



GCE AS MARKING SCHEME

SUMMER 2024

**AS
LAW - COMPONENT 2
UNDERSTANDING SUBSTANTIVE LAW
B150U20-1**

About this marking scheme

The purpose of this marking scheme is to provide teachers, learners, and other interested parties, with an understanding of the assessment criteria used to assess this specific assessment.

This marking scheme reflects the criteria by which this assessment was marked in a live series and was finalised following detailed discussion at an examiners' conference. A team of qualified examiners were trained specifically in the application of this marking scheme. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners. It may not be possible, or appropriate, to capture every variation that a candidate may present in their responses within this marking scheme. However, during the training conference, examiners were guided in using their professional judgement to credit alternative valid responses as instructed by the document, and through reviewing exemplar responses.

Without the benefit of participation in the examiners' conference, teachers, learners and other users, may have different views on certain matters of detail or interpretation. Therefore, it is strongly recommended that this marking scheme is used alongside other guidance, such as published exemplar materials or Guidance for Teaching. This marking scheme is final and will not be changed, unless in the event that a clear error is identified, as it reflects the criteria used to assess candidate responses during the live series.

EDUQAS GCE AS LAW

COMPONENT 2: UNDERSTANDING SUBSTANTIVE LAW

SUMMER 2024 MARK SCHEME

Marking guidance for examiners

Summary of assessment objectives for Component 2

All the questions in this component assess assessment objectives AO1, AO2 and AO3. AO1 focuses on the ability to demonstrate knowledge and understanding of legal rules and principles. AO2 focuses on the ability to apply legal rules and principles to given scenarios in order to present a legal argument using appropriate terminology, and AO3 focuses on the ability to analyse and evaluate legal rules, principles and concepts.

The structure of the mark scheme

The mark scheme for Section A and Section B has two parts:

- Indicative content which can be used to assess the quality of the specific response. The content is not prescriptive and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.
- An assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1, AO2 and AO3.

Stage 1 – Deciding on the band

Beginning at the lowest band, examiners should look at the learner's answer and check whether it matches the descriptor for that band. If the descriptor at the lowest band is satisfied, examiners should move up to the next band and repeat this process for each band until the descriptor matches the answer.

If an answer covers different aspects of different bands within the mark scheme, a "best fit" approach should be adopted to decide on the band and then the learner's response should be used to decide on the mark within the band. For instance, if a response is mainly in band 2 but with a limited amount of band 3 content, the answer would be placed in band 2 but the mark awarded would be close to the top of band 2 as a result of the band 3 content.

Examiners should not seek to mark candidates down as a result of small omissions in minor areas of an answer.

- The first stage for an examiner is to use both the indicative content and the assessment grid to decide the overall band.
- The second stage is to decide how firmly the characteristics expected for that band are displayed.
- Thirdly, a mark for the question is awarded.

Stage 2 – Deciding on the mark

During standardising (marking conference), detailed advice from the Principal Examiner on the qualities of each mark band will be given. Examiners will then receive examples of answers in each mark band that have been awarded a mark by the Principal Examiner. Examiners should mark the examples and compare their marks with those of the Principal Examiner.

When marking, examiners can use these examples to decide whether a learner's response is of a superior, inferior or comparable standard to the example. Examiners are reminded of the need to revisit the answer as they apply the mark scheme in order to confirm that the band and the mark allocated is appropriate to the response provided.

Indicative content is also provided for banded mark schemes. Indicative content is not exhaustive and any other valid points must be credited. In order to reach the highest mark bands of the mark scheme a learner need not cover all of the points mentioned in the indicative content but must meet the requirements of the highest mark band. Where a response is not creditworthy, that is contains nothing of any significance to the mark scheme, or where no response has been provided, no marks should be awarded.

Section A: Private Law

Question 1: Law of Contract

(a) Explain the elements of a valid contract.

[6]

Indicative Content:

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.*

In explaining the elements of a valid contract, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the essential elements of a contract. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on contract law.

The response might consider issues such as:

- A contract is an official agreement.
- It can be written or oral.
- Contracts can be written by using formal or informal terms, or entirely verbal or spoken.
- It is a promise made between two or more parties which allows the courts to make judgement.
- An agreement requires six important elements to render it a valid contract: offer, acceptance, consideration, intention to create legal relation, certainty and capacity. Without these elements, it would be an invalid contract.

Assessment grid for Q1(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to the law governing the elements of a valid contract. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to the law governing the elements of a valid contract. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to the law governing the elements of a valid contract. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(b) Explain the law surrounding intention to create legal relations between family and friends. [6]

Indicative Content:

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.*

In explaining the meaning of intention to create legal relations, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the essential elements of a contract. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on the essential elements of a contract.

The response might consider issues such as:

- Explanation of the need for there to be an intention to create legal relations in order to make a contract valid.
- Generally social and domestic agreements cover family and friends, and the courts will presume that there is no intention to create legal relations unless there is evidence to the contrary. Explained through cases such as *Balfour v Balfour* (1919); *Merritt v Merritt* (1970); *Simpkins v Pays* (1955).
- Conversely in commercial and business agreements, the courts will presume an intention to create legal rules exists unless there is evidence to the contrary. See *Jones v Vernons Pools* (1938); *Esso Petroleum v Commissioners of Customs and Excise* (1976).

