GCE EXAMINERS' REPORTS

LAW
AS/Advanced

JANUARY 2014

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LAW

General Certificate of Education

January 2014

Advanced Subsidiary

LA1

Chief Examiner: Professor Iwan Davies, Swansea University

General Comments

The January examination this year reflected a limited cohort and in the light of this it is very difficult to offer meaningful feedback which is relevant to the entire cohort of candidates of AS and A Level Law. Some general comments are appropriate. Students need to be encouraged to read the paper carefully so as to ensure that the right emphasis is given to the assessment objectives sought for each part of a question. It is essential that candidates consider both part (a) and part (b) of questions so that they can focus on what the questions are actually asking and divide their knowledge and application or evaluation appropriately. Literacy is still a major challenge for some candidates with spelling of even basic words sometimes an issue. In terms of approach to answers the synoptic element needs emphasis particularly at A level.

Q.1 This was not a particularly popular question and the standard was very mixed. There were some really good scripts where candidates gave a detailed explanation of the role of the Commission, supported by a range of authorities. However, weaker candidates had no understanding of the Commission's role and simply made general and simplistic remarks about European Institutions. In terms of part (b) few candidates actually included information specifically on mandatory and discretionary referrals or actually noted *Art 267*.

Q.2 This was one of the most popular questions on the paper. There were some very good scripts. Many candidates gave a good historical account of Common Law but included only a couple of sentences on the development of Equity. Only a few candidates discussed the equitable maxims in part (a). In terms of part (b) the majority of candidates identified the main remedies, some well-illustrated with case law. Many candidates referred to concepts such as equitable estoppel, the deserted wife's equity and mortgages but very few candidates mentioned trusts.

Q.3 This was probably the most popular question on the paper. Part (a) was generally well answered with practically all candidates having some understanding of juries. As well as highlighting Crown Court trial, better candidates noted the contribution that juries make in the civil courts and the coroner's courts. Some candidates used commendable citation in response to the question. *Bushell* and *Wang* were frequently cited to illustrate independence and *Owen* and *Ponting* were widely relied on to illustrate jury equity. Surprisingly part (b) posed a problem for the weaker candidates who simply reiterated the information from part (a). There were some commendable scripts and it was pleasing to see reference to *Abdoikov, Hanif and Khan*.

Q4 Although not the most popular question on the paper, there were some really good answers on the CCRC. A number of answers included a credible historical account of the shortcomings of the Home Secretary's role prior to the CCRC along with an understanding of its composition and function within the appeal process. In part (b), most candidates were able to provide relevant statistical information on its impact as well as citing some well-known cases with the most able candidates identifying the lack of access to legal aid to support a claim.

Q5 This was a popular question. However, candidates need to be more selective in their material. Most candidates defined ADR and identified negotiation, mediation, conciliation and arbitration, explaining them in a structured manner and at times using relevant citation. The more able made the link to the Woolf reforms but not many candidates mentioned tribunals. In part (b) stronger candidates included some evaluative content and relevant citation in support of their arguments.

Q6. This was one of the least popular questions on the paper. Students seem to struggle with Legal Aid as a generic topic. In part (a) candidates provided historical information on the establishment of Legal Aid but unfortunately had very little by way of relevant up to date information. In part (b) candidates understood the concept of unmet legal needs but others focused solely on CFAs, to the total exclusion of other sources of funding such as CABs.

LAW

General Certificate of Education

January 2014

Advanced Subsidiary/Advanced

LA2

Chief l Examiner: Professor Iwan Davies

Q.1 There were some really good answers to this question with candidates giving concise information on the hierarchy of the courts, including the position of the ECJ and ECtHR from the point of view of precedent and supporting their answers with relevant citation. However, less well prepared candidates made little or no reference to the hierarchy of courts, limiting their answers to discussing the different kinds of precedent. In part (b) there were several excellent scripts where candidates relished the opportunity to use case law to demonstrate their understanding of the flexibility afforded by overruling, reversing and distinguishing. However, too frequently answers were weak and waffly with very little substance or citation. Many simply repeated their response to part (a).

