

A LEVEL

Examiners' report

LAW

H415

For first teaching in 2017

H415/01 Autumn 2021 series

Introduction

Our examiners' reports are produced to offer constructive feedback on candidates' performance in the examinations. They provide useful guidance for future candidates.



Reports for the November 2021 series will provide a broad commentary about candidate performance, with the aim for them to be useful future teaching tools. As an exception for this series they will not contain any questions from the question paper nor examples of candidate responses.

The reports will include a general commentary on candidates' performance, identify technical aspects examined in the questions and highlight good performance and where performance could be improved. The reports will also explain aspects which caused difficulty and why the difficulties arose, whether through a lack of knowledge, poor examination technique, or any other identifiable and explainable reason.

A full copy of the question paper and the mark scheme can be downloaded from OCR.

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Paper 1 series overview

This paper was part of an extraordinary series offered in October 2021.

H415/01 is the first of three papers taken by OCR A Level Law candidates following two years of study. This particular paper assesses two key themes – the legal system and criminal law.

The cohort for this paper was extraordinarily small. So, it is not possible to extrapolate general lessons, trends and feedback from such a small number of scripts. Therefore, with the exception of a small number of useful series specific lessons, this report will focus on providing more general advice and guidance.

As with both the H415 and H418 specifications, the paper has three assessment foci and, in order to do well, candidates will need to demonstrate the skills of knowledge and understanding of the relevant law (AO1), the ability to apply the law to a given factual scenario in order to construct liability (AO2), and the ability to analyse and evaluate the law (AO3). All of which must be done in the proportions indicated in the mark scheme.

<i>Candidates who did well on this paper generally did the following:</i>	<i>Candidates who did less well on this paper generally did the following:</i>
• Stuck to the question asked and gave quick and precise information in Section A • Used succinct, well supported AO1 information and accurate concise AO2 application in Section B • Gave good AO1 by way of explanation of the law and supported this with relevant AO3, referring to and answering the question asked.	• Provided a 'different' answer for Question 1 or 2 • Made bald unsupported points in Question 3 and 4 • Provided much accurate yet irrelevant AO1 information for Questions 5, 6, 8, 9 • Did not answer the question in Questions 7 and 10.

Section A overview

The Section A answers had a differentiated success rate.

- Question 1 the training required for solicitors
- Question 2 the routes of appeal in civil courts
- Question 3 required an analysis on the problems faced by those training to be solicitors
- Question 4 required an analysis on the advantages found when using Alternate Dispute Resolution

Questions 1 and 2

Responses showed some reasonable AO1 development with candidates achieving a broad range of marks, including Level 3 marks. There were however, some candidates who went awry and answered a question not asked.

- For example, in Question 1, many candidates provided unnecessary details about the education requirements. The question only asked for details for how one trains to be a solicitor.
- Whereas in Question 2, many candidates couldn't provide a coherent structure for appeals, but everyone remembered 'leapfrog'.

NOTE: Solicitors Qualifying Examination (SQE)

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Two-year rule. While candidates are encouraged to be aware of the changing nature of law, they are not required to be familiar with innovations coming into effect in the two years immediately preceding the examination. The training process set out in the mark scheme, therefore, was correct at the time this examination was set. From September 2021, training to become a solicitor requires completion of a Solicitors Qualifying Examination, details of which are also available in the scheme.

Both routes were shown in the mark scheme and credit was given for both types of training.

Question 1 generated some mixed responses. The higher ability described the route of training available and used the different stages to illustrate their answer. Many candidates gave a basic description, but without illustrations. Some responses confused education and training. Including details about education did not gain credit, as it hadn't been asked for. Some candidates focused heavily on the area though, starting off with GCSEs being needed.

Question 2 was reasonably straightforward, but candidates didn't seem confident in their knowledge on the subject. Most candidates did remember something about leapfrog and tried to use that as the basis for the question.

Overall, for both questions, few responses were able to produce answers able to access Level 4.

Questions 3 and 4

There was a comprehensive and balanced attempt by candidates to answer the questions, with some candidates managing a range of developed or well developed points with only a few lists or bullet point answers. Many candidates attempted broad answers and as a result, there were fewer answers capped at the top of Level 2.

Question 3 was about the adequacy of training for solicitors and many candidates attacked three or four key areas giving well developed arguments. Many candidates identified a few points and went on to give some development. Some candidates acknowledged areas such as diversity and attempted to

rationalise an alternative answer to the question, using that information to focus back on the question and explain why there are fewer jobs open to those candidates.

Question 4 answers were stronger and noted that ADR was a better method of settling civil disputes. This in turn led to answers that were either creditworthy or not. The higher ability answers focused on the simple advantages and the associated issues that could be raised as a result, developing those arguments, and providing a reasoned alternative.

	AfL	It should be noted that at least one developed point with supporting points, was required to access the top of Level 2 or achieve Level 3, and at least one well developed point with supporting Ps and DPs was required to access the top of Level 3 or achieve Level 4. This will be even more important in coming sessions, where the marks for these questions will be reduced. For Questions 3 and 4, making bald statements such as '<i>an advantage is X</i>' may not in itself be automatically creditworthy. It is the explanation as to why it is an advantage that leads to extended credit. For example, 'An advantage is x.... because in comparison to y, it is (cheaper, longer, faster, stronger.) Developed points are then accessed through '...this means that....' or '....this is good/bad because....' Well developed points are achieved when a counterpoint is given, or the current route of development is extended, 'however' or 'also'.
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Key teaching and learning points – comments on improving performance

Candidates seem to be aware that for AO1 questions, the more relevant knowledge you display, then the more credit you will earn. Candidates must also focus on the important words in the question – role, selection, training, civil, criminal etc.

