General

Many students seemed very well-prepared. However, there continues to be many rote learned, standard answers to parts of the specification. Frequently, students did not understand the material and could not separate the relevant from the irrelevant. This led to much wasted time and a general impression that good answers were accidental.

As with last year, there were still many students who did not understand the basic difference between criminal and civil law and so used inappropriate terminology, examples and cases. This often led to poor answers to procedural questions. There seemed to be an increased tendency to answer the question that was desired, rather than the one that was asked.

There was also a tendency to use any case as authority, without showing how that case illustrated the point that was trying to be made; often the case was irrelevant to the point in issue. This was particularly noticeable in questions 03 and 04.

Section A: Introduction to Criminal Liability

Question 01

Most students understood that liability for an omission is based on a legal duty, created either by statute or in common law. However, many referred to this as a duty of care and were in danger of demonstrating confusion with negligence. There was much reference to English law not having a general duty to act – a ‘Good Samaritan’ idea.

Surprisingly few students suggested that the key point was that where there was a legal duty to act and the defendant omitted to do so; that omission forming the actus reus of the offence, guilt still required proof of the relevant mens rea.

Most students were able to describe some examples, but this was often a mere recitation of some of the facts of the case, with varying degrees of accuracy, or a mere list of duties with a (sometimes irrelevant) case attached. The actual offence that had been committed by the omission, was rarely mentioned, students being content to suggest that the defendant was guilty of an omission. Where an offence was mentioned, it was often inaccurately described.

Question 02

This question was often answered poorly. There was a huge variety of suggestions as to what the contemporaneity rule is. Often there was just a description of Fagan v Metropolitan Police Commissioner, without identification of the actus reus and mens rea, or the suggestion that this was an example of a continuing act. Better answers did this well and indicated that this was a device to enable conviction on occasions where a strict application of the rule would result in a verdict of not guilty.

The best answers went on to explain the one or single transaction principle through cases such as Church or Thabo Meli. However, there was some confusion as to which part of the facts showed mens rea and which showed actus reus.
Question 03

This question stated specifically that the offence to be considered was assault. Most students were able to state the definition of assault with reasonable accuracy, although some used the expression “apprehend immediate fear”, which was obviously incorrect. In many answers it was apparent that the students did not understand the meaning of apprehend.

There was a tendency to use a random case to illustrate the point being made in the answer, even if the case did not turn on the point which it was intended to illustrate. An example of this was students using Logdon to illustrate the immediacy aspect, rather than Smith v Chief Constable of Woking Police Station.

As usual, much of the application was done by assertion, rather than making the connection between the law and the facts in the scenario, in order to come to a conclusion. Application of the mens rea was generally weak, with students explaining the ideas of direct intention and recklessness (and, on some occasions, indirect intention) and then asserting that, therefore, there was a mens rea. It was expected that students would recognise and state that running towards someone, shouting abuse and threatening to beat them up illustrated the fact that it was Aki’s aim, purpose or desire to commit assault; at the least, that he must have recognised that there was a risk of this happening and so formed the mens rea.

With regard to Assessment Objective three, the quality of written communication has improved, with good use of specialist terms and a good general standard of written English. This applied equally to question 09 and question 15.

Question 04

Responses to this question were disappointingly weak. The question and the scenario signposted precisely what was required, but these signposts were often ignored. This question specifically referred to the offence of grievous bodily harm under section 20. There were three main areas with which students had to deal – the actus reus of section 20, the causation issues raised in the scenario and the mens rea of section 20.

There was a great deal of confusion between wounding and grievous bodily harm. Many students were of the incorrect opinion that wounding is essential to cause grievous bodily harm under section 20. Most managed to deal with the actus reus quite well, although this was not the case with the mens rea. Many students did not recognise the need for intention or recklessness to cause some harm only.

Throughout all parts of the answer, many students lacked relevant case authority for the offence and only referred to cases relating to mens rea generally or causation generally.

Many students discussed causation only and in great detail; others ignored the whole question of causation. Many students dealt with actus reus and causation, but completely failed to address mens rea.

Application was generally weak, particularly with regard to mens rea.
Question 05
Most students were able to establish some key aspects of procedure, but some concentrated on aspects of bail. There was much confusion between plea and plea before venue, which is not relevant to a summary offence. Many students recognised that there would be a difference in procedure, depending upon whether the plea was guilty or not guilty. However, not all students explained the procedure for both pleas.

Some students ignored the requirement to explain the burden and standard of proof. Many of those that did do so were unclear about both aspects and their answers illustrated confusion between the requirements of civil and criminal law.

Question 06
Most students dealt with this question quite well. Some confused aims of sentencing, with types of sentence. Application was usually attempted, but few students recognised the relevance of Binh’s previous good behavior and reaction to what he had done. There was some confusion as to whether or not anger management was an important aspect, possibly as a result of confusing the characters in the scenario.