Assessment grid for Q1(b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to the requirement for an intention to create legal relations in contract law. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to the requirement for an intention to create legal relations in contract law. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to the requirement for an intention to create legal relations in contract law. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(c) **Assess the importance of the postal rule in the law of contract.**

[9]

Indicative content:

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In order to achieve the highest marks, candidates must demonstrate their ability to draw together details from areas including the essential elements to the acceptance of a contract. Candidates will offer an assessment of the legal rules, principles and concepts in order to assess the significance of the postal rule of acceptance to the formation of valid contracts.

The response might consider issues such as:

- Communication of acceptance by post raises issues of contractual timing and when the acceptance is complete. Clearly this occurs because there is a lapse of time between the posting of a letter and it arriving with the recipient. Therefore the 'postal rule' has been developed.
- The postal rule - Where it is agreed that the parties will use the post as a means of communication, the postal rule will apply. The postal rule states that, where a letter is properly addressed and stamped, acceptance takes place when the letter is placed in the post box - *Adams v Lindsell (1818)*. It therefore creates an exception to the principle that acceptance is not completed until it is communicated to the offeror.
- The postal rule provides certainty for the acceptor who knows that there is a binding contract as soon as he/ she posts his letter of acceptance.
- The offeror can create certainty by stipulating that he/ she must receive acceptance before it is binding or setting other such limits. The offeror is in a position to effectively oust the postal rule and if he/ she chooses not to, then he is subject to the limitations of postal communication: *Household Fire & Carriage Accident Insurance Co. v Grant (1879)*
- Limitations -The postal rule only applies to acceptance and not to other communication between contracting parties; the postal rule does not apply where it was not reasonable for the acceptance to be sent by post, for example when the offer was made by a more instantaneous method such as a telegram in- *Quenerduaine v Cole (1883)* ;the postal rule does not apply if the letter was not properly stamped, addressed and posted - *Re London & Northern Bank, ex p. Jones [1900]* • The postal rule can be displaced by the offeror: *Holwell Securities Ltd v Hughes [1974]*

Assessment grid for Q1(c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	8-9	- Excellent analysis of legal rules, principles and concepts relevant to the use of the postal rule in contract law. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. - Excellent evaluation of the use of the postal rule in contract law, including a valid and substantiated judgement. - Excellent citation of supporting case law and legal authorities.
3	6-7	- Good analysis of legal rules, principles and concepts relevant to the use of the postal rule in contract law. Analysis is generally detailed with appropriate range of supporting evidence. - Good evaluation of the use of the postal rule in contract law, including a valid judgement. - Good citation of supporting case law and legal authorities.
2	3-5	- Adequate analysis of legal rules, principles and concepts relevant to the use of the postal rule in contract law. Analysis includes some detail with some supporting evidence. - Adequate evaluation of the use of the postal rule in contract law, including reference to a valid judgement. - Adequate citation of supporting case law and legal authorities.
1	1-2	- Basic analysis of legal rules, principles and concepts relevant to the use of the postal rule in contract law. Analysis includes minimal detail. - Basic evaluation of the use of the postal rule in contract law. - Basic citation of supporting case law and legal authorities.
	0	Response not credit worthy or not attempted.

The scenario below should be used when assessing part (d)

Read the scenario below and answer part (d)

On Monday morning, Tristan had a phone call from the art gallery where he exhibits his sculptures saying that Cynthia was interested in buying one of his pieces of work. Tristan phoned Cynthia that Monday evening, stating that he was prepared to sell her the sculpture for £650. She was unsure and so he agreed to hold it for her until 5:30 pm the next day. Cynthia phoned Tristan at 9:30am the next morning and said that she would give him £575 for the sculpture; Tristan said that he would think about it. However, later that morning Steve who was visiting the gallery fell in love with the sculpture and offered Tristan the asking price. Tristan accepted and the sculpture was sold. When Cynthia phoned later on the Tuesday afternoon stating that she wanted to buy the sculpture and offering to pay £650 for it, the gallery informed her that it was no longer available.

(d) Advise Cynthia as to whether a valid contract has been formed. [9]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Cynthia, candidates are expected to apply the full range of legal rules and principles relating to her situation. In this case, candidates will need to apply contract law, including the elements essential to valid contract and to use relevant case law in relation to the given scenario in order to present a legal argument.

Candidates should consider the essential elements necessary for there to be a valid contract:

- Offer, acceptance, consideration, intention to create legal relations should be taken into account and applied to the scenario.
- Tristan offers to sell the sculpture to Cynthia for £650.
- Cynthia does not accept his offer but makes a counteroffer (*Hyde v Wrench 1940*) which terminates the original offer. She therefore creates a new offer. Tristan does not accept the counteroffer.
- Later that day, Steve makes an offer for the full asking price, providing consideration in the sum of £650. Tristan accepts the offer.
- As this is a commercial contract, there is a presumption that there is an intention to create legal relations (*Edwards v Skyways 1969*).
- All the requisite elements of a contract are present between Steve and Tristan and therefore there is a valid contract.
- Cynthia did not provide additional consideration for Tristan's initial agreement to hold the painting for her until the following morning and therefore cannot sue on that promise.

