



A-Level Law

7162/2

Report on the examination

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Introduction

The 2025 paper was similar to previous Paper 2 examinations in terms of the types of question asked and the demands made of students. Consequently, those students who were able to respond confidently to the questions did so by demonstrating an ability to identify relevant principles of law, to explain those legal principles and to apply them to the scenario problems to arrive at reasoned conclusions.

Less confident students sometimes struggled to identify the issues raised by scenario questions. Alternatively, such students did not give a complete account of relevant legal rules by way of explanation and/or were lacking depth in their analysis of the rules when applying them to the facts of a question. There were also a number of responses where students did not make proper use of the facts given as part of a scenario.

Question 1

The correct answer was option D, which about 73% of students identified.

About half the remaining students identified option A, perhaps confusing the 1957 Act with the 1984 Act.

Question 2

The correct answer was option C, which just over 80% of students identified.

Almost all of the remaining students selected option A.

Question 3

The correct answer was option D, which just over half of students identified.

There was clearly some confusion about the roles of a Green Paper and a White Paper as about a third of students chose option B.

Question 4

The correct answer was option A, which just over 80% of students identified.

The remaining students selected the other three options in roughly equal numbers.

Question 5

The correct answer was option D, which just under half the students identified.

Students are not confident about the different divisions of the High Court. About a third of students identified option B, and the remaining two options were both chosen by about 10% of students.

Question 6

The question asked students to explain, in the context of law reform, the terms codification, consolidation and repeal.

Some students clearly understood the work of the Law Commission and were able to produce answers that scored well. Up to two marks were available for each of the definitions, and to score both marks students needed to give a basic definition and briefly to explain it so that it was clear that they understood what they were writing about.

One common deficiency, even with students who scored reasonably well, was to confuse consolidation and codification. Another common mistake was to confuse the roles of the Law Commission and Parliament. The Law Commission, for instance, may recommend that a statute be repealed but only Parliament can do this. Some students went further than the scope of the question by describing the composition of and history of the Commission or by offering an evaluation of its work. Such material could not be credited.

A significant number of students wrote about topics other than the Law Commission. Common examples were appeals from a court decision (confusing the terms “appeal” and “repeal”) and the stages in the House of Commons during enactment of legislation (First Reading etc).

Other students wrote answers that revealed little substantive knowledge (on this topic or any other) or simply did not answer the question at all.

Question 7

The question asked students to explain, given that Arnie had admitted his driving was negligent, why Basma would nevertheless be unable to claim her lost profits for the afternoon.

A successful answer therefore required students to:

- Explain what is meant by a pure economic loss and to apply that definition to the scenario to show that Basma’s loss was a pure economic loss.
- Explain the circumstances in which a pure economic loss can be claimed and to apply that explanation to the scenario to show that Basma did not come within those circumstances. Some students did this by explaining that normally pure economic loss caused by a negligent act cannot be claimed, and that in this instance, as Arnie’s driving amounted to a negligent act, Basma was unable to claim. Other students chose to explain that pure economic loss could be claimed in the context of a negligent misstatement where a special relationship existed between the parties, but that in this case there was no misstatement and no special relationship between Arnie and Basma. Either approach was given full credit.

Most students were able to identify that Basma had suffered a pure economic loss, and a significant number were able both to define what that meant and to explain why Basma would be unable to sue for it. The less successful answers neglected to address one or other of the two issues (what pure economic loss is and when it can be claimed).

Alternatively, less successful answers gave competent explanations of the rules but then did not apply them to the specific facts of the scenario: there were a significant number of answers where a student's knowledge of the topic was good (AO1), but where their analysis and application was mostly or entirely missing (AO2). This was linked to another common issue whereby students would simply assert either that Basma had suffered a pure economic loss or that she would be unable to claim in the circumstances without explaining why.

