Examiners' Report
Principal Examiner Feedback

Summer 2024

Pearson Edexcel International Advanced Level in Law (YLA1)

Paper 2: The Law in Action

Paper YLA1/02

Introduction

The paper examines many of the areas of substantive law from the specification. The vast majority of candidates attempted all questions with a much increased number providing excellent responses across a range of different areas of the specification. Interpretation of command words showed a clear improvement over previous sessions. Candidates' responses overall showed a clear improvement in the use of appropriate case law and legislative provisions to enhance their answers though this needs to continue across all entries. Application of appropriate legal principals has also shown a measurable improvement across candidate responses.

General issues

Questions of 2 or 4 marks are asking candidates for points based answers which means they could receive a mark for every correct accurate point made in answering the question. Space provided for answers should inform candidates of the brevity of response required. Command words such as 'State' and 'Explain' gain marks for providing knowledge, explained examples and/or identification of specific legal concepts from the questions. A key point that should be stressed with candidates is that question 4(a) 'Identify' only awards marks for a brief application (A02) of the legal issues to the scenario. There are no marks awarded for knowledge (A01) no matter how detailed and expansive this.

Questions worth 6, 10, 14 or 20 marks are asking candidates to provide an assessment of a legal issue or a problem given using a combination of relevant legal knowledge combined with an assessment of the issue. Candidates' answers are awarded a mark based on the level of response they display reading their answer as a whole.

A level is awarded starting from L4, the highest level of assessment objective skills (A01,A02, A03, A04), working downwards until a 'best fit' can be seen between the level and the student's response.

Analyse questions using the command word 'Analyse' required candidates to weigh up a legal issue with accurate knowledge supported by either case law, legislative provision or legal theories, displaying developed reasoning and balance. There was no requirement to offer any conclusions. The amount of space provided should inform candidates as to the level of detail required to score 6 marks.

10, 14 and 20-mark questions required candidates to approach a legal problem with accurate knowledge supported by appropriate and relevant case law, legislative provision and legal theories and apply this to the scenario. Discussions of relevant issues needed to be well developed, with candidates showing where the evidence in the scenario supported legal authority and where it was lacking. Comparisons of conflicting evidence and legal arguments needed to be demonstrated by candidates with a balanced comparison and justified conclusions based on the case law/legislation.

For all questions worth 6 to 20 marks analysis starts with candidates only discussing relevant legal principles that are contentious to answering the question. These areas were expected to take up the majority of candidate responses with settled areas of law being worth a small amount of credit.

Important notes regarding assess and evaluate questions

It is important to emphasise with centres that candidates have a number of options when undertaking problem solving questions. Particularly for questions worth 10 marks and above.

Whilst any approach to answering a legal problem is able to access the full range of marks it may be helpful to re-emphasise two established approaches:

The vertical approach has been the traditional approach to answering legal questions. This is where an answer looks at each aspect of the law in turn and explains and applies the law to the problem, reach a conclusion on each aspect as the answer develops. It is often seen as a logical approach to legal problem solving that helps candidates focus on the ingredients in the area of law being examined. For example, in a criminal law problem the answer could explain the first element of crime, including any relevant cases and acts, and then link these to the facts of the scenario picking up marks for knowledge, application, analysis and evaluation.

The horizontal approach is an alternative approach where all the law relevant to solving the legal problem is firstly explained in detail. For example, the candidate may take up the first 2 or 3 paragraphs of their answer with relevant knowledge and understanding of the law. The rest of the essay then undertakes the analysis, application and evaluation elements of the essay, with only passing reference to established legal concepts. Some students may find this more direct approach quicker and less complicated.

Both approaches allow full access to A01, A02, A03, and A04 marks.

Applying evidence in a problem solving question

Using the vertical approach to legal problem solving allows students to combine legal principles (A01) with application (A02, A03, A04). The best responses combined all of the assessment objectives across the response as follows:

Identify – The elements of offence/defence/tort etc. that are contentious

Define – Give more details of the law

Explain – The relevant law/legal rules in detail from cases

Apply – Apply the legal rules to the facts of scenario and conclude on each element.

Question 1a

The command word is 'State' which requires candidates to give a one step, short answer.

This question is a points based one where the candidate needs to give one difference between the tort of negligence for 1 knowledge mark and another difference with the contract law for a further development mark of 1.

The vast majority of candidates managed to gain one mark for stating the meaning of offer. Weaker candidates scored no marks as they simply stated the components of a contract such as acceptance. Many students were able to develop the meaning of offer such as it must be unambiguous or used a case illustration such as Gibson v MCC.