Q.2 Knowledge seemed to be limited to the fact that directives are not directly applicable and that they need to be implemented by a member state. There was little or no discussion of vertical / horizontal direct effect distinction and it was rare to see a treatment, the *Marleasing* principle. In part (b) most candidates limited their answer to discussing the sovereignty issue, generally in relation to the precedent set by the ECJ. However, there was little by way of reference to the purposive approach or any examples of EC general principles.

Q.3 The main issue with this question was that many candidates simply chose to ignore the reference to the Law Commission Act 2009. Notwithstanding this in part (a) most candidates were aware of the composition of the Commission and their role in repealing, consolidating and codifying the Law. In part (b) candidates provided data to illustrate the effectiveness of the Commission and were able to include examples of relevant changes made as a result of their intervention. Many noted that lack of Parliamentary time with regard to Commission proposals was a major issue with regard to non-implementation but failed to relate it to the provisions of the 2009 Act.

Q.4 This was one of the most popular questions on the paper. In part (a) many candidates limited their answer to simply going through the rules and relevant case law. Some candidates gave a “nod” to the use of presumptions and aids in their discussion but at times seemed to be confused between the nature of presumptions and aids. Even when the aids were addressed, information on the availability of, for example, *Hansard* was scant. Refreshingly, the more well prepared candidates referred to the *HRA* in a good degree of detail. Pleasingly rules of language were frequently identified and explained, at times with relevant case law. In part (b), candidates focused on the scenario. It is good to see that candidates are showing real ability in rehearsing and applying the rules to the factual scenario but disappointingly, there was a general lack of case law to accompany their arguments.

LAW

General Certificate of Education

January 2014

Advanced

LA3
OPTION 01: CONTRACT AND CONSUMER LAW

Chief Examiner: Professor Iwan Davies

Q.1 A very popular question, which produced the full range of marks. Most candidates approached this as a standard formation of contract answer, which was credited accordingly, but to reach the upper echelons, a detailed discussion of the postal rule and the importance of communication was paramount. Strongest answers looked at alternative forms of acceptance, such as fax and email and the importance of communication in an acceptance; using examples such as *Felthouse v Bindley* as supporting case law for silence not amounting to a valid acceptance. There were also extensive descriptions of cases such as *Adams v Linsdell* to demonstrate the limits to, and the effects of the postal rule. Detailed answers then used cases such as *Grant v Household Fire Insurance* to show the effect of letters not being received. These answers were credited very generously as they were the most detailed in the cohort and clearly showed a sound understanding of the requirements of the scenario. Weakest answers looked at standard formation of contract, with the postal rule being forming only a very small aspect of the answer. These answers centred on the difference between offers and invitations to treat and the different types of acceptance with some solid supporting case law, but not enough reference to the question to warrant awarding the higher levels.

Part (b) answers focused on the Law Commission with little reference to other law reform bodies as stipulated in the question. It would have been expected that the strongest answers addressed all law reform bodies, to at least include pressure groups.

Q.2 The least popular question on the paper, and where it was answered, was not done very well.There was some confusion with Unfair Terms, and little or no reference to the requirements of the mark scheme. The best answers looked at the case of *Hadley v Baxendale* and attempted to calculate the damages that would be awarded to the claimant in the question.

It would seem that the majority of candidates attempted this question for the sake of part (b), which was answered very well. Candidates discussed all forms of ADR; negotiation, mediation, conciliation and arbitration, with some good use of examples, and reference back to the scenario in the question.

Q.3 This was a very popular question on the paper and was done reasonably well in the majority of cases. Most answers defined and explained the different types of misrepresentation with supporting case law, and then went on to discuss the elements of misrepresentation, supported by cases such as *Roscorla v Thomas*, *Attwood v Small*, *Oscar Chess v Williams* being among the most popular. The stronger candidates then went on to discuss the relevant provisions of the *Misrepresentation Act 1967* to include *s2(1)* and *s2(2)* with reference to the Fiction or Fraud elements. Application in this question was particularly strong and candidates seemed to understand the law and make the point that the antiques dealer was an expert and therefore made a negligent misrepresentation. There was also discussion of opinions not always being counted as misrepresentation in the strongest of cases. This was followed up with reference to the *Sale of Goods Act* in terms of description of the item. Interestingly, some candidates formulated a discussion of mistake as an alternative to misrepresentation, though this may have been through uncertainty of the law, rather than a true application to the scenario.

