is a qualified right
- Interference with the right depends on the state showing that it is accordance with the law, necessary and proportionate

For Article 11, consideration of:

- Edward and his followers have a right to peaceful assembly which includes meeting publicly and the march to parliament.
- Edward has a right to associate with any one in his political party at the march, e.g. *Redfearn v UK*
- Peaceful assembly includes any counter demonstrations such as the violent mob even if it annoys or offends others, e.g. *Plattform Arzte fur das Leben v Austria*
- The police may argue that the march and Edward's rights to protest have been legally restricted due to breach of the peace of the 'violent mob' and the legitimate aim was in the interests of the prevention of crime or protecting public safety, e.g. *McClure & Moos v Commissioner of Metropolitan Police, Cisse v France*
- Edward may argue that the interference with his rights to protest was not 'necessary in a democratic society' as there was no social need for the Police's interference in stopping the march and it was disproportionate to send everyone home. The Police should have simply kept the protestors apart *R (Laporte) v Chief Constable of Gloucestershire*

- Coming to logical conclusions focusing on key elements of each article and appropriate remedies such as the right of Edward to seek a judicial review against the Police for stopping the march and charging him with criminal offence for his book comments. Edward would have to take the social media companies to court to argue that their application of their terms and conditions banning his accounts infringes Article 11.

**NB:** Credit any other suitable discussions including defamation, judicial review, orders that can be made the court, referrals to the ECtHR and appeals process

<b>Level</b>	<b>Mark</b>	<b>Descriptor</b>
	<b>0</b>	A completely inaccurate response.
<b>Level 1</b>	<b>1–4</b>	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
<b>Level 2</b>	<b>5–8</b>	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
<b>Level 3</b>	<b>9–14</b>	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
<b>Level 4</b>	<b>15–20</b>	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>