



GCE AS MARKING SCHEME

SUMMER 2022

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

INTRODUCTION

This marking scheme was used by WJEC for the 2022 examination. It was finalised after detailed discussion at examiners' conferences by all the examiners involved in the assessment. The conference was held shortly after the paper was taken so that reference could be made to the full range of candidates' responses, with photocopied scripts forming the basis of discussion. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners.

It is hoped that this information will be of assistance to centres but it is recognised at the same time that, without the benefit of participation in the examiners' conference, teachers may have different views on certain matters of detail or interpretation.

WJEC regrets that it cannot enter into any discussion or correspondence about this marking scheme.

EDUQAS GCE AS LAW

COMPONENT 2: UNDERSTANDING SUBSTANTIVE LAW

SUMMER 2022 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

Question 1: Law of Contract

1. (a) Explain the doctrine of promissory estoppel. [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 doctrine of promissory estoppel in contract law, 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 rules of consideration.

The response might consider the following issues:

- Equitable doctrine which emanated from Lord Denning's obiter dicta in *Central London Property Trust Ltd v High Trees House Ltd (1947)*.
- In certain circumstances, the doctrine prevents a party going back on a promise which is not supported by consideration.
- For the doctrine to apply, the following conditions must be met:
 - Must be a pre-existing contractual relationship between the parties which is clear and unambiguous
 - The promisee must have relied on the promise and acted to his/her detriment
 - Can only be used as a "shield and not a sword" – *Combe v Combe (1951)*
 - It must be unfair for the promisor to go back on his/her word – *D & C Builders v Rees (1966)*
 - The promise is normally time limited.

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 doctrine of promissory estoppel 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 law governing the doctrine of promissory estoppel 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 law governing the doctrine of promissory estoppel in contract law. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (b) Explain the effect of a counter offer on a 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 what is meant by a counter offer in contract law, 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 an answer on the general rules relating to an offer.

The response might consider the following issues:

- A counter offer exists where an offeree responds to an offer by varying the terms of a contract or tries to introduce new terms, this has the effect of destroying the original offer. The original offer is no longer open for the offeree to accept – *Hyde v Wrench (1840)* and therefore there can be no valid contract.
- Must be distinguished from a mere request for information. In *Stevenson v McLean (1880)*, a request to stagger payment and delivery over two months was held merely to be an enquiry for further information which should have been answered. It was not a counter offer and did not negate the contract relating to the purchase of iron.

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 law governing counter offers 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 law governing counter offers 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 law governing counter offers in contract law. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (c) Assess the importance of distinguishing between an offer and an invitation to treat in the formation of a valid 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 use legal rules, principles and concepts in order to evaluate the distinction between an offer and an invitation to treat. Evaluation is required in order to achieve the highest marks.

The following issues might be considered:

- Invitation to treat is a preliminary stage where one party invites the other to make an offer or to start negotiations. It indicates a willingness to deal but not an intention to be legally bound. An invitation to treat does not constitute an offer; an offer is capable of being accepted and leading to a valid contract.
- Confusion can arise when what would appear, in the everyday sense of the word, to be an offer is held by the law to be only an invitation to treat.
- Advertisements for bilateral contracts – advertisements of specified goods at a certain price – are usually regarded as invitations to treat on the grounds that they may lead to further bargaining – e.g. lots at an auction (*British Car Auctions v Wright (1972)*) or a request for tenders (*Harvela Investments v Royal Trust of Canada (1986)*). Practical approach as potential buyers might want to negotiate the price or, as stocks might run out, it would be unreasonable to expect advertisers to sell to everybody who applied - see bramblefinches (protected species) in *Partridge v Crittenden (1968)* or circulation of price list by wine merchants in *Grainger & Sons v Gough (1896)*. Price-marked goods on display on the shelves or in the windows of shops are generally regarded as invitations to treat, rather than offers to sell goods at that price – *Fisher v Bell (1960)*, Goods on supermarket shelf are invitation to treat, offer is only made when customer offers to buy them at the cash desk and the shopkeeper may accept or reject that offer – *Pharmaceutical Society of GB v Boots Cash Chemists Ltd (1953)*. Practical consequences to this principle. A business will not lose out financially if an employee has marked the price up incorrectly and the business cannot be made to sell the last product of the kind displayed in the window. Contradictions - business may be committing an offence under the *Trade Descriptions Act 1968* and this approach does not encourage businesses to ensure that staff are properly trained.
- Advertisements for unilateral contract – *Carlill v Carbolic Smoke Ball Co (1893)* or those offering rewards for the return of lost property. Usually treated as offers as there is no need for further negotiations between the parties and the advertiser intends to be bound by it. A distinction is generally made between advertisements for a unilateral contract, and those for a bilateral contract.