For AO3 questions, candidates should focus on the question. If the question asks for advantages, then start with one advantage and say why it is one. Develop that by explaining what the result of that advantage is for that area of law and then perhaps extend that again for extra credit or suggest why however, there may be a parallel disadvantage. If the question asks for advantages, there will be little or no credit for disadvantages unless they are used as counter argument. A good starting point for candidates could be to ask themselves if this question may be approached with arguments of cost, time and difficulty or focus perhaps on the issues of the qualifications required.

Section B overview

The Section B questions were:

- Question 5 Non-fatal Offences against the Person
- Question 6 Murder
- Question 8 Theft, Robbery and Burglary
- Question 9 Gross Negligence Manslaughter and related causation
- Question 7 or 10 was an evaluation on the defence of Duress by Threat

The Section B questions attracted a broad range of answers with few 'No Response' submissions and only a small number of answers with a response only worthy of Level 1 marks. There were few rubric errors. Answers were evenly split between Questions 5-7 and Questions 8-10.

Section B responses tended to display a methodical approach from most candidates, identifying and applying many of the issues raised which were relevant to the question. In each case, the candidates were able to attain good AO1 marks, with many getting 10/10. A high number of candidates demonstrated clear knowledge of statutory or common law authority and case illustrations were used, usually without giving the full case narrative. This is still an issue in some cases, although it is not required and is not credit worthy.

AO2 marks tended to be at Level 2 or low Level 3 with few Level 4 marks. This was most likely due to lack of practice and highly likely to be related to the current circumstances. Application and evaluation skills can be harder to teach remotely and although the candidates had clearly tried their best and prepared well, those skills weren't as developed as they would be in an average year.

There was a good effort responding to the questions asked with fewer responses failing to get any credit because the candidate had answered a different yet similar question to the one asked.

Question 5

This question required candidates to describe the law on Assault, Battery, s47 ABH and s18 GBH. Most candidates did this and did it well, illustrating their description with relevant case law. Candidates provided reasonably well crafted AO1 answers with a full description and many were able to achieve full AO1 marks. AO2 marks are given for the application of the law to the scenario and although some Level 4 answers were seen, many seemed to run out of steam at Level 3.

Question 6

This was a very popular question and there were some excellent answers which showed good knowledge and developed application across a whole range of issues connected with the offence of murder. Many candidates were able to deal with the actus reus elements including both types of causation, although some did so at great length and without application. Almost all candidates explained the 'but for' test with Paggett and the De Minimis principle with Kimsey.

Some wrote well on transferred malice which, although relevant to the issue of unlawfulness, was not a major aspect. Most candidates engaged to some degree with the issue of mens rea and most were able to outline the differences between expressed and implied malice and used Lord Coke's definition with supporting case law as a route map through the question. This meant that Level 4 marks were achievable and many candidates did that.

Question 8

The best answers demonstrated a clear focus on each part of the statement and dealt with it on a notional 50/50 AO1/AO2 split. Most worked through the relevant parts of the statutory authority and applied the key elements of each offence with application before a conclusion. Some candidates thought it was a requirement that they set out the whole of the law on theft all over again which was unnecessary. With reference to James and Nina, most candidates outlined the law of s9(1)(a) required and 9(1)(b) paying particular notice to the issues of entry, trespass and being in a place in excess of one's permission. They showed good use of the case law – Ryan, Walkington, Jones v Smith, - accordingly in their application with most arriving at the conclusion that James and Nina were liable for either 9(1)(a) or 9(1)(b).

Question 9

This scenario was answered well by most candidates who set out the law on Gross Negligence Manslaughter by working methodically through:

- Was there a duty of care?
- Was the duty of care breached?
- Was there a risk of death and did death result? Misra
- Was the negligence so bad in all the circumstances as to amount to a criminal act or omission in the eyes of the jury? Adomako

They then applied these concepts to the scenario. Many candidates again, scored maximum AO1 marks and many moved to Top Level 3 marks with some moving into Level 4. This question was by far the best answered with the majority of candidates writing good answers.

Question 7 or 10

This was the mandatory Section B essay question, and it was clear that most candidates who answered it were confident in their knowledge of the different restrictions applying to the defence of Duress which then provided a good foundation for analysis.

AO1 was credited both for an explanation of the scope and/or for case citation. It should be noted that with only 10 marks available and given the nature of this area of the law, responses needed to be accurate in naming and defining relevant restrictions and their explanatory case law. Consequent evaluation was done quite well but needed to be more detailed and a conclusion, which must be given, was often lacking. Candidates should refer constantly to the question asked and outline how their evaluation fits in to that concept.

 Question 5 Re: ABH	Misconception	When describing the Actus Reus of s47, it is only necessary that candidates quote • 'It is necessary to prove that there was an assault or battery and that this caused actual bodily harm.' Very Limited credit may be gained by mentioning factual and legal causation or White 1910. A full description of causation is not required and may detract from candidates' time keeping for their answer.
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Guidance on using this paper as a mock

Centres should be aware that the questions in future may be similar, but mark thresholds are reduced from 2022.

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