Assessment grid for Q1(d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	8-9	• Excellent application of legal rules and principles to Cynthia's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the formation of a valid contract. The legal argument is detailed, fully developed and persuasive.
3	6-7	• Good application of legal rules and principles to Cynthia's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the formation of a valid contract. The legal argument is generally detailed, developed and persuasive.
2	3-5	• Adequate application of legal rules and principles to Cynthia's situation. • Adequate presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the formation of a valid contract. The legal argument includes some detail which is developed in places.
1	1-2	• Basic application of legal rules and principles to Cynthia's situation. • Basic presentation of a legal argument using minimal legal terminology relating to the formation of a valid contract. The legal argument includes minimal detail.
	0	Response not credit worthy or not attempted.

Question 2: Law of Tort

- (a) Explain what is meant by a duty of care under the law of tort. [6]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining duty of care, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying a duty of care. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on negligence.

Responses might consider issues such as:

- History of test for duty of care – *Donoghue v Stevenson* (1932).
- A person must take reasonable care to avoid acts or omissions which could be reasonably foreseen to likely injure a neighbour.
- Test of reasonable foreseeability.
- Who is your 'neighbour'? – persons who are so closely and directly affected by the defendant's act that they ought to have them in their contemplation.
- Possible illustrative examples such as the duty of care owed by drivers to pedestrians and other road users along with relevant cases.
- Test redefined in *Caparo v Dickman* (1990). Three elements must be proved: Reasonable foreseeability that a person in the claimant's position would be injured; there was sufficient proximity between the parties.; it is fair, just and reasonable to impose liability on the defendant.
- *Robinson v CC West Yorkshire* (2018) – SC confirmed that the third element of *Caparo* would not need to be considered where the actions of a public body risk causing harm.

Assessment grid for Q2(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to duty of care in the law of tort. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to duty of care in the law of tort. • Response is generally clear, detailed and fully developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to duty of care in the law of tort. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(b) Explain what is meant by a primary victim and a secondary victim.

[6]

Indicative content

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.*

In explaining what is meant by primary and secondary victims, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles applying in these situations. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on negligence.

The response might consider issues such as:

- A primary victim is one who suffers injury after being directly involved in an accident and is either physically injured or put in fear of injury. Such a person can recover damage not only for physical injuries but also for psychiatric injury due to the negligence of another (*White v CC South Yorkshire 1998*). It does not matter if the victim is more susceptible to shock.
- A secondary victim is where the claimant has suffered some type of psychiatric injury as a result of witnessing or being informed about an accident involving another. To be classified as a secondary victim there must be a proximity in terms of relationship with a primary victim by way of close ties of love and affection; the secondary victim must have witnessed the accident with his/her own unaided senses, heard the event in person or viewed its immediate aftermath.
- Candidates may refer to case law such as *Hambrook v Stokes Bros (1925)*; *McCloughlin v O'Brian (1983)*; *Page v Smith (1996)*; *Alcock v Chief Constable of South Yorkshire Police (1992)*.

Assessment grid for Q2(b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to primary and secondary victims in the law of tort. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to primary and secondary victims in the law of tort. • Response is generally clear, detailed and fully developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to primary and secondary victims in the law of tort. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(c) Assess the different types of damages available under the law of tort. [9]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content.

Examiners should seek to credit any further admissible evidence offered by candidates.

In order to achieve the highest marks, candidates must demonstrate their ability to draw together details of the different types of damages in the law of negligence and to *evaluate* them. Candidates will offer an assessment of the legal rules, principles and concepts in order to assess the award of damages in tort. In order to assess this issue, candidates will offer an assessment of the purpose of both general and special damages.

The response might consider issues such as:

- Damages in a negligence case are compensatory.
- Purpose is to put the claimant in the position he/she would have been in had the negligent event not occurred.
- Actual losses and future losses can be compensated.
- Mitigation of loss must be considered.
- Two types of damages:
- Special damages - compensation for the financial losses incurred up to the date of the trial, things that can be given an exact figure, e.g. medical expenses, prescriptions, loss of earnings up to the date of trial. Deductions can be made so that the claimant does not profit. Calculation for special damages.
- Evaluation of the extent to which this compensates adequately.
- General damages cover all losses that are not capable of exact quantification and are further divided into pecuniary and non-pecuniary damages.
- Pecuniary damages – main type is future loss of earnings. The courts calculate this amount using the multiplicand and the multiplier, these are multiplied together in order to calculate future losses. Use of judicial guidelines is also instrumental in this regard. Evaluation of the extent to which this adequately compensates the victim. Awards where victim is a child – *Giambrone v JMC Holidays* 2002.
- Non-pecuniary damages – provides for pain and suffering, loss of amenity, damages for the injury itself.
- Discussion of other remedies where damages will not suffice.