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 distinction between invitations to treat and offers in contract law. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. - Excellent evaluation of the distinction between invitations to treat and offers 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 distinction between invitations to treat and offers in contract law. Analysis is generally detailed with appropriate range of supporting evidence. - Good evaluation of the distinction between invitations to treat and offers 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 distinction between invitations to treat and offers in contract law. Analysis includes some detail with some supporting evidence. - Adequate evaluation of the distinction between invitations to treat and offers 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 distinction between invitations to treat and offers in contract law. Analysis includes minimal detail. - Basic evaluation of the distinction between invitations to treat and offers 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)

- (d) Naomi has spent many months organising the wedding of her daughter Bridget to Jim in May 2020. “The Willows” in Mansfield has been booked for the reception. However, following a serious argument, Bridget and Jim decide not to get married. Naomi contacts “The Willows” and informs them of her need to cancel the booking.

Advise Naomi how she might discharge the 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 advising Naomi, candidates are expected to apply the full range of legal rules and principles relating to her contract with “The Willows”. In this case, candidates will need to consider how the contract can be discharged and to use relevant case law in relation to the given scenario in order to present a legal argument.

The response might consider issues such as:

- Discharge of a contract relates to the circumstances in which the contract is brought to an end. Where a contract is discharged, each party is freed from their continuing obligations under the contract.
- Explanation of how contracts can be discharged: by agreement, breach, performance.
- Consider unilateral discharge by agreement as being the best possible outcome.
- Here, Naomi would try to convince the owners of “The Willows” to let her off the obligations arising under the original agreement.
- Anticipatory breach may also be relevant as Naomi has indicated in advance that she will not be performing her obligations under the contract. Relevant case law: *Frost v Knight* (1872); *Avery v Bowden* (1855); *White and Carter Ltd v McGregor* (1962).
- In these circumstances, the hotel may be able to treat the contract as repudiated and may sue for damages for breach of contract on Naomi’s part.

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 Naomi's situation. - Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to discharge of a contract. The legal argument is detailed, fully developed and persuasive.
3	6-7	- Good application of legal rules and principles to Naomi's situation. - Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to discharge of a contract. The legal argument is generally detailed, developed and persuasive.
2	3-5	- Adequate application of legal rules and principles to Naomi's situation. - Adequate presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to discharge of a contract. The legal argument includes some detail which is developed in places.
1	1-2	- Basic application of legal rules and principles to Naomi's situation. - Basic presentation of a legal argument using minimal legal terminology relating to discharge of a contract. The legal argument includes minimal detail.
	0	Response not credit worthy or not attempted.

Question 2: Law of Tort

2. (a) Explain what is meant by the “reasonable man” test in 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 the reasonable man test in relation to breach in the law of tort, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the principles of the test. 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 breach.

The response might consider issues such as:

- In deciding whether a defendant has breached his duty of care, the standard of care expected of him is that of a reasonable man, an objective test – *Blyth v Birmingham Waterworks (1865)*.
- The reasonable man test may be variable and may depend on the circumstances of the particular defendant or the situation.
- A learner driver is not expected to meet the same standard as a qualified, competent driver – *Nettleship v Weston (1971)*. An amateur footballer is not expected to meet the standard of a footballer in the first division – *Condon v Basi (1985)*. A child will not be judged as an adult but by the standard of a reasonable child of the same age – *Mullins v Richards (1998)*.
- If the defendant is a professional, he will be held to the standard of a reasonable person within that profession – *Wilsher v Essex (1988)*; *Bolam Friern (1957)*.