Part (b) fell victim to the weak synoptic answers mentioned in the General Observations. Most candidates could manage an explanation of three rules (Literal, Golden, Mischief), but rarely with supporting case law. Only the strongest answers could extend their answer to include the purposive approach and support all four rules with cases. Interestingly, in terms of part (b), there was some good links to the question in terms of attempting to interpret the *Misrepresentation Act 1967* using the said rules, and using *Fisher v Bell* as an interesting citation for the Literal Rule.

Q.4 Another popular question on the paper which was done relatively well in most cases. The strongest answers looked at all the elements of consideration, the two most relevant to the scenario: consideration must not be past (*Roscorla v Thomas*); and part payment of a debt is not consideration (*Pinnel's Case*). These strongest answers then went on to discuss exceptions to this rule; namely promissory estoppel and the case of *Central London Property v High Trees House* and the landmark case of *D&C Builders v Rees* for economic duress. Discussion of these landmark cases were very good and allowed candidates to apply the law to the scenario with ease. Weaker answers centred around a discussion of the two key cases, which was credited accordingly but many fell victim to copious recounting of facts of the cases which was unnecessary for the application of the law and did not provide a convincing knowledge of the law.

In terms of part (b), any mention of the involvement of precedent in the creation of estoppels was credited very generously, even though where it was mentioned, this was very superficial and lacking development. However, on the whole discussion of precedent was very limited and disappointing. The best answers looked at **types** of precedent only, with no reference to the court hierarchy or elements of precedent which is very disappointing at this level.

LAW

General Certificate of Education

January 2014

Advanced

LA3
OPTION 02: CRIMINAL LAW AND JUSTICE

Principal Examiner: Sara Davies

General Comments

This paper appears to have been generally well received.

However, once again many candidates did not revise the AS topics in sufficient depth. Many of the part (b) answers were so short that they were not even up to AS standard and there was barely any case law provided.

Evidence in some scripts of candidates not reading the questions properly e.g. for question 4 (a) on defences, many candidates lost marks as they erroneously assumed that it was a homicide question and proceeded to explain the elements of murder.
In many instances, the standard of literacy was disappointingly poor with some candidates not even able to spell the word "assault" properly. This was exacerbated at times by such poor handwriting as to make the script practically unintelligible

The homicide question and PACE were probably the most popular and the defence question the one that many candidates shied away from.

Q.1 (a) This was a popular question. Overall the answers were very good. Most candidates dealt with the liability for Karen's murder well. Most candidates considered the homicide and causation issues, including novus actus interveniens, were addressed fully and supported by relevant case law. However, disappointingly some candidates seemed to think that the Year and a Day Rule still applied. Direct and indirect intention were both considered and it was good to see that most candidates were familiar with the "virtual certainty" test, with Woolin being widely cited. In some instances a detailed historical discussion of the case law on indirect intention was provided but, arguably, their time might have been better spent considering involuntary manslaughter at this stage. The need for coincidence of actus reus and mens rea was widely identified along with the "series of events" approach of Thabo Meli and Church. Some candidates considered that Matt had lost his self control but information and citation on the defence was very sparse. Many candidates did not get as far as discussing constructive manslaughter but generally those who did were able to identify and explain the main elements of the offence, substantiating it with case law such as Franklin, Lamb and Church. To their credit, a few candidates even considered that he could be convicted of gross negligence manslaughter on the basis of the Miller principle. As seen so often in relation to homicide questions, occasionally candidates lost marks because they simply addressed the non fatal offences, despite the fact that the question makes it clear that Karen died**.**

(b) Overall the answers to this question were fairly disappointing. A large number of scripts were missing key statutes, such as the Juries Act 1974 and the Criminal Justice Act 2003. Few candidates were able to fully discuss the selection of a jury in any detail and only a small number of candidates were able to discuss the role of criminal justice personnel on a jury citing cases such as R v Khan and R v Abdriokov. Very few mentioned the effects of vetting on jury selection, and some were still confused with the rules on selection and those that are disqualified under the Criminal Justice Act 2003.