Assessment grid for Q2(c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	8-9	- Excellent analysis of legal rules, principles and concepts relevant to the different types of damages available under the law of tort. - Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. Excellent citation of supporting case law and legal authorities. - Excellent evaluation of the different types of damages available under the law of tort, including a valid and substantiated judgement.
3	6-7	- Good analysis of legal rules, principles and concepts relevant to the different types of damages available under the law of tort. - Analysis is generally detailed with appropriate range of supporting evidence Good citation of supporting case law and legal authorities. - Good evaluation of the different types of damages available under the law of tort, including a valid judgement.
2	3-5	- Adequate analysis of legal rules, principles and concepts relevant to the different types of damages available under the law of tort. - Analysis includes some detail with some supporting evidence. Adequate citation of supporting case law and legal authorities. - Adequate evaluation of the different types of damages available under the law of tort, including reference to a judgement.
1	1-2	- Basic analysis of legal rules, principles and concepts relevant to the different types of damages available under the law of tort. - Analysis includes minimal detail. Basic citation of supporting case law and legal authorities. - Basic evaluation of the different types of damages available under the law of tort.
	0	Response not creditworthy or not attempted.

The scenario below should be used when assessing part (d)

Read the scenario below and answer part (d).

Following a major storm, Sunita saw pieces of broken tile from her roof on the driveway and realised that there was a hole in the roof of her house caused by the bad weather. Colin, a local roofer said that there were four tiles missing and that he would be back later in the day to deal with it. Sunita took the day off work and Colin arrived at the end of the afternoon when the light was fading. He was quick in replacing the tiles and, much to Sunita's relief, soon told her that the job was done. A week later, unbeknown to Sunita, some of the tiles had started to slip off the roof as Colin had not secured them properly. That same day, Anna, a delivery driver, dropped off a case of wine to Sunita. It was another windy day and, as she made her way down the drive, Anna was hit on the back of the head by a loose tile which came off the roof. She was severely concussed and had to take several weeks off work.

- (d) Applying your knowledge and understanding of legal rules and principles, advise Anna if she has a valid claim under the Occupiers Liability Act 1957. [9]**

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Anna, to demonstrate their knowledge of the law, candidates are expected to *apply* the legal rules and principles underlying the law on occupiers' liability under the 1957 Act. In demonstrating and applying their knowledge, candidates are required to focus on the specific nature of the question set and consider the 1957 Act specifically.

The response might consider issues such as:

- The Occupiers' Liability Act 1957 provides that an occupier of premises owes a duty of care to lawful visitors and, if that duty is breached and the visitor is injured, he/she is entitled to receive compensation.
- Definition of occupier – maybe but does not have to be the owner or tenant of the premises. No statutory definition of occupier. The test for deciding whether a person is the occupier is found in case law and is based on occupational control. *Wheat v E Lacon and Co Ltd (1966)* confirms that the owner or tenant of premises can be classified as an occupier.
- The occupier owes a duty of care to take reasonable care in all circumstances to ensure that lawful visitors are reasonably safe when using the premises for the purposes for which they are invited on to same.
- It is therefore reasonable to assume that Sunita, as owner or tenant with control over the property is the occupier and that Anna is a lawful visitor who has express or implied permission to access the premises.
- S2(3)(b) confirms that the occupier can expect a person, in the exercise of their calling to appreciate and guard against any special risks ordinarily incident to it and S2(4)(a) confirms that a warning sign may discharge the duty of care. Neither of these sections appear applicable here. Anna would not normally be expected to check the roof tiles as part of her work as a courier and Sunita, having been told by Colin that the work was all done, would have had no reason to put up a warning sign.
- Therefore, it would appear that Anna, the lawful visitor, could claim against Sunita, the occupier of the property.
- Sunita might, however, direct Anna towards Colin, the independent contractor who had control over the work done on the roof but who performed the task

negligently. This, however, will only be possible if Sunita had taken all possible care in giving the work to Colin in the first place by checking that he was appropriately qualified to perform the work.

Assessment grid for Q2(d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	8-9	• Excellent application of legal rules and principles to Sunita and Anna's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Anna will be able to succeed in a claim under the OLA 1957. • The legal argument is detailed, fully developed and persuasive.
3	6-7	• Good application of legal rules and principles to Sunita and Anna's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Anna will be able to succeed in a claim under the OLA 1957. • The legal argument is generally detailed, developed and persuasive.
2	3-5	• Adequate application of legal rules and principles to Sunita and Anna's situation. • Adequate presentation of a legal argument using some appropriate legal terminology regarding whether Anna will be able to succeed in a claim under the OLA 1957. • The legal argument includes some detail which is developed in places.
1	1-2	• Basic application of legal rules and principles to Sunita and Anna's situation. • Basic presentation of a legal argument using minimal legal terminology regarding whether Anna will be able to succeed in a claim under the OLA 1957. • The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.