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 the reasonable man test 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 the reasonable man test 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 the reasonable man test in the law of tort. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (b) Explain what is meant by the remoteness of damage in 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 what is meant by remoteness of damage, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying remoteness of damage. 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 duty of care.

The response might consider issues such as:

- Once the claimant has established the existence of a duty of care and breach of that duty, it must also be demonstrated that damage has resulted from the defendant's negligence. It must also be proved that the damage was not too remote, that it was of a kind that was reasonably foreseeable, i.e. that there is direct, foreseeable causation.
- Originally a defendant was liable for all losses which were a direct consequence of the defendant's breach – *Re Polemis & Furness, Withy & Company Ltd (1921)*. This was considered too wide and overruled in *Wagon Mound No 1 (1961)* where it was confirmed that the test for remoteness of damage is that the damage must be of a *kind* which was foreseeable. Once this is satisfied, the defendant is liable for the full extent of the damage no matter whether the extent of the damage is foreseeable – *Hughes v Lord Advocate (1963)*; *Jolley v Sutton (2000)*.
- The Egg Shell Skull rule - *Smith v Leech Brain & Co (1962)* – also shows that a defendant must take his victim as he finds him, as regards his physical characteristics, and will therefore be liable for the full extent of the injury where the victim is particularly vulnerable or has a pre-existing condition resulting in more serious injury than anticipated.

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 the remoteness 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 the remoteness 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 the remoteness in the law of tort. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (c) Assess the protection provided by the Occupiers Liability Act 1984. [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 protection afforded to trespassers under the 1984 Act. For example, the earlier position at common law and relevant case law can be used to effectively evaluate the position.

Candidates will offer an assessment of the legal rules, principles and concepts in order to assess the protection afforded to trespassers by the Occupiers Liability Act 1984.

The response might consider issues such as:

- Historically, the common law was very harsh towards trespassers, even children – the only duty of care was not to wilfully inflict harm on a child – *Addie v Dumbreck (1929)*. In 1972 in *BRB v Herrington*, the HL used the Practice Statement 1966 to overrule Addie and introduced a “duty of common humanity” which was owed to all, including trespassers. This case led to the OLA 1984.
- The OLA 1984 goes further than the 1957 Act. It imposes a duty on occupiers in relation to persons 'other than his visitors' (S.1(1)(a)OLA 1984). This includes trespassers and those who exceed their permission. Protection is even afforded to those breaking into the premises with criminal intent see *Reville v Newberry [1996]* – may at first appear somewhat harsh to impose a duty on occupiers for those who have come on to their land uninvited and without permission. Lord Hoffman in *Tomlinson v Congleton BC (2003)* clarified the distinction between the two Acts – in relation to OLA 1957 “one starts from the assumption that there is a duty, whereas in the case of a trespasser (OLA 1984) one starts from the assumption that there is none”.
- “Occupier” is given the same meaning as under the 1957 Act (S1(2) OLA 1984) – *Wheat v Lacon (1966)*.
- Since the OLA 1984 applies to trespassers, a lower level of protection is offered. Death and personal injury are the only protected forms of damage and occupiers have no duty in relation to the property of trespassers. (S1(8) OLA 1984).
- Also the duty only arises when certain risk factors are present – all three conditions under S1(3) must be satisfied to impose a duty of care on the occupier towards trespassers.
- Standard of care expected – S1(4) the duty is to take such care as is reasonable in all the circumstances to see that trespassers are not injured on the premises by the danger concerned – objective test – what would a reasonable occupier have done?
- The duty may be discharged by giving a warning or discouraging others from taking the risk S1(5) Occupiers Liability Act 1984 – *Tomlinson v Congleton Borough Council (2003)*. There is no obligation in relation to the warning to enable the visitor to be reasonably safe - contrast with OLA 1957.

- Defences – Volenti non fit injuria – S1(6) OLA 1984 no duty of care is owed in respect of risks willingly accepted by the visitor – decided by the common law principles. Contributory negligence – damages may be reduced under the *Law Reform (Contributory Negligence) Act 1945* where the visitor fails to take reasonable care for their own safety. Exclusion of liability – not available under the 1984 Act - may be an oversight by the legislature or it may have been felt that it should not be possible to exclude liability for the basic level of protection afforded to trespassers.