Q.2 (a) This was another popular question and again one that produced a varying quality of answers. Some candidates considered the law and provided application in respect of the most likely offences however, often there were no defences mentioned. Students tended to be aware of the relevant statutory provisions but then made no effort to define the actus reus and mens rea for the different offences; case law was generally patchy. Although the question did not specifically refer to the need to discuss defences, a minority of candidates did highlight the possibility of voluntary intoxication on the basis of the rules outlined in Majewski.

(b) A number of candidates discussed the Access to Justice Act, the Criminal Defence Service, the Duty Solicitor at both the police station and magistrates' court and the Public Defender Service. Only a few candidates explained the LASPO changes. Unfortunately the Legal aid aspect continues to be problematic for many candidates. Many seemed to be unaware that Conditional Fee Agreements are not applicable to criminal legal aid. There are still a number of candidates who just give very general advice, e.g. they can get help from her local CAB, or ring up a solicitor.

Q.3 (a) This was a popular question, overall, the standard of answers was good. Stop and search was highlighted by nearly all the candidates and they were nearly all familiar with the procedure, widely quoting Code A and S1-3 of the Police and Criminal Evidence Act 1984. Occasionally they confused stop and search with arrest. Arrest was totally ignored by some but some of the stronger candidates referred to the necessity test and SOCPA 2005. Students dealt ably with a suspect's rights under Code C and gave detailed information on the role of the custody officer, sections 56, 58, 50 and 41 of PACE. A minority of candidates mentioned the possible need for an appropriate adult under section 57, depending on Jac's age. However a significant number of candidates treated the question as a general PACE question. The main concern throughout some scripts was the lack of section numbers / legal authority. Some candidates simply re-hashed the question and gave very general advice.

(b) This question on the whole was not as well answered, as it should have been. Whilst stronger candidates focused on police bail itself as demanded by the question, noting the powers of the Custody Officer to refuse bail under section 38 of PACE as well as the possibility of imposing conditions under the Criminal Justice & Public Order Act 1994. However, many candidates remain confused about the actual conditions that the police can impose on bail. For example, there was frequent reference to sureties and bail hostels that do not apply in relation to the police. Many candidates focused solely on court bail. It was good to see however many candidates making the synoptic link with bail and Article 5 of the European Convention on Human Rights..

Q.4 (a) This question was a fairly popular question perhaps due to the part (b) being on the Crown Prosecution Service. There were some really good scripts where candidates were able to explain the defences of Loss of Control under sections 54/55 Coroners & Justice Act 2009 as well as working through the elements of the defence of self-defence. Most candidates are now aware that provocation has been abolished. It would have been good to see more detail on triggers and at times the reasonable man test was totally omitted. Most candidates highlighted the two-part test for self-defence, with the emphasis being very much on whether the use of force was reasonable. However, there was very limited reference to section 3 Criminal Law Act 1967 or the Criminal Justice and Immigration Act 2008. Unfortunately, many candidates lost marks as they erroneously assumed that it was a homicide question and proceeded to explain the elements of murder; many gave very chatty answers focusing solely on the elements of murder and causation.

(b) This was generally well done. Almost all candidates provided information on the Full Code test, most with reference to the specific legislation and then proceeded to explain the Evidential and Public Interest tests. Although their understanding was good, case law was scarce. Most candidates provided examples of factors for and against prosecution and some identified the possibility of a private prosecution if the CPS declined to prosecute.

LAW

General Certificate of Education

January 2014

Advanced

LA3
OPTION 03: FREEDOM OF THE INDIVIDUAL AND THE PROTECTION OF HUMAN RIGHTS

Principal Examiner: Dr Pauline O'Hara

General Comments

This was a small entry of only 51 candidates. Given the composition of the entry, it was predictable that the general standard would be high, and this proved to be the case. Candidates had clearly prepared very thoroughly, and it was evident that their chosen topics had been well rehearsed in advance. This made for answers which were clear and logical, and also well supported with appropriate authority. However, it was slightly disappointing to find that candidates' legal skills were not always matched by their literacy skills, and it would be good if centres could encourage candidates to pay attention to their use of language and grammar when preparing for examinations. That having been said, centres are to be congratulated on the high level of achievement displayed by candidates overall.