Question 3: Criminal Law

- (a) Explain what is meant by the coincidence of actus reus and mens rea in criminal law. [6]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the contemporaneity rule, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the principle. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer.

The response might consider issues such as:

- An explanation of the contemporaneity rule, i.e. to incur criminal liability for an offence requiring mens rea, the defendant must possess the required mens rea when performing the actus reus.
- The courts have identified two ways of doing this: by regarding the situation as a continuing act or by viewing it as a single transaction of events.
- Continuing act: it is not necessary for mens rea to be present at the start of the actus reus providing it appears at some point in a continuous act – *Fagan v Metropolitan Police Commissioner* (1969). *Latimer* (1986) also demonstrates the applicability of the doctrine of transferred malice whereby mens rea may be transferred from an intended victim to an unintended one.
- Single transaction of events: In *Thabo Meli* (1954), the court held that there was one transaction of events and, as long as the defendants had the relevant mens rea at the beginning of the transaction, it could coincide with the actus reus when that occurred.

Assessment grid for Q3(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to the contemporaneity rule (coincidence of actus reus and mens rea) in criminal law. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to the contemporaneity rule (coincidence of actus reus and mens rea) in criminal law. • Response is generally clear, detailed and fully developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to the contemporaneity rule (coincidence of actus reus and mens rea) in criminal law. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(b) Explain what is meant by the “thin skull rule” in criminal law.

[6]

Indicative content

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.*

In explaining the “thin skull rule”, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the principle. Demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on causation.

The response might consider such issues as:

- An explanation of the “thin skull” test – that the defendant must take his victim as he finds him.
- If the victim dies from some unusual or unexpected physical or other condition, the defendant is still liable for the death, irrespective of whether the defendant was aware of the condition – *R v Hayward (1908)*.
- It also applies where the victim has refused medical treatment which would have saved his/her life – *R v Blaue (1975)*; *R v Holland (1841)*.

Assessment grid for Q3(b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to the “thin skull” rule in criminal law. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to the “thin skull” rule in criminal law. • Response is generally clear, detailed and fully developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to the “thin skull” rule in criminal law. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (c) **Assess the factors taken into account by the court when deciding whether an offence is one of strict liability.** [9]

Indicative content

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content.*

Examiners should seek to credit any further admissible evidence offered by candidates.

In order to achieve the highest marks, candidates must demonstrate their ability to draw together details and cases from the English Legal System to *evaluate* how the courts approach strict liability offences. Candidates will offer an *assessment* of the legal rules, principles and concepts in order to assess the various factors considered in relation to such offences and to come to a reasoned judgement.

In assessing the factors under consideration when deciding whether an offence is one of strict liability, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying strict liability offences. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer.

The response might consider issues such as:

- Most crimes have both actus reus and mens rea.
- With strict liability offences, only a voluntary actus reus needs to be proved to establish liability. There is no need to prove mens rea for a least one element of the actus reus.
- Liability is established without fault on the part of the defendant and the defence of mistake is not available.
- Most strict liability offences are statutory offences but sometimes the statute does not make the nature of the offence clear; it is then up to the courts to consider whether mens rea needs to be proved – *Sweet v Parsley* (1970).
- The principles set out by Lord Scarman in *Gammon* as to when the presumption of mens rea can be displaced.
Illustration of Gammon principles, using case law examples which could include construction – *Gammon (HK) Ltd v AG* (1985); food hygiene – *Callow v Tillstone* (1900); pollution – *Alphacell v Woodward* (1972).
- Justification for strict liability: easier to enforce the law; applies to issues of social concern; promotes vigilance and higher standards of care; benefits outweigh the injustice, rather than true crimes, SL crimes tend to be regulatory offences where the punishment is low level.
- Arguments against: ease of enforcement should not be a reason for disregarding mens rea; only promotes vigilance up to a point, if no amount of care can save people from conviction, is it actually a deterrent?; possibility of injustice as liability is imposed without fault on the part of the defendant; risk of inconsistency in the imposition of strict liability as different judges may come to different conclusions as to the nature of an offence – better for Parliament to make it clear in the first place; not necessarily true that there is no social stigma, a business can be badly affected and the individual ends up with a criminal record with the negative effects which that carries.

Assessment grid for Q3(c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	8-9	• Excellent analysis of legal rules, principles and concepts relevant to strict liability offences. • Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of when liability can be imposed in criminal law without the need for mens rea, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	6-7	• Good analysis of legal rules, principles and concepts relevant to strict liability offences. • Analysis is generally detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Good evaluation of when liability can be imposed in criminal law without the need for mens rea, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	3-5	• Adequate analysis of legal rules, principles and concepts relevant to strict liability offences. • Analysis includes some detail with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Adequate evaluation of when liability can be imposed in criminal law without the need for mens rea, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	1-2	• Basic analysis of legal rules, principles and concepts relevant to strict liability offences. Analysis includes minimal detail. • Basic evaluation of when liability can be imposed in criminal law without the need for mens rea. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