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 Occupiers Liability Act 1984. - Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. - Excellent evaluation of the Occupiers Liability Act 1984, 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 Occupiers Liability Act 1984. - Analysis is generally detailed with appropriate range of supporting evidence. - Good evaluation of the Occupiers Liability Act 1984, 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 Occupiers Liability Act 1984. - Analysis includes some detail with some supporting evidence. - Adequate evaluation of the Occupiers Liability Act 1984, 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 Occupiers Liability Act 1984. - Analysis includes minimal detail. - Basic evaluation of the Occupiers Liability Act 1984. - 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)

- (d) Richard and Cassie were on their way to college as they had a Psychology A level examination that afternoon. Richard was driving his mother's BMW. He was foolishly exceeding the speed limit and joking with his girlfriend rather than concentrating on the road. However, he reacted quickly, skidding to a halt when a young child, Lucy, dashed out in front of the car. She had run out from behind a parked car. Fortunately, she was not seriously injured but had a minor cut on her left arm. Her mother, Linda, however, was in a dreadful state. She was still standing on the pavement, "frozen" to the spot and was barely able to speak with the shock of it all. Subsequently Richard received a letter advising him that Linda was claiming that she had suffered psychiatric injury as a result of the incident and was suing him for negligence.

Advise Richard what Linda will need to prove to succeed in a claim for psychiatric injury against him.

[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 Richard, candidates are expected to apply the full range of legal rules and principles relating to Richard's situation. In this case, candidates will need to consider the position of secondary victims under the tort of negligence and apply the law to the incident.

The response might consider issues such as:

- To claim damages for psychiatric shock, Linda will have to show that she has a recognised psychiatric injury that goes beyond normal grief or distress.
- Unlikely to be a primary victim: has not suffered physical injury or suffered psychiatric injury where it was reasonably foreseeable that she could have been injured as a result of another person's negligence – standing on the pavement, not the road.
- Likely to be classed as a secondary victim – not directly involved with the original accident or at risk of physical injury but nonetheless witnessed injury to another and suffered psychiatric injury as a result.
- Conditions laid down in *Alcock v Chief Constable of South Yorkshire Police (1992)* - must be able to show: sufficiently proximate relationship to the original victim ("close tie of love and affection"); must witness the event with her own unaided senses, hear the event in person or view its immediate aftermath- *McLoughlin v O'Brien (1983)*. Conditions capable of being satisfied – "close tie of love and affection" exists between mother and daughter, witnessed her daughter being injured and therefore was proximate in time and place as she was at the scene of the original accident.
- Still needs to establish duty of care (*Caparo* test), breach, causation and that the injury sustained was a reasonably foreseeable consequence of breach.

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 Richard and Linda's situation. - Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Linda will be able to succeed in a claim for psychiatric injury against Richard. The legal argument is detailed, fully developed and persuasive.
3	6-7	- Good application of legal rules and principles to Richard and Linda's situation. - Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Linda will be able to succeed in a claim for psychiatric injury against Richard. The legal argument is generally detailed, developed and persuasive.
2	3-5	- Adequate application of legal rules and principles to Richard and Linda's situation. - Adequate presentation of a legal argument using some appropriate legal terminology regarding whether Linda will be able to succeed in a claim for psychiatric injury against Richard. The legal argument includes some detail which is developed in places.
1	1-2	- Basic application of legal rules and principles to Richard and Linda's situation. - Basic presentation of a legal argument using minimal legal terminology regarding whether Linda will be able to succeed in a claim for psychiatric injury against Richard. The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.

Question 3: Criminal Law

3. (a) Explain what is meant by a strict liability offence. [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 a strict liability offence, 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 at 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.
- Tend to be regulatory offences where the punishment is low level.
- Examples could include: construction – *Gammon (HK) Ltd v AG (1985)*; food hygiene – *Callow v Tillstone (1900)*; pollution – *Alphacell v Woodward (1972)*.
- 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)*.

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 strict liability offences 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 strict liability offences 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 strict liability offences in criminal law. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (b) Explain the actus reus and mens rea of assault and battery.