Q.1 This question was chosen by almost every candidate. Overall, it was the best answered question on the paper. Part (a) in particular produced some excellent responses. Many answers followed an almost identical structure, which was evidently designed to help candidates recognise and deal with the legal issues most likely to appear in a problem concerned with police powers. Commonly, too, answers were prefaced with a paragraph explaining the importance of having a legislative regime which maintains a balance between the powers of the police and respect for the human rights of suspects. The result was that answers were generally of high quality and demonstrated accurate knowledge of the powers and duties of the police under the Police and Criminal Evidence Act 1984. The only mildly negative comment which might be made is that relying on a pre-given structure sometimes seemed to affect the way in which candidates interpreted the facts of the problem. For instance, there was a tendency for candidates to assume that the police officer's decision to stop and search must have been based on a subjective judgment regarding Karen's appearance, thereby breaching Code A, in spite of the candidate having just stated, entirely correctly, that "reasonable suspicion" under Code A can be satisfied by the receipt of intelligence such as a tip-off. Generally, though, there was a clear benefit to candidates in knowing what to look out for in a problem of this type.

Part (b) also produced many answers which were virtually identical, suggesting that candidates were basing their responses on model answers. Answers covered the role of the custody officer in the decision to grant or withhold bail from the police station, the power to grant bail following arrest but before charge under s.37 of PACE 1984, the decision the grant bail after charge under s.38, the power to grant street bail under s.4 of the Criminal Justice Act 2003, and the power to impose bail conditions, with examples. Candidates were usually able to list the grounds on which bail can be refused under s.38, although there was some confusion over which conditions can be imposed by the police and which require the authority of the magistrates. On the other hand, almost all candidates knew that only a judge of the

Crown Court may grant bail on a charge of murder since the Coroners and Justice Act 2009. One rather impressive characteristic of many answers was that they demonstrated clear understanding of the purposes behind the various kinds of police bail, together with references to real-life examples such as the grant of bail to the original suspect in the Joanna Yates murder investigation. Answers generally concluded with a reference to the Hookway case and the subsequent reinstatement of the power of the police to keep someone on bail indefinitely, under the Police (Bail and Detention) Act 2011.

Q.2 Only a very small number of candidates chose this question. Answers to Part (a) identified the relevant statute as the Official Secrets Act 1989, and the relevant sections as s.2 and s.5. A nice feature of these answers was that candidates took the trouble to explain the problems with the old Official Secrets Act 1911, and the supposed liberalisation of the law brought about by the requirement that a disclosure must be "damaging". Candidates explained the meaning of "damaging" within s.2, and the circumstances in which a disclosure can be said to be damaging. They also considered whether Kate might have a defence under s.2(3), namely that she did not know, or have reasonable cause to believe, that the disclosure would be damaging. Nobody, however, considered whether Kate had, or reasonably believed that she had, authority to make the disclosure as and when she did. It was widely assumed that Martha would be charged under s.5, and some candidates showed themselves adept at distinguishing the subsections relating to how the information was acquired.

Part (b) was usually answered quite briefly. The actual process of selecting people for jury service was either mentioned only in outline, or glossed over. Candidates referred to the qualifications for jury service, and the rules relating to disqualification and excusal or deferral, together with examples. The reforms of the Criminal Justice Act 2003 seem to have now been absorbed to the point where candidates barely mention them, although it was noted that only over-65s and members of the armed forces are entitled to exemption from jury service. Slightly more surprising, given the nature of Part (a), was the absence of discussion of jury-vetting. On the whole, answers were adequate but not especially detailed.