The scenario below should be used when assessing part (d)

Read the scenario below and answer part (d)

Debbie and her boyfriend, Aaron, got together to celebrate her 19th birthday. Initially they enjoyed a bottle of Prosecco at home with her parents and then joined some of their friends at the local nightclub. As the evening progressed, it was obvious that Aaron had had far too much to drink. When he saw Debbie talking to Ivan, a male friend from college, he got jealous and angry and warned him to stay away or he would hit him. Ivan was concerned at Aaron's attitude but Debbie told him to just ignore him. Before Ivan had had a chance to reply, he was knocked off his feet as Aaron hit him from behind. The club's bouncer, Joe, tried to pull Aaron away from Ivan but was prevented from doing so when Aaron hit him in the face, breaking his jaw. Aaron then proceeded to kick Ivan in the head as he lay on the ground. Finally, the police arrived, Aaron was arrested and Ivan was immediately taken to hospital. Ivan suffered life changing injuries as a result of the attack.

- (d) Advise Aaron as to whether he has committed any non-fatal offences under s18 and s20 of the Offences Against the Person Act 1861. [9]**

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Aaron, candidates are expected to apply the full range of legal rules and principles relating to his situation. In this case, candidates will need to consider the actus reus (including causation) and mens rea of S20 Offences against the Person Act 1861 and S18 Offences against the Person Act 1861.

The response might consider issues such as:

- Potential charges in relation to Aaron: GBH (S20 OAPA 1861); GBH with intent (S18 OAPA 1861).
- S20 Actus Reus: Can be committed in one of two ways: wounding **or** inflicting GBH.
- Wounding – the wound must break the inner and outer skin – *JCC (A Minor) v Eisenhower (1984)*. Therefore, not satisfied here as there is no break in the continuity of the skin.
- GBH = means “really serious harm” – *DPP v Smith (1961)* but it does not have to be life threatening – *Saunders (1985)*. The severity of the injuries will be assessed according to the victim's age and health. – *Bollom (2003)*. The injury may be physical as in *Bollom*, psychological (*Burstow 1997*) or biological (*Dica 2004, Rowe 2017*). The word “inflict” suggests that the D needs to make physical contact with the V but it was confirmed in *Burstow* that it only needs to be shown that D's actions caused V's suffering. Life changing injuries would constitute GBH and this element is therefore satisfied in relation to Ivan. However, the broken jaw sustained by Joe would constitute ABH (S47 OAPA 1861) rather than GBH as the injury is not sufficiently serious.
- S20 Mens Rea: intention or recklessness as to causing some harm. Basic intent offence. D either directly intended or was reckless as to causing some harm, not necessarily the serious harm that resulted (*R v Mowatt 1967*).
- S18 Actus Reus: Same interpretation as for S20 (see above).
- S18 Mens Rea: either the intention to cause GBH – specific intent offence – *Belfon (1976)* or the intention to resist or prevent a lawful arrest (*Morrison*).

Scenario indicates that Aaron intended to cause serious harm as he “proceeded to defiantly kick Ivan hard in the head”.

- *Causation*: “but for” test – *Pagett (1983)* satisfied. Legal causation – injury must be the operating and substantial cause – *Smith (1959)*. Satisfied here in relation to both offences.
- *Conclusion*: As Aaron has the AR and the MR for S18 in relation to Ivan, the CPS might prefer to bring this more serious charge against him.

Assessment grid for Q3(d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	8-9	• Excellent application of legal rules and principles to Aaron’s situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Aaron could be charged with S20 or S18 Offences against the Person Act 1861. The legal argument is detailed, fully developed and persuasive.
3	6-7	• Good application of legal rules and principles to Aaron’s situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Aaron could be charged with S20 or S18 Offences against the Person Act 1861. The legal argument is generally detailed, developed and persuasive.
2	3-5	• Adequate application of legal rules and principles to Aaron’s situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities regarding whether Aaron could be charged with S20 or S18 Offences against the Person Act 1861. The legal argument includes some detail which is developed in places.
1	1-2	• Basic application of legal rules and principles to Aaron’s situation. • Basic presentation of a legal argument using minimal legal terminology, case law and other legal authorities regarding whether Aaron could be charged with S20 and S18 Offences against the Person Act 1861. The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.

Question 4: Human Rights Law

- (a) Explain the key elements of Article 10 European Convention on Human Rights. [6]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the key elements of Art 10 European Convention on Human Rights, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying this right. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer.