Some students set out material which was beyond the scope of the question, or which was not relevant. Common examples included an account of negligence in the context of a physical loss and policy reasons why recovery of pure economic loss is restricted. A small number of students thought that the claim would fail because it would be impossible to calculate damages.

Question 8

The question concerned Cait's liability to Don, under the Occupiers' Liability Act 1984, for his injuries sustained when he used the steps to climb into the hotel swimming pool.

A good answer might therefore have included:

- A discussion of the elements necessary for a claim under the 1984 Act: premises, occupier and unlawful visitor. This might suggest that the pool, and more specifically, the steps were premises; that Cait was the occupier based on her control of the premises (for instance it was she who had the authority to place the sign); and that Don became an unlawful visitor when he exceeded his permission to be on the hotel premises by climbing past a sign that told him not to enter the pool
- A consideration of the rule that the occupier only owes a duty of care under the 1984 Act if the accident happened wholly or partly because of the state of the premises rather than solely through the actions of the unlawful visitor: in this case, the accident happened partly because the steps were loose
- The rules set out in s.1(3) of the Act governing when a duty of care might be owed in the first place: whether Cait was aware of the danger (she knew the steps were loose), whether Cait was aware others might come into the vicinity of the danger (the pool was very popular with guests) and whether the danger was one which Cait could reasonably be expected to offer some protection against (for instance, the steps were not visibly loose and falling into water may be dangerous)
- In the event that Cait did owe a duty, a consideration of whether she discharged that duty (for instance, a discussion of whether in the circumstances the sign was adequate)
- A consideration of whether Cait might argue a defence (contributory negligence and/or consent), and briefly of the remedy of compensatory damages.

Strong answers, of which there were many, addressed the issues in an organised and systematic fashion. Such answers were able to offer both explanation and application at each stage of the discussion and were able to reach confident and reasoned conclusions. In particular, such answers were able to give a careful consideration of some of the factors relevant to whether Cait had broken her duty. There were many confident discussions relating to matters such as the sign, the wording of the sign, whether the risk was obvious to an adult,

whether Cait could have done more when faced with someone determined to use the pool and risk factors (likelihood of risk, seriousness of risk etc) generally.

One common deficiency was an omission to separate 1(3)(c) (relating to whether a duty exists) from a discussion of breach of duty. Although these two issues sometimes refer to similar factors (e.g. whether the danger was obvious), they are two separate questions. Students who ran the two together produced answers which were less clear and precise.

A second common issue was those students who argued that Don, as a paying guest at the hotel, was a lawful visitor and had every right to use the pool. Such answers then discussed the framework for liability set out in the Occupiers' Liability Act 1957. Such answers did not take into account the clear argument that Don was an unlawful visitor at the time of the incident, or the instruction in the question itself to take into account the 1984 Act.

A further issue, which affected marks scored by less successful answers, was an omission to use the facts of the scenario as part of an analysis and application of the legal rules. It was common for such answers simply to assert, for instance, that it was clear that Cait was the occupier, that Don was an unlawful visitor and that the elements set out in s 1(3)(a) to (c) were established without explaining why. Equally, marks were lost when any discussion of breach was cursory and claimed just that Cait clearly had (or had not) broken any duty.

Question 9

Question 9 covered two aspects: the relationship between law and fault (worth 10 marks) and the extent to which the law in the Occupiers' Liability Act 1957 is based on fault (worth 5 marks).

With respect to the fault aspect, a good answer might address a moderate range of different points with an explanation of how or why fault was relevant to each, perhaps with an explained example. Common examples included:

- A definition of fault perhaps in terms of a dictionary definition or in terms of concepts such as blameworthiness.
- An exploration of the significance of fault as, for instance, a marker of blame and an allocator of responsibility.
- The different levels of *mens rea* in criminal law (for instance, intention, recklessness or gross negligence) and how they might relate to different individual homicide or GBH offences.
- The role of fault in tort claims such as negligence (e.g. the objective standard) and private nuisance (e.g. malice)
- The role of strict liability and the extent to which fault is (or is not) relevant using examples from criminal law and/or tort law
- A discussion of fault in the context of defences, either criminal or tortious
- A consideration of whether fault is relevant when a criminal court hands down a sentence or when a civil court decides the level of damages.