Q.3 This question was almost as popular as Question 1. Again, answers tended to follow a very similar structure, beginning with the obligation upon the organiser of a procession under s.11 of the Public Order Act 1986 to give advance notice to the police. Most candidates reasoned that the presence of Superintendent Ahmed meant that this requirement must have been satisfied. A very small number of candidates appeared to be under the impression that failure to give notice would either render the procession illegal or provide grounds for the police to ban it. However, the great majority knew that the consequence of failure is that the organiser(s) commit a summary offence under s.11(7). All candidates were able to explain the power of the police under s.12 to impose conditions upon a procession, and to list (more or less accurately) the "four triggers" and the conditions which can be imposed. Candidates also frequently discussed the power to ban processions under s.13, again with varying degrees of accuracy. Only a very small minority thought that Superintendent Ahmed had the power to ban the procession entirely and on his own initiative. However, many candidates rightly pointed out that the imposition of conditions such as a change of route may have the same practical effect as an outright ban, and may be subject to challenge in the light of Art.11 of the ECHR. Candidates were also able to explain the similar power under s.14 to impose conditions upon a static assembly. A small number of candidates got into difficulty with regard to the circumstances in which an assembly may be banned under s.14A-C, and who has the power to impose such a ban. The most common misapprehension seemed to be that a ban may be imposed by the police on the spot, unilaterally and without reference to the local authority or the Home Secretary. Even so, candidates were usually aware that

such a ban can only be imposed upon an assembly which is “trespassory” as defined in s.14A. The case of DPP v Jones was cited frequently, and in fact the stronger

answers were notable for their use of relevant case law throughout, including Brehony, Broadwith and Beatty v Gilbanks. In addition to discussing the powers of the police to control processions, many candidates referred to the offences against public order contained in sections 1-5 of the Public Order Act 1986, together with cases such as Clarke and Fidler. Candidates were clearly anxious not to overlook anything of relevance, and even fairly remote contingencies were often discussed, such as the possibility that the planned music and dancing might infringe the provisions against raves.

Part (b) was generally well answered, with most candidates correctly describing the avenues of appeal from the magistrates’ courts. Answers usually began with the power of the magistrates’ court to rectify its own errors, and then discussed appeal as of right to the Crown Court and appeals by way of case stated to the Divisional Court. It was quite impressive to encounter detailed explanations of the circumstances in which appeals may be brought against conviction and/or sentence, when appeals may be brought by the prosecution and the defence, and the rules surrounding appeals by way of case stated from both the magistrates’ courts and the Crown Courts. Answers generally concluded with appeals to the Supreme Court on a point of law of general public importance, certified as such by the Divisional Court. Although answers varied to some extent with regard to the degree of detail which was provided, the overall standard was high and errors were rare.

Q.4 Not many candidates chose this question. As had been expected, answers to Part (a) were based on the law prior to the Defamation Act 2013, although one or two candidates noted that reforms were imminent. Answers were therefore marked on the basis of the pre-Defamation Act 2013 law. Candidates generally showed an adequate degree of knowledge, and made a commendable effort to apply the law to the facts in the scenario. They explained the distinction between libel and slander and the meaning of defamation with reference to well known cases such as Sim v Stretch, Byrne v Dean and Charlesworth v NGN. Possible defences were discussed according to the traditional, pre-Defamation Act 1913 categories of justification, fair comment, absolute privilege and qualified privilege. Candidates seemed aware that publication in the public interest could provide the backbone of a defence for Martha, but answers did not specifically identify either the former “Reynolds defence” or the new defence of public interest under s.4 of the Defamation Act 2013. The impression was that candidates were aware of some of the changes but had not assimilated them, and as a result their answers tended to lack confidence.

Part (b) seemed to take candidates unawares, and some appeared to have real difficulty in identifying the most significant differences between a civil action and a criminal prosecution. The number of candidates answering the question was very small, and answers differed quite widely in their selection of contrasts, with some focusing on fairly narrow issues such as the use of juries or the availability of legal aid. Nevertheless, all candidates were able to draw a number of relevant distinctions, and to support their answers with references to appropriate authority.

LAW

General Certificate of Education

January 2014

Advanced Subsidiary/Advanced

LA4
OPTION 02: CRIMINAL LAW AND JUSTICE

Principal Examiner: Sara Davies

General Comments

This paper appears to have been generally well received but answers to the synoptic elements of Section B indicate that candidates continue not to revise the AS topics in sufficient depth. Once again, there were many scripts where the handwriting was practically unintelligible. Candidates must be reminded that the examiners have to read their work and the awarding of marks can be severely hampered by poor handwriting.
The most popular questions were 2, 3, and 6. There were very few answers to Q4.