The response might consider issues such as:

- Art 10(1) confirms that everyone has the right to freedom of expression.
- Qualified right only as Art 10(2) states that there are “legitimate reasons” when this right can be interfered with by a public authority: in the interest of national security (*AG v Guardian Newspapers Ltd 1990*), public safety (*Sunday Times v UK 1979*), prevention of disorder or crime; protection of health or morals (*Handyside v UK 1976*); protection of the reputation or rights of others (*Mosley v News Group Newspapers 2008*), breach of confidence (*Stephens v Avery 1988*); maintaining the authority and impartiality of the judiciary.
- Frequently used to protect a free press and journalistic information (*AG v Guardian Newspapers Ltd 1990*).
- Competing right alongside Art 8. S12 HRA 1998 provides that courts must have “special regard” to Art 10 rights. It has been used in cases involving the issuing of injunctions and super injunctions in relation to celebrities such as footballers (*A v B & C 2002*) and royalty (*HRH Princess of Wales v MGN Newspapers 1993*). Permanent injunction granted to protect the privacy of child murderers (*T & V v News Group 2001*). In *PJS v News Group Newspapers 2012*, however, the SC held that neither Art 10 nor Art 8 has preference over the other.

Assessment grid for Q4(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to Article 10 ECHR. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to Art 10 ECHR. • Response is generally clear, detailed and fully developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to Art 10 ECHR. Public Order Act 1986. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

(b) Explain the offences of riot and violent disorder under the Public Order Act 1986. [6]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the offences of riot and violent disorder, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying these offences. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question set and not simply give a general answer on public order.

The response might consider such issues as:

- S1 Public Order Act 1986 provides a definition of **riot**. It is the most serious offence and is designed to deal with large groups acting together in a way which causes or could cause violence. The way in which it does this is to define a setting or context in which riot may occur and then to specify that certain behaviour taking place within that context will constitute an offence.
- Involves 12 or more persons together in a public or private place using or threatening unlawful violence against a person or property for a common purpose (which may be inferred by conduct) and the conduct is such as would cause a person of reasonable firmness at the scene to fear for his personal safety. See for example, *Tottenham riots* of 2011 following the death of Mark Duggan.
- The consent of the DPP is necessary for prosecution. It is an indictable offence with a maximum sentence of 10 years.
- S2 Public Order Act 1986 provides a definition of **violent disorder**. The offence is applicable both to major public disorders and minor group disturbances.
- It involves 3 or more persons together in a public or private place using or threatening unlawful violence against a person or property and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.
- It is a TEW offence with a maximum sentence of 5 years.
- No need for common purpose and the threat of violence is sufficient.
- The offence can be committed by threats as well as by the use of violence – *R v Hebron (1989)*.

Assessment grid for Q4(b)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English Legal System and legal rules and principles
3	5-6	• Excellent knowledge and understanding of the English Legal System and legal rules and principles relating to the offences of riot and violent disorder under the Public Order Act 1986. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English Legal System and legal rules and principles relating to the offences of riot and violent disorder under the Public Order Act 1986. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English Legal System and legal rules and principles relating to the offences of riot and violent disorder under the Public Order Act 1986. • Response includes minimal detail.
	0	Response not credit worthy or not attempted.

Indicative content

NOTE: *The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.*

In order to achieve the highest marks, candidates must demonstrate their ability to draw together details and cases to evaluate the impact which a British Bill of Rights would afford. In doing this, candidates will offer an *assessment* of the legal rules, principles and concepts which such a change would bring.

The response might consider issues such as:

- Background information on the HRA 1998. Provides positive rather than residual rights and incorporates the majority of the provisions of the ECHR into UK law. Rights now directly applicable in our courts (S7), avoiding the long haul to Strasbourg; our courts must take decisions of the ECtHR into account (S2) but are not bound to follow them. Courts should robustly interpret UK law in so far as possible to protect Convention rights (S3) and, where this is not possible, higher courts can make a declaration of incompatibility (S4) referring the issue back to Parliament to change the law or not.
- The HRA is, however, an Act like any other and is subject to repeal and cannot prevent any government from acting in violation of the rights it enshrines. Leads to the argument that our rights would be better protected by a British Bill of Rights.
- Potential positive impact of a Bill of Rights:
- Would provide a written constitution setting out the rights of people in the UK - almost all developed countries have a Bill of Rights.
- A Bill of Rights would be entrenched, making it difficult to change or remove and therefore affording stronger protection.
- It would place permanent limits upon the actions of the executive and make them more accountable for their actions.
- At the moment, although all legislation that comes into force “should” have a declaration of compatibility (S19), the “notwithstanding” clause allows legislation to be passed which does not accord with the HRA, providing only fragile protection for human rights. This would not be possible under a Bill of Rights.
- The HRA 1998 is based on the ECHR, which is 60 years old and does not provide for social, economic or political rights – arguably out of date and inadequate to reflect the needs of the UK. A Bill of Rights could be tailored to the needs of the UK by providing new, additional rights to reflect current society.
- Many ECHR rights are qualified in ways that allow them to be effectively circumvented by the UK government – see *Spycatcher*. A Bill of Rights would provide judges with clearer guidance on the balancing of rights such as Arts 8 and 10. It would allow them to go further than the powers afforded under S4 HRA as they would be able to refuse to apply any law which conflicted with the Bill of Rights.
- Potential negative implications of a Bill of Rights:
- It would increase the power of the unelected judiciary.
- A Bill of Rights would lack the flexibility to adapt to changing circumstances and the law could become out of date over time.
- Could potentially lead to problems with the Good Friday agreement and devolution settlements.