Question 1b

The command word is 'explain' which requires candidates to show understanding of the law through an explanation with application or relevant case law.

This question is a points based one where the candidate needs to explain 2 meanings of 'capacity' in the formation of a contract for 2 knowledge marks. For the application marks the candidate then needed to give an example/development of their point, ideally using a relevant case explanation.

The best answers were able to give 2 meanings of 'capacity' and one development using a case with Peters v Flemming being popular, for 3 marks. The best responses scored full marks. Many candidates were able to score 1 or 2 marks for either a creditable meaning of 'capacity' or the use of an appropriate example such minors inability to have capacity. However, some answers were confused, discussing the elements of a contract, gaining little credit.

Question 1c

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Evaluate', which was looking for an extended answer, identifying areas of law which were given and some which were not. Candidates needed to draw a conclusion based on the law, its application and evaluation, with use of the problem.

Weaker responses tended to simply rewrite the problem as a descriptive answer adding in some logical deduction, scoring little credit. Other responses failed to answer the question on breach, instead going through the formation of a contract. Eventually responses got to the breach issue, but this significantly impacted on marks. Better responses were able to identify the issue of breach of contract in terms of warranty and condition issues. The issue of misrepresentation and the Consumer Rights Act 2015 were allowed as additional or alternative arguments.

For **level 1** candidates were able to give basic knowledge of relevant breach of contract

For **level 2** candidates were able to relate the law on breach of contract Fatna's situation briefly. Case law was often missing or not appropriately applied. Remedies were discussed but briefly.

For **level 3** candidates were able to relate breach of contract to Fatna's situation including relevant case law. At the top of this level evidence was provided of specific elements of the breach of contract such as an explanation of the case of Bettini v Guy and apply this to the scenario.

For **level 4** candidates were able to discuss breach of contract using appropriate terminology and case law, together with an evaluation of whether or not Fatna was able to gain any damages. Explanation and application of appropriate terminology was effectively used. Relevant case law was used throughout the answer. The best answers correctly gave a reasoned judgment as to Fatna's situation.

Question 2a

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Analyse', which was looking for a detailed answer, identifying the defences to a claim of negligence. There was no need for candidates to provide a conclusion.

This question was poorly answered in general, with many responses struggling to identify the correct principles from which to analyse the situation. Such responses brought in Intoxication as a general argument, which attracted limited credit. Others based their answer on the defence of criminal intoxication, which clearly had little relevance to the law of negligence. Better responses identified that there was contributory negligence Volenti. However, development of arguments was often weak. The best responses developed contributory negligence using relevant case law, some quoting the case of Morris v Murray, from which the scenario was based.

For a **level 1** candidate response displayed a basic knowledge of a defence to negligence such as intoxication.

For a **level 2** response (3 or 4 marks) basic knowledge contributory negligence or Volenti non fit injuria was developed with an outline of the law such as the meaning of contributory negligence and then related briefly and accurately to the scenario.

For a **level 3** response candidates explained a broad range of case law on contributory negligence with relevant application to Aki's situation. Remedies may have also been covered briefly.

Question 2b

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Evaluate', which was looking for an extended answer, identifying areas of law which were given and some which were not. Candidates needed to draw a conclusion based on the law, its application and evaluation, with use of the problem.

The question was asking candidates to apply their knowledge and understanding of the concepts of causation and is links to a claim for negligence. As with question 1c a large number of candidates slavishly discussed in great detail the

components of negligence such as duty of care and breach. This gained little if any credit as it wasn't answering the set question. However, even weak responses were able to give some knowledge of causation and remoteness together with some general comments on damages. Weaker responses tended to attempt a common sense application of the issues surrounding remoteness of damage and/or causation together with some general view on liability and damages, which gained limited credit. The best responses gave a very detailed explanation and application of relevant issues on remoteness and causation, together with relevant cases. Such responses understood that there was no point discussing any other elements of negligence as this was not the focus of the question.

For **level 1** candidates were able to give basic knowledge of an element of whether Rohan caused damage such as a basic definition.

For **level 2** candidates were able to relate the law on causing damage in negligence to the situation. Case law was often missing or not appropriately applied.

For **level 3** candidates were able to relate specific case law and rules relating to causing damage in negligence to the situations including.

For **level 4** candidates were able to discuss law on causing damage in negligence using appropriate terminology and case law, together with an evaluation of whether or not there was a breach. Explanation and application of appropriate terminology was effectively used. Relevant case law was used throughout the answer.

Question 3a

The command word is 'Describe' which requires candidates to show understanding of the law through an explanation or relevant case law.