[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 actus reus and mens rea of assault and battery, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the offence. 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 such issues as:

Assault:

- Common law offence charged under S39 CJA 1988

Actus Reus:

- An act or words, written – *Constanza (1997)* or spoken – *Ireland (1997)*. Words may also negate an assault – *Tuberville v Savage (1669)*.
- Which cause the victim to apprehend the infliction of immediate unlawful force. Therefore, pointing an unloaded gun at someone who knows it to be unloaded is not an assault – *Lamb (1967)*. Immediate means “imminent” in the sense that the V is afraid because she does not know what the D is going to do next – *Smith v Chief Superintendent of Woking Police Station (1983)*.

Mens Rea:

- Intention or subjective – *Cunningham (1957)* recklessness as to causing another to fear immediate unlawful force.

Battery:

- Common law offence charged under S39 CJA 1988

Actus Reus:

- Application of unlawful force to another person.
- Unlawful force = the slightest touching such as taking hold of the V by the arm - *Collins v Wilcock (1984)*. It is not limited to touching the V's body but also includes touching clothes – *Thomas (1985)*.
- Force can be direct as with a punch to the V's face or indirect *Haystead v DPP (2000)*.
- Unlike assault, battery can be based on an omission provided that the D has a duty to act, such as to give an honest reply to a PO's question as to whether he has needles in his pocket – *DPP v Santana Bermudez (2004)*.
- Consent may render the force used lawful – e.g. in contact sports – *Barnes (2004)*.

Mens Rea:

- Intention or subjective – *Cunningham (1957)* recklessness as to the application of immediate unlawful force on another.

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 actus reus and mens rea of assault and battery. 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 actus reus and mens rea of assault and battery. 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 actus reus and mens rea of assault and battery. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (c) Assess the circumstances when liability may be imposed for an omission. [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 areas to evaluate where an exception has been made allowing liability to be imposed for failing to act.

Candidates will offer an assessment of the legal rules, principles and concepts in order to assess when the actus reus can be based on an omission.

The response might consider issues such as:

- Definition of actus reus – physical element of a crime; it can be an act, a failure to act or a state of affairs.
- Normally an omission cannot make a person guilty of an offence.
- Omission is only sufficient for the actus reus when there is a duty to act.
- Duty to act imposed: by statute – e.g. S6 RTA 1988 but usually by the courts: by contract – *Pittwood (1902)*; due to a special relationship – *Stone & Dobinson (1977)*; arising from assumption of responsibility – *Instan (1893)*; misfeasance in public office – *Dytham (1979)*; the defendant inadvertently creates a dangerous situation, becomes aware of it but does nothing to rectify it - *Miller (1983)*, *Evans (2009)*
- Critique of such judicial development: reactive rather than proactive leading to haphazard development and does not prevent crime; Art 7 implications – law should be clear and should not work retrospectively – *Sinclair, Johnson & Smith (1998)*; Rule of Law implications – law should guide us as to proper conduct is right or wrong, not tell us after the event that we behaved wrongly.
- Discussion of lack of Good Samaritan Law in the UK.
- Andrew Ashworth – “The Scope of Criminal Liability for Omissions” suggests that where a rescue would pose no danger to the Defendant, liability should be imposed for failing to act, even where there is no legal duty to act.

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 when liability can be imposed in criminal law for failing to act. • 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 for an omission, 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 when liability can be imposed in criminal law for failing to act. • 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 for an omission, 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 when liability can be imposed in criminal law for failing to act. • 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 for an omission, 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 when liability can be imposed in criminal law for failing to act. Analysis includes minimal detail. • Basic evaluation of when liability can be imposed in criminal law for an omission. • 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)

- (d) Aaya and Steve were due to go to Mo's 18th birthday party but had a row shortly before leaving for the party that evening. Steve walked out, saying that he needed to calm down and would make his own way to Mo's flat later. When Aaya got to the party, the first thing that she saw was Steve kissing Josie, one of her best friends. Without thinking, Aaya grabbed a heavy vase from a side table and threw it as hard as she could at Steve who fell to the ground, hitting his head on the tiled floor. Mo called for an ambulance and Steve was taken to hospital immediately. After initial assessment, the doctor informed Steve that he needed a blood transfusion as a matter of urgency which he refused on religious grounds. When Aaya arrived at the hospital, she was told that Steve had suffered severe brain damage which could leave him seriously disabled.