SECTION A

Q.1 This was quite a popular question and there were some very good answers where candidates provided some excellent evaluative points on the age of criminal responsibility, discussed the traditional aims of sentencing and also explained why it is considered important to treat young offenders differently. There was widespread reference to Thompson and Venables v UK and the subsequent changes to the way in which young offenders are tried by the Crown Court as well as an understanding of the role of the Youth Court. Candidates referred to some of the out of court disposals but very few noted the sentencing options available to the courts to the extent that I cannot recall one single mention of the youth rehabilitation orders under the Criminal Justice and Immigration Act 2008. Unfortunately a few candidates more or less ignored the focus of the question and simply discussed sentencing in general.

Q.2 This was the most popular question on the paper and there were some very impressive responses, with candidates making a concerted effort to focus their evaluation on the remit of the question. Candidates were able to explain the historical background to the CPS and the reasons for its inception. There was good understanding of its role, including that of CPS Direct and their charging role and it was pleasing to see frequent reference to the CPS Inspectorate. Most were able to explain the response of the CPS to the criticisms raised in the Glidewell, Narey and Denman Reports but the issue of rights of audience was less well recognised. A minority of candidates however were unable to even cite the Prosecution of Offences Act 1985.

Q.3 As the second most popular question on the paper, this was generally well answered. Again it was good to see candidates using their evaluation points to respond to the actual question rather than simply reiterating a pre-rehearsed essay plan. There were some very good scripts with candidates having a very good understanding of police bail, including the Police (Bail and Detention) Act 2011 and Hookway, as well as showing an appreciation of the powers of the courts as regards bail. There was frequent reference to Adam Swellings and Gary Weddell but only a limited number of scripts mentioned the power of the prosecution to appeal against the granting of bail under the Bail Amendment Act 1993. Unfortunately, there were also a few candidates who simply did not have the knowledge to enable them to evaluate the conflicting issues relating to bail.

Q.4 This was doubtless the least popular question of Section A and frequently appeared to have been attempted by candidates who had very little actual knowledge of the defence, to the extent that they simply waffled. I did, however, see a few scripts which highlighted the two part Graham test, referred to the relevant characteristics identified in Bowen and noted Hasan in the context of joint enterprise. However, overall this was rather a disappointing response.

SECTION B

Q.5 (a) This was not a popular question, with a minority of candidates attempting this question, which resulted in a mixed response to this question. Some candidates explained the nature of actus reus, with frequent discussion of causation issues and omissions. Similarly with mens rea, they differentiated between direct and oblique intention, with many candidates providing a historical account of the case law pre Woolin. The subjective / objective issues surrounding mens rea were less well documented and there was very little discussion of the specific / basic intent discussion. Less well prepared candidates showed very little understanding of these two key elements.

(b) Several weaker candidates chose Q5 because the (b) section gave them the opportunity to include chatty answers about law and morality, lacking in any supporting case law or authority, with very little evaluation of the relationship between law and morality. It was disappointing to see, at A2 level, the poor number of responses to this question. There was the occasional good script but reference to Hart / Devlin was scarce.

Q.6 (a) This was a very popular question. Answers were usually of a high standard**.** Candidates appeared to have been taught to structure their answers by beginning with the nature of strict liability and absolute liability with reference to Winzar and Larsonneur, progressing through the presumption in favour of mens rea as stated in Sweet v Parsley to finally discussing the Gammon principles, frequently supporting their explanations well with relevant case law. There were some excellent answers where candidates went a stage further, criticising the approach in R v G as being inconsistent with that of other indecency cases such as B, K and Kumar. However, there was also some misconception relating to the nature of absolute liability and some candidates failed to discuss the Gammon principles in any degree of detail.

(b) The responses to this question were very disappointing, in particular as it was a straightforward question on an AS foundation topic which candidates would have covered in detail during the first year. Although some stronger candidates were able to explain the hierarchy of the courts, mentioned the Practice Statement and explained a little about the flexibility afforded by overruling, distinguishing and reversing, even then there was very little by way of relevant citation. Weaker candidates even struggled to delineate the hierarchy of the court system although most did appreciate the binding effect of precedent.

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