This question is a point based one where the candidate needs to describe 2 situations where an individual is entitled to request information under the Freedom of Information Act 2000 (FOI) for 2 knowledge marks. For the explanation marks the candidate then needs to give an expansion of each possible situation, which can use a case of legislation.

This was a poorly answered question with many candidates scoring few marks. Candidates either had no valid points to make regarding FOI or confused the Act with rights to access an individual's own data. There were some good responses with A01 credited for a definition or general rule on situations when information can be requested. Candidates were able to develop their points with examples of organisations covered by the FOI such as the NHS or police. Few responses gained full marks.

Question 3b

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Analyse', which was looking for a detailed answer, identifying the key issues regarding a case of defamation and any available remedies. There was no need for candidates to provide a conclusion. As this was a 6-mark response, candidates could gain full marks for brief discussion across the question or focusing in more detail on just defamation.

Many candidates displayed a basic understanding of the law of defamation. Weaker responses were able define and identify that there was a defamation and that Dr Strange was owed some type of remedy (usually damages) from Afia.

For a **level 1** candidate response a basic knowledge of the defamation or an attempt at an application, such as identifying who the claimant and defendant are and a brief definition of defamation.

For a **level 2** response (3 or 4 marks) candidates often applied the law on defamation and application appropriate to Dr Strange's situation in a limited way.

For **level 3** responses candidates gave appropriate arguments as to why this was defamation identifying the relevant elements and applying them briefly to the situation. This may have included identifying relevant remedies such as damages and often had relevant case law and/or sections of the Defamation Act. A number of responses gained full marks with a good balance of detail.

Question 3c

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Assess', which was looking for an extended answer, looking at a specific area of law. Candidates needed to weigh up factors and events and identify the most important or relevant issues. There was no need for a conclusion though students often attempted to make one.

This question generally had some good responses with case law and detailed legislative provision on the issues related to Article 8 of The Human Rights Act 1998. However, there were a number of weaker responses that made little use of cases with the law implied from their answer. The best responses gave relevant sections from the Act and worked logically through issues such as the fact that Article 8 is a qualified right.

For **level 1** candidates were able to give basic knowledge of the law on Article 8 of the Human Rights Act, such as reference to a right to privacy.

For **level 2** candidates were able give a general assessment of the evidence related to one or more elements of Article 8. Answers were generic with limited discussion of the key issues.

For **level 3** candidates were able to relate in detail one or more of the key elements of Article 8 to Navin's situation such as his previous convictions and the infringement of his right by the planting of a listening device at his home. Some case law or legislation provision was used but answers often failed to assess the evidence by way of discussion, with assertions. Case law and/or reference to elements of legislation were presented though may have sometimes lacked detail or contained errors.

For **level 4** candidates were able to assess whether or not Navin's rights under Article 8 had been infringed weighing up the duty not to interfere with his rights vs potential threats to national security. The best answers weighed up the qualified right considering whether the states actions were proportionate to the possible risk Navin posed to national security. Case law and/or reference to elements of legislation were presented with detail and relevant application, leading to appropriate conclusions.

Question 4a

The command word is 'Identify' which requires candidates give brief explanations and/or examples of the focus of the question. There is no requirement or expectation to write a lot about a topic. With this question candidates needed to identify which incidents were likely to be covered by either of the Occupiers' liability Acts.

This question is a points based one where the candidate needs to provide brief application of the law the Occupiers' liability Acts from the scenario to gain 4 A02 marks. A much greater number of responses were much more focused on the command in the question resulting in many higher scoring answers. There were a smaller number of candidates who clearly did not understand there are no marks awarded for A01. Even though there were excellent definitions of concepts such how a duty arises, they gained 0 marks as they did not apply this to the scenario. Sometimes this could take up most of the space available for the answer.

However, many candidates scored well on this question with the correct identification of at least 2 of the situations were covered by the Occupiers' liability Acts. A very good approach was often used by the best scoring candidates. A short sentence explaining what element of the Occupiers' liability Acts was relevant followed by an appropriate identification of when they applied to specific situations.

Even good responses still ran out of space in the answer booklet, emphasising the need for brevity and more focus on A02 skills rather than detailed discussion of the theory of the Occupiers' liability Acts.

Question 4b

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Analyse', which was looking for a detailed answer, identifying the key issues regarding whether Jalil could use the law on trespass and any relevant remedies.

There was no need for candidates to provide a conclusion.

Responses were generally of a good quality with only the weakest candidates achieving less than 3 marks. The best responses defined each element of the trespass with relevant case law and brief application.

For a **level 1** candidate response shows a basic knowledge of the law on trespass such as a definition and/or some application to the scenario.