Advise Aaya as to whether she is likely to be charged with any non-fatal offence.

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

The response might consider issues such as:

- Potential charges: GBH with intent (S18 OAPA 1861) or GBH (S20 OAPA 1861)
- S18 Actus Reus: Can be committed in one of two ways: wounding or inflicting GBH. A wound must break the inner and outer skin – *JCC (A Minor) v Eisenhower (1984)*. Therefore, not satisfied here as there no break in the continuity of the skin.
- Inflicting 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)*. Severe brain damage would constitute GBH and this element is therefore satisfied.
- Causation: “but for” test – *Page (1983)* satisfied. Legal causation – injury must be the operating and substantial cause of death – *Smith (1959)*. Satisfied here. Thin skull test – *Blaue (1975)* – Aaya must take her victim as she finds him and Steve's refusal to accept a blood transfusion does not break the chain.
- Mens Rea: either the intention to cause GBH – specific intent offence – *Belfon (1976)* or the intention to resist or prevent a lawful arrest. This might be satisfied as Aaya threw the vase as hard as she could.
- As it states that Aaya grabbed the vase “without thinking”, arguably she might not have the specific intent required for S18. An alternative S20 charge might be considered.
- Actus reus is as for S18 above.

- Mens Rea: intention or subjective *Cunningham (1957)* recklessness as to whether another person suffered *some* harm. No need to prove that the defendant foresaw the actual degree of harm caused – *Parmenter, Savage (1992)*.
- Lower mens rea of S20 capable of being satisfied.

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 Aaya's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Aaya could be charged with S20/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 Aaya's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding whether Aaya could be charged with S20/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 Aaya's situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities regarding whether Aaya could be charged with S20/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 Aaya's situation. • Basic presentation of a legal argument using minimal legal terminology, case law and other legal authorities regarding whether Aaya could be charged with S20/S18 Offences against the Person Act 1861. The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.

Question 4: Human Rights Law

4. (a) Explain the obligations which the Public Order Act 1986 imposes on the organiser of a march. [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 obligations of an organiser of a march under the Public Order Act 1986, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying this obligation. 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:

- S11 Public Order Act 1986 imposes an obligation of the organiser of a march to give the police 6 clear days' written notice of a march which is intended to show support for, or opposition to, the views or actions of a person or group, to publicise a cause of campaign, or to mark or commemorate an event.
- Details to be provided: date, time and proposed route and the name of the organiser.
- Notice requirement is not necessary if it is "not practical" to give such notice – e.g. where a march breaks out spontaneously but no specific examples are provided in the Act.
- S11(7), S11(8) and S11(9) states that, otherwise, it is an offence to fail to give notice or to deviate from the details provided in the notice.
- The organiser has a defence if it can be shown that the march deviated and he/she either did not suspect it had occurred or it was beyond his/her control.

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 obligations of the organiser of a march under S11 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 obligations of the organiser of a march under S11 Public Order Act 1986. 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 obligations of the organiser of a march under S11 Public Order Act 1986. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (b) Explain the powers of the police to impose a “blanket ban” on marches 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 powers of the police to impose a “blanket ban” on marches, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying these powers. 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 such issues as:

- If the police consider that the imposition of conditions on a march under S12 Public Order Act 1986 is inadequate, the local authority, on application of the police, can obtain a “blanket ban” on marches under S13 Public Order Act. The banning order must be approved by the Home Secretary.
- A ban must be imposed if it is considered that the march may result in serious public disorder.
- The banning order would prohibit any march within the time and area specified and the ban would remain in force for three months. This could include peaceful protests.
- Anyone who organises a march during such a period commits a criminal offence – S13(10) Public Order Act 1986.
- Where conditions are imposed by the police on marches or if the march is banned, the organisers of the processions may seek judicial review of police orders – see recent High Court decision where it was held that the banning order on Extinction Rebellion marches in Westminster was unlawful.