A significant number of students were able to write confidently on the subject of fault and its relationship with legal rules. Successful students were able briefly to discuss fault across a range of topics and to introduce examples. Many stronger responses were able to introduce

material which showed contrasting roles of fault (for instance the difference between subjective and objective standards or the contrast between crimes requiring *mens rea* and crimes of strict liability).

One characteristic of less successful responses was a narrow range of material and a brief answer. A significant number did not take into account the mark distribution between the two parts of the question as they wrote only a couple of sentences on this part and several paragraphs on the extent to which the OLA 1957 is based on fault.

A second common deficiency was an inability to explain material or examples, for instance the difference between subjective and objective standards or the role of fault in claims such as vicarious liability.

In relation to the second part of the question, the extent to which the law in the Occupiers' Liability Act 1957 is based on fault, a range of material and of approaches were credited.

Students often started by considering the level of care required by s 2 of the Act, and discussing the objective nature of this standard. Strong responses then selected a small number of aspects of the Act and discussed the role of fault in relation to these aspects. Common examples included children (and who was at fault if they were not supervised), specialist visitors, the defence of independent contractors (and the responsibilities, if any, of the occupier), general defences (such as contributory negligence) and the use of warnings (such as signs).

Less successful responses were unable to identify and explain fault in the context of the 1957 Act. Minimal credit was given for a brief explanation of the duty imposed on the occupier, but, beyond that, credit could not be given for an account of the rules of the Act which lacked any consideration of the role of fault in how the Act operates.

A significant number of less successful responses mixed in a consideration of the Occupiers' Liability Act 1984, perhaps because that Act was examined in the previous question.

Question 10

Question 10 concerned Ethan's liability in negligence for, firstly, the physical injuries suffered by Faye and, secondly, the psychiatric injuries suffered by Gaby and Harley. These two aspects were weighted equally in terms of marks.

With respect to Ethan's liability towards Faye, a good answer might include an explanation and application of:

- The rules establishing whether Ethan owed a duty of care to Faye, on the basis of an established duty of care (the duty of one road user to another) following the approach set out in *Robinson v Chief Constable for West Yorkshire*
- Whether Ethan had broken the duty of care according to the standard of an ordinary person carrying out a normal activity for an adult (driving), together with a discussion of relevant risk factors (such as likelihood of an accident, seriousness of any injury risked and practicality of precautions)

- Causation in fact and in law (perhaps including the fact that Ethan's car did not actually come into contact with Faye's car)
- A consideration of the defence of contributory negligence given that Faye was not wearing a seatbelt and a brief consideration of the remedy of compensatory damages.

Good answers addressed the issues raised by the scenario in a systematic and perceptive fashion. Each of the major elements of the tort was explained and the rules applied using the facts of the scenario to reach sensible conclusions. Such responses usually cited plenty of relevant authorities.

In relation to duty of care, a significant minority of responses established a duty of care using the three-part guideline set out in *Caparo*. Although full credit was given for this, the Supreme Court in *Robinson v Chief Constable of West Yorkshire* made it clear that, where a duty of care has been established through precedent (such as the road user's duty), a court should follow that precedent instead. (Some students chose to discuss both the *Caparo* and the *Robinson* approaches which made for some very lengthy answers.)

Many responses were slightly deficient in their treatment of the defence of contributory negligence. While a great many students were able to identify the defence and explain its relevance to the scenario, fewer explained the principles governing the defence or applied those principles to the facts to justify why Ethan might be able to make use of it. By contrast, some students made the very perceptive point that, if contributory negligence were available, it would only apply to reduce Faye's damages for personal injury and would not apply to reduce damages for the loss of the car.