For a **level 2** response (3 or 4 marks) candidates often identified elements of trespass and attempted an application to the scenario, though case law and detail was often lacking.

For **level 3** responses candidates used case law for elements of the trespass briefly applying this to Rebecca's situation, using relevant case law. Responses then went on to briefly discuss remedies such as an injunction.

Question 4c

This was marked using a 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Assess', which was looking for an extended answer, looking at a specific area of law. Candidates needed to weigh up factors and events and identify the most important or relevant issues. There was no need for a conclusion though students often attempted to make one.

This question could be approached in three ways. Ideally the response would have focused on the Occupiers' Liability Act 1957. However, credit was also available for approaches that used the Occupiers' Liability Act 1984 or negligence. Most candidates focused on the Occupiers' Liability Act 1957. Poor responses attempted to undertake a general analysis of the scenario with little law as a foundation, gaining few marks. Better responses concentrated on issues such as lawful visitors, lack of reasonable warnings and the independent contractor defence.

For **level 1** candidates were able to give basic knowledge of the law on Occupiers' Liability Act no case law and weak application.

For **level 2** candidates were able give a general assessment of the evidence and often identified who was the lawful visitor and where the breach of duty occurred, but with little case law. Answers were generic with limited discussion of the key issues.

For **level 3** candidates were able to relate in detail one or more of the key issues in Occupiers' Liability Act, such as that Amy was a specialist visitor. Case law was used but answers often failed to assess the evidence by way of discussion, with assertions.

For **level 4** candidates were able to assess whether or not the Ade had breached his duty of care under the Occupiers' Liability Act. The best answers went logically through the general elements of the Occupiers' Liability Act (e.g. who was the occupier, the duty, the lawful visitor, the breach, any defence). The best responses picked up on the issues surrounding the reason the independent contractor defence was likely to fail and gave possible remedies.

Question 5

This was marked using some 'levels of response' based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions. This is the question candidates need to spend some time on due to the level of marks available.

The command word in this question was 'Evaluate', which was looking for an extended answer, identifying areas of law which were given and some which were not. Candidates needed to draw a conclusion based on the law, its application and evaluation, with use of the problem.

Candidates needed to consider the elements of 3 offences, for a number of situations. There was an offence of blackmail, one of criminal damage and potentially 2 offences of Fraud. Ideally candidates needed to only deal with the contentious issues rather those that were settled.   A big improvement from previous sessions were the number of candidates who were able to identify all the correct offences, particularly the Fraud offence. Few responses failed to gain at least some marks. Some responses, probably due running out of time, only managed to cover 2 offences.

Weaker answers attempted a generic application of one or more of the offences. At the other end of the scale there were some outstanding applications of the law giving detailed knowledge of sections that were relevant to each offence, case law and an excellent assessment of the evidence. Mens Rea of offences was applied correctly by such responses.

Important: The case of R v Ghosh is no longer good law for the purposes of dishonesty. Initially the case was overruled by Ivey v Genting Casinos (unusually a civil case). This case has now been confirmed with the leading criminal precedent of **Barton & Booth-v-The Queen [2020] EWCA Crim 575.** This case should now be used by centre and students whenever they are discussing the definition of dishonesty for crimes such as Fraud. Ghosh or Ivey can no longer be given full credit.

For **level 1** candidates were able to give basic knowledge of one of the offences. Superficial application of some elements of the law were made to the scenario with no case law.

For **level 2** candidates were able to relate the law on at least one of the offences to the situation. There was little evidence of relevant case law applied to the scenario. Candidates answers tended to be generic and unfinished.

For **level 3** candidates were able to relate the law one or two of the offences to the scenario with relevant case law and more detailed application. Higher scoring answers were able to provide more detailed discussion and application on using sections of the relevant act.

For **level 4** candidates were able to discuss whether or not of two or three of the offences had been committed in detail with excellent application of relevant elements. Cases and legislation were used in detail to support discussions and outcomes were discussed.

Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- Read the questions and pay careful attention to what the command words are asking you to do. This will mean answers will be more focused on what gains marks.
- Use relevant case law and legislation for the areas of the problem that are felt to be contentious and try to only briefly discuss areas that are non-contentious.
- Consider using the horizontal or vertical technique to writing answers for problems worth 6 to 20 marks. Some candidates may gain more confidence and more marks by being encouraged to write down the law with a brief explanation at the start of their answers. They can concentrate on applying the law to the scenario.
- Split longer questions which have multiple situations, key areas of law, claimants or defendants into headings in the answer. This helps with logical structure, analysis and evaluation and avoids candidates missing areas of law due to time pressure.

As all areas of the specification are open to examination it is critical candidates have the opportunity