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 banning of marches 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 banning of marches 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 banning of marches under the Public Order Act 1986. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

- (c) Assess whether Article 8 of the European Convention on Human Rights protects personal privacy in the UK. [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 areas to evaluate the protection afforded for personal privacy by Art 8 ECHR.

Candidates will offer an assessment of the legal rules, principles and concepts in order to assess the effectiveness of the provision.

The response might consider issues such as:

- The provision is divided into two parts.
- The first part, Art 8(1), sets out the rights that all individuals enjoy in respect of their private and family life, their home and their correspondence.
- The second, Art 8(2) makes clear that these rights, although strong, are not absolute but qualified rights, and the State can interfere with the right to private and family life in certain circumstances. It sets out the legitimate reasons when the right can be interfered with by the state: when they are prescribed by law, necessary in a democratic society and proportionate. For example, Art 8 rights can be interfered with in the interests of national security – *Spycatcher* saga – and the prevention or detection of crime (may be relevant to the surveillance Acts), or for the protection of health or morals – *Brown* (1997).
- Art 8 rights also frequently have to be balanced against the competing right of a free press under Art 10.
- The meaning of ‘private life’ under Article 8 is broad. It has facilitated debate concerning noise pollution of aeroplanes – *Hatton v UK* (2003) and accommodated changing views of morality on issues such as, for example, discrimination on grounds of sexual orientation - *Lustig Prean v UK* (2000) and *ADT v UK* (2000). Such judgements were doubtless instrumental in allowing the surviving partner in a homosexual relationship to assume the tenancy rights of his deceased partner in *Fitzpatrick v Sterling Housing* (1999). *Ghaidan v Godin-Mendoza* (2004) reinforces the usefulness of the Article in this regard. *Goodwin* (2002) also successfully used Art 8 to protect the rights of transgenders and led to the Gender Recognition Act 2004.
- The courts have indicated that family life will usually be found between spouses and civil partners and may exist between unmarried and same-sex partners if the relationship is sufficiently stable.
- Incorporation of Art 8 into the Human Rights Act 1998 now obliges our national courts to take the right to privacy into account as seen in *Douglas & Jones v Hello* (2005).
- But privacy actions still tend to be based on breach of confidence, with Art 8 as an addendum rather than a cause of action in its own right.

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 Art 8 ECHR rights. • Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of Art 8 ECHR 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 Art 8 ECHR rights. • Analysis is generally detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Good evaluation of Art 8 ECHR 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 Art 8 ECHR rights. • Analysis includes some detail with some supporting evidence. • Adequate evaluation of Art 8 ECHR 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 Art 8 ECHR rights. • Analysis includes minimal detail. • Basic evaluation of Art 8 ECHR 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)

- (d) Lenny, an international student who had only recently arrived from Ghana, was on his way to the Christmas market on a busy Saturday afternoon. He was stopped by PC Hong and PC Sefton who thought that he looked “spaced out” and must be one of those “druggies” who had caused trouble at the town square earlier. They asked him where he was going but Lenny had difficulty understanding their strong Yorkshire accent and failed to answer their questions. They made him take off his jacket but found nothing in it. They then arrested him and drove him to the police station.

Advise Lenny whether the police behaved legally during 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 Lenny, 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 Lenny as to the relevant section of the Police and Criminal Evidence Act (PACE) 1984 and the Codes of Practice to determine whether Lenny'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 Lenny, power exercised on personal factors alone.
- Nature of search: *S2(9) PACE 1984* confirms police can only insist on D removing outer coat, jacket, gloves or face mask in public. Otherwise must be carried out in private place and done by officer of same sex. No breach here.
- Can use reasonable force *S117 PACE 1984*
- *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 Lenny'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 Lenny has gone to station as a volunteer. Entitled to leave at any time (S29)
- Once arrested, D must be taken to the police station asap (S30). This appears to have happened.

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 Lenny's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Lenny'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 Lenny's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Lenny'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 Lenny's situation. • Adequate presentation of a legal argument using appropriate legal terminology, case law and other legal authorities regarding Lenny'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 Lenny's situation. • Basic presentation of a legal argument using minimal legal terminology regarding Lenny's stop and search and arrest. The legal argument includes minimal detail.
	0	Response not creditworthy nor attempted.