Assessment grid for Q4(c)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	8-9	• Excellent analysis of legal rules, principles and concepts relevant to the potential effects of a UK Bill of Rights. • Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the potential effects of a UK Bill of Rights, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	6-7	• Good analysis of legal rules, principles and concepts relevant to relevant to the potential effects of a UK Bill of Rights. • Analysis is generally detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Good evaluation of the potential effects of a UK Bill of Rights, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	3-5	• Adequate analysis of legal rules, principles and concepts relevant to the potential effects of a UK Bill of Rights. • Analysis includes some detail with some supporting evidence. • Adequate evaluation of the potential effects of a UK Bill of Rights, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	1-2	• Basic analysis of legal rules, principles and concepts relevant to the potential effects of a UK Bill of Rights. • Analysis includes minimal detail. • Basic evaluation of the potential effects of a UK Bill of Rights. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

The scenario below should be used when assessing part (d)

PC Pounce saw Krish walking along the street at 11pm one Saturday night and decided to stop and question him. Krish said, "Look, mate, I'm tired. Let's do this another time", and attempted to walk away. PC Pounce pushed Krish against a wall and forcibly searched him, bruising his arm. In Krish's pocket he found five £20 notes, a gift for his 16th birthday from his grandmother. Krish told PC Pounce about this but the police officer believed that the money might be the proceeds of a street robbery that had taken place in the vicinity a short time earlier. He arrested Krish and took him to the police station. At the police station, Krish was immediately placed in a cell and left there until 9:30 am the next morning. He demanded to see a solicitor but was told that no solicitors were available on Sunday when he was released without charge.

(d) Advise Krish as to the legality of the actions of the police in relation to the stop and search and arrest. [9]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Krish, candidates are expected to apply the full range of legal rules and principles relating to his situation. In this case, candidates will need to consider the suspect's rights on stop and search and during arrest. In this case candidates may advise Krish as to the relevant section of the Police and Criminal Evidence Act (PACE) 1984 and the Codes of Practice to determine whether Krish's rights were respected during these procedures.

The response might consider issues such as:

Stop and Search:

- Limitations on use of power under *S1 PACE 1984* and *Code A*:
- In a public place, for stolen/prohibited goods/articles or for articles used for purpose of causing criminal damage.
- *Code A* paragraph 2.2 provides some guidance regarding reasonable grounds for suspicion. Reasonable grounds for suspicion must exist *before* a person is stopped – no power to stop in order to find grounds. Failure to answer questions cannot in itself provide reasonable grounds for suspicion – *Samuels*. Must be based on objective grounds and must be more than a hunch. Colour, age, hairstyle, clothing, previous, stereotyped images will generally not suffice. Note impact of *Equality Act 2010* and *Art 14 ECHR*. No reasonable grounds to stop Krish, power appears to have been exercised on personal factors alone which is unlawful.
- Can use reasonable force *S117 PACE 1984* – bruising might imply that PC Pounce exceeded this.
- *S2 PACE 1984* - If stopped or searched, following information to be given: Police officer's name, station and object and grounds of the search. If not complied with, then Krish's stop and search becomes unlawful – *Osman (1999)*, *Bristol (2007)*.
- *S3 PACE 1984* – officers must make a written record of the search unless this is not practicable. Should include: person's ethnic origin, object of the search, grounds, date, time and place and the outcome of the search. Unlikely that this was done.

Arrest (Code G) PACE S24 (amended by SOCPA 2005):

- Can now be arrested without a warrant for *any* kind of offence Police must reasonably believe that D *is committing, has committed* or *is about to commit* an offence AND.
- have reasonable grounds for suspecting that it is *necessary* to arrest the suspect for one of the reasons in S24(5).
- Reasons cited could include any of the following: where the suspect's name and address cannot be readily ascertained or no satisfactory address has been given; where it is necessary to prevent the suspect causing injury to himself or another, or suffering physical injury, or causing loss or damage to property; to allow the prompt and effective investigation of the offence or the conduct of the suspect; to prevent the investigation being hindered by the disappearance of the suspect.

Consider whether arrest provisions (S28) have been met:

- informed of fact of his arrest and the grounds as soon as possible.
- Cautioned (S34 CJPOA 1994).
- If all of above not complied with, "arrest" is unlawful and Krish's presence at the station is a volunteer only. Should have been entitled to leave at any time (S29)

Assessment grid for Q4(d)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	8-9	• Excellent application of legal rules and principles to Krish's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Krish's stop and search and arrest. • The legal argument is detailed, fully developed and persuasive.
3	6-7	• Good application of legal rules and principles to Krish's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Krish's stop and search and arrest. • The legal argument is generally detailed, developed and persuasive.
2	3-5	• Adequate application of legal rules and principles to Krish's situation. • Adequate presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Krish's stop and search and arrest. • The legal argument includes some detail which is developed in places.
1	1-2	• Basic application of legal rules and principles to Krish's situation. • Basic presentation of a legal argument using minimal legal terminology regarding Krish's stop and search and arrest. • The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.