Other issues included treating Ethan as a professional driver for the purposes of breach of duty (and thus referring to, for instance, medical negligence cases), dealing only cursorily (if at all) with the risk factors for breach and confusing contributory negligence with causation in law.

A final issue in some responses is that Faye was treated as a primary victim, as she was involved in the accident. This clearly was not correct as the scenario states that she suffered physical injuries rather than psychiatric injuries.

With respect to Ethan's liability towards Gaby and Harley, a good answer might include an explanation and application of:

- A definition of psychiatric injury, and an explanation of the difference between a primary victim and a secondary victim
- In the case of Gaby, an explanation as to why she is probably a primary victim and a consideration of whether she satisfies the requirements so that Ethan owes her a duty of care in respect of her psychiatric injury
- In the case of Harley, an explanation as to why he needs to satisfy the requirements of a secondary victim, together with a consideration as to whether he does satisfy those requirements so that Ethan owes a duty of care in respect of his psychiatric injury
- A brief acknowledgement, probably referring to the discussion in relation to Faye, as to the need for breach of duty and causation if either is to receive a remedy of compensatory damages.

In relation to Gaby, most students were able to identify that she was a primary victim. However, a significant proportion of responses did not explain what is meant by the term “primary victim”, or, if they included phrases such as “the zone of danger”, did not explain what was meant by that. Such responses simply asserted that Gaby was clearly a primary victim. A minority of responses, however, did not distinguish between Gaby and Harley, despite their very different circumstances, and treated both as secondary victims.

In relation to Harley, many students lost marks because, having identified the *Alcock* rules, they then did not apply them to the facts of the scenario. Students did not, for instance, distinguish the initial phone call and witnessing the aftermath in terms of unaided senses. Equally, the phrase “immediate aftermath” was frequently not defined or applied to the facts. Finally, a significant proportion of responses simply asserted that Harley satisfied the “close tie of love and affection” criterion without explaining what that criterion entails or why Harley in fact probably does meet it.

In relation to secondary victims, centres should note the effect of the decision of the Supreme Court in *Paul v Royal Wolverhampton NHS Trust* [2024] UKSC 1. In particular:

- It is necessary for a secondary victim to have witnessed an accident (or its immediate aftermath) rather than for instance the consequences of medical negligence. An accident was defined as an unexpected and unintended event which caused injury or risk by violent means to at least one primary victim
- It is sufficient if there is a causal connection between what the claimant witnessed and the subsequent psychiatric injury. There is no longer a requirement that the claimant should suffer “sudden shock” or witness a “single horrifying event”. Consequently, cases such as *Walters v North Glamorgan NHS* were overruled.

Question 11

Question 11 concerned firstly Lola’s liability to Kelvin for private nuisance, secondly Lola’s further liability to Kelvin under the rule in *Rylands v Fletcher* and thirdly an assessment of the factors which might influence a judge when deciding whether or not to grant an injunction in a case of private nuisance. The first two elements together were worth 23 marks (and were given equal weighting within this allocation) and the third element was worth 7 marks.

In light of the responses submitted by students, a flexible approach was taken in relation to the third element. Creditworthy approaches taken by students included:

- A discussion of factors relevant to Kelvin’s particular scenario
- A more theoretical discussion of factors based on ideas such as balancing competing interests, and
- A combination of these two approaches.

With respect to Lola’s liability towards Kelvin in respect of private nuisance, a good answer might include an explanation and application of:

- The rules identifying the claimant (Lola) and the defendant (Kelvin)
- The meaning of private nuisance and the idea of indirect interference (specifically a loss of amenity on Kelvin’s part)

- Factors which might be taken into account when deciding if there had been a substantial interference with the ordinary use and enjoyment of a person's land: common and ordinary use of the defendant's land, locality, malice, duration, intensity of the interference and (possibly) sensitivity
- Brief reference to the non-defence of coming to the nuisance.