Section B: Introduction to Tort

Question 07
Answers dealt with the aspects of the reasonable man, a risk factor with some success. The idea of the reasonable man and the case law with respect to professionals, learners and children were usually dealt with quite well. A number of students did not actually explain what the reasonable man is, but descried the examples with reasonable proficiency.

A risk factor was correctly identified, often with a relevant case cited, but the effect on breach was often omitted or confused.

Question 08
This question was dealt with reasonably well. Many students had a well-prepared answer and were able to explain the law clearly and succinctly. Unfortunately, some students did not read the question and wasted time explaining factual causation. The explanations of Wagon Mound were often inaccurate, with the test being sometimes ignored or confused with the first part of the Caparo test. Some students dealt with the criminal law on causation or damages and thus gained little or no credit.

Question 09
Factual causation was dealt with quite well. With regard to remoteness of damage, few students dealt with the possible distinction between the loss of earnings and the loss of possible promotion. Some students viewed the size of earnings to be so large as to be unforeseeable, thus not applying the rules described to them in question 08.

Question 10
Despite the question only asking for an outline of the three-part test, some students focused their answer on a description of Donoghue v Stevenson. Most were able to make some attempt at outlining all three parts of the test.
The reasonable foreseeability aspect usually had reference to a relevant case such as Kent v Griffiths, but the way in which the test was described and explained often suggested confusion with remoteness of damage. There was also the usual weakness of stating ‘it must be reasonably foreseeable’, without explaining to what ‘it’ refers. Other parts of the test often lacked any authority.

Lack of understanding was often demonstrated in application of all parts of the test and to the question as a whole. The question required application of whether a duty was owed by Chris to Euan (not to Dan or by Dan to Euan).

For the first part of the test, few students understood that it must be reasonably foreseeable that someone in Euan’s position (a consumer of the contaminated food) would suffer.

For the second part of the test, many argued either that, there was proximity, or that there was no proximity; weaker answers merely asserted one way or the other.

For the third part of the test, there was some confusion as to the meaning of fair, just and reasonable. As in previous years, the test was poorly explained, with few references being made to policy or floodgates.

**Question 11**

This question was dealt with very poorly. Many students seemed unprepared for a question on procedure, apart from the three track system, that was often described in great detail with varying degrees of accuracy.

Those students that did understand the procedure, often omitted any reference to pre-action protocol, but generally had other aspects and outlined the procedure in a logical order.

**Question 12**

Res ipsa loquitur was dealt with reasonably well, but often the application was ignored. Some students were looking for a damages question and if they had failed to discuss damages in question 08 or 09, where it was not required, were determined to do so in this question.

As in question 05 and 18, the burden and standard of proof were often confused.

**Section C: Introduction to Contract**

**Question 13**

There were many good answers to this question. Some ignored the instructions and dealt with lapse of time, probably as a result of using a prepared answer with no thought or full understanding of the meaning.

Generally, all parts were dealt with well, but some students ignored the point about communication of revocation coming from a reliable source. Not all answers included appropriate authority.
Question 14

This question was dealt with less well. Some students did not attempt to answer the question at all. Others merely dealt with social and domestic arrangements and often confused *Balfour v Balfour* with *Meritt v Meritt*.

Better answers dealt with both social and domestic arrangements, as well as commercial agreements. Some students understood the idea of rebutting the presumption.

Question 15

There were some excellent answers to this question, which correctly identified the legal implications of each of the events in the scenario, for both potential contracts. Weaker answers ignored the initial text messages. Some students got confused about the £50 for delivery, stating that it was a counter offer, having stated immediately before that there was a contract formed by Fay accepting Gareth’s offer. Some were able to avoid this pitfall by describing delivery as a second and separate contract.

Question 16

Most students were able to tackle this question quite well. There were some who did not develop the cases to explain the point being made. Some confused the terminology used such as the difference between executed and executory consideration.

Question 17

As in question 11, there were some students who were not prepared for this question.

Question 18

Many students were confused about the burden and standard of proof in civil cases. Most were able to explain the three track system, with varying degrees of accuracy. Many students still used limits that changed several years ago; these havechanged again. In future, the recently changed limits will need to be used to gain full credit. In brief, the current situation is now set out in Practice Direction 7:

Practice Direction 7A
2.1 Proceedings (whether for damages or for a specified sum) may not be started in the High Court unless the value of the claim is more than £100,000.

Application was often ignored, as was a statement of the relevant court.
Mark Ranges and Award of Grades

Grade boundaries and cumulative percentage grades are available on the Results Statistics page of the AQA Website.

Converting Marks into UMS marks

Convert raw marks into Uniform Mark Scale (UMS) marks by using the link below.

UMS conversion calculator