One common deficiency in answers was the cursory treatment of the factors which determine whether the defendant's use of land is unlawful. Frequently, less successful answers gave a series of statements that were little more than unsupported assertions. In the case of locality, for instance, such responses might just say that it was clear that the location of the scenario meant that the activity was unlawful without explaining what this factor actually means and how it contributes to the judgement. Another example was malice: students were able to identify the possible malice on the part of Lola but then did not discuss why this might be relevant or how a court might take account of it.

Centres should note the decision of the Supreme Court in *Fearn v Board of Trustees of the Tate Gallery* [2023] UKSC 4. In particular:

- The Supreme Court reiterated that social utility (public benefit) is not a factor to be taken into account when deciding if an activity is unlawful and amounts to a private nuisance. Private nuisance was described as a violation of rights over real property, and the common good cannot justify taking these rights away from the claimant. Social utility however remains very relevant to which remedy, if any, to grant in the event of a successful claim for private nuisance, and it is appropriate to discuss this factor fully in that context
- The Supreme Court also confirmed that, when establishing whether there is a private nuisance, a relevant factor is whether the defendant's use of land is a common and ordinary use and is done with proper consideration for the interests of neighbouring occupiers. The Supreme Court, for instance, contrasted *Bamford v Turnley* ("corrupted air" emitted by brick kilns) and *Southwark LBC v Tanner* (everyday household sounds such as cooking, cleaning and children playing): the former was an actionable private nuisance, the latter, not.

With respect to Lola's liability towards Kelvin in respect of *Rylands v Fletcher*, a good answer might include an explanation and application of:

- The nature of the rule in *Rylands v Fletcher* and its status as a tort of strict liability
- The elements required to establish liability under the rule
- The defence of "unforeseen act of a stranger" and the possible remedy of compensatory damages.

Many students were able to give comprehensive and precise answers which explained and applied the elements of the Rule. One particular strength was the identification of the issue of whether it was the petrol or the fire that escaped onto Kelvin's land. Full credit was given to different approaches including both the idea that there would be no liability if it were just the fire that spread across the boundary and the idea that the petrol itself, having been ignited, might have seeped across and that therefore the element of escape was satisfied.

One common deficiency was an inability to explain properly some of the elements required to establish liability under the Rule. One example is the idea that the defendant must be engaged in a non-natural use of the land. A significant number of responses would simply assert that it was clear that storing large quantities of petrol was such a use, without discussing what a non-natural use might actually mean. Such answers frequently did not develop their application of the rules to the facts of the scenario. Many students also did not keep the different elements separate: “accumulation” and “dangerous substance”, and “escape” and “dangerous substance” were two pairs frequently run together as a single element.

A second deficiency occurred in the case of the defence of “unforeseen act of a stranger”. Many students were able to identify that the defence might be relevant, but fewer discussed what such a defence would entail, simply asserting that the defence was available. More perceptive answers briefly discussed the possibility that Lola could use the defence as, although it was known that teenagers were entering in order to race go-carts, as that did not of itself mean that it was foreseeable that one of them would then set fire to the petrol.

A surprisingly large minority of students chose to answer this part of the question using the Occupiers’ Liability Act 1984 on the ground that Max was a trespasser. This was despite the fact that Max did not suffer any loss and that the question asked for the rights and remedies of Kelvin.

With respect to the third part of the question, an assessment of the factors that would influence a judge when deciding whether or not to grant an injunction in the case of a successful claim for private nuisance, as noted above, students adopted a wide range of approaches. There were many strong answers which gave perceptive discussions of relevant factors. Common examples included social utility, malice, locality and the possible existence of planning permission.

Less successful responses were often limited just to repeating the factors which might be used by a court to establish private nuisance in the first place, without developing any discussion of how they might be relevant to the decision on remedies.

Mark Ranges and Award of Grades

Grade boundaries and cumulative percentage grades are available on the [AQA Results statistics](#) page of the AQA Website.