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A-level

LAW

7162/3A

Paper 3A Contract

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Mark scheme

June 2020

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Version: 1.0 Final Mark Scheme

\*206A7162/3A/MS\*

Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts. Alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

Further copies of this mark scheme are available from [aqa.org.uk](http://aqa.org.uk)

## Level of response marking instructions

Level of response mark schemes are broken down into levels, each of which has a descriptor. The descriptor for the level shows the average performance for the level. There are marks in each level.

Before you apply the mark scheme to a student's answer read through the answer and annotate it (as instructed) to show the qualities that are being looked for. You can then apply the mark scheme.

### Step 1 Determine a level

Start at the lowest level of the mark scheme and use it as a ladder to see whether the answer meets the descriptor for that level. The descriptor for the level indicates the different qualities that might be seen in the student's answer for that level. If it meets the lowest level then go to the next one and decide if it meets this level, and so on, until you have a match between the level descriptor and the answer. With practice and familiarity you will find that for better answers you will be able to quickly skip through the lower levels of the mark scheme.

When assigning a level you should look at the overall quality of the answer and not look to pick holes in small and specific parts of the answer where the student has not performed quite as well as the rest. If the answer covers different aspects of different levels of the mark scheme you should use a best fit approach for defining the level and then use the variability of the response to help decide the mark within the level, ie if the response is predominantly level 3 with a small amount of level 4 material it would be placed in level 3 but be awarded a mark near the top of the level because of the level 4 content.

### Step 2 Determine a mark

Once you have assigned a level you need to decide on the mark. The descriptors on how to allocate marks can help with this. The exemplar materials used during standardisation will help. There will be an answer in the standardising materials which will correspond with each level of the mark scheme. This answer will have been awarded a mark by the Lead Examiner. You can compare the student's answer with the example to determine if it is the same standard, better or worse than the example. You can then use this to allocate a mark for the answer based on the Lead Examiner's mark on the example.

You may well need to read back through the answer as you apply the mark scheme to clarify points and assure yourself that the level and the mark are appropriate.

Indicative content in the mark scheme is provided as a guide for examiners. It is not intended to be exhaustive and you must credit other valid points. Students do not have to cover all of the points mentioned in the indicative content to reach the highest level of the mark scheme.

An answer which contains nothing of relevance to the question must be awarded no marks.

**01** Select the **false** statement about offer and acceptance in contract.

[1 mark]

**Marks for this question: AO1 = 1**

**A** An acceptance always has to be communicated.

**02** Select the **true** statement about formation of contract.

[1 mark]

**Marks for this question: AO1 = 1**

**D** Contracts can come into existence where only one party makes a promise.

**03** Select the **true** statement about judges in civil cases.

[1 mark]

**Marks for this question: AO1 = 1**

**C** District judges try small claims cases in the County Court.

**04** Select the **false** statement about the independence of the judiciary.

[1 mark]

**Marks for this question: AO1 = 1**

**D** The Lord Chancellor is the only government minister allowed to influence the decision of a judge in a case.

**05** Delegated legislation in the form of statutory instruments is subject to various controls.  
Select the **true** statement about controls on statutory instruments.

[1 mark]

**Marks for this question: AO1 = 1**

**C** Many statutory instruments become law unless Parliament votes to reject them within a specified time (usually 40 days) of being issued.

**06** Explain **two** reasons why a large amount of law is made by delegated legislation. Use an example to illustrate one of your reasons.

**[5 marks]**

**Marks for this question: AO1 = 5**

Levels of response mark scheme 5 marks – AO1 only	
Mark range	Description
<b>4–5</b> <b>Band 3</b>	Knowledge is good and demonstrates a good understanding of the English legal system. Where appropriate a good example of a case to illustrate suggested reasons.
<b>2–3</b> <b>Band 2</b>	Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system. Where appropriate a satisfactory example of a case to illustrate reasons.
<b>1</b> <b>Band 1</b>	Knowledge is limited and demonstrates a limited understanding of the English legal system. Where appropriate a limited example of a case to illustrate reasons.
<b>0</b>	Nothing worthy of credit.

**Indicative content**

**AO1**

Explanation of any **two** of the following:

- lack of Parliamentary time to deal with detailed rules, necessitating a method by which Parliament can lay down the policy and others can fill in the detail
- the need for expert knowledge on a very wide range of issues requiring consultation with interested and/or technically knowledgeable bodies and individuals (perhaps leading, also, to formal consultation requirements in the delegated legislation itself)
- the need for knowledge of local areas and specific issues that arise therein
- the need to respond quickly to emergency situations, in circumstances where Parliament would be too slow to respond

**and**

- an appropriate example to illustrate any one of the above.

**Note:** credit as **two** reasons answers which distinguish between the need for expert knowledge and the need specifically to build in formal consultation requirements.

**Note:** the answer requires:

- reason 1
- reason 2
- example
  - all 3 = max 5
  - any 2 = max 4
  - reason 1 = max 3
  - example only = max 2

Credit any other relevant point(s).

**07** Ash bought the television. Suggest why Carol would probably have no rights against Bigmedia Store.

**[5 marks]**

**Marks for this question: AO1 = 2 and AO2 = 3**

<b>Levels of response mark scheme 5 marks – AO1 (2) and AO2 (3)</b>	
<b>Mark range</b>	<b>Description</b>
<b>4–5</b> <b>Band 3</b>	Good outline explanation of legal rules and principles and good application to the scenario in order to present a legal argument using appropriate terminology. Good explanation of a relevant case to support the application.
<b>2–3</b> <b>Band 2</b>	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory application of legal rules and principles to the scenario. Satisfactory explanation of a relevant case to support the application.
<b>1</b> <b>Band 1</b>	Knowledge is limited and demonstrates a limited understanding of legal rules and principles.
<b>0</b>	Nothing worthy of credit.

### **Indicative content**

#### **AO1**

- Statement of the basic privity of contract rule: only parties to a contract (only those who supply consideration) obtain rights and incur duties.
- Statement recognising that there may be very limited exceptions to the rule: identification of any exception (the Contracts (Rights of Third Parties) Act 1999 may be most relevant if any doubt exists as to the absence of rights for Carol).

#### **AO2**

- Application to argue that, as the contract was made between Ash and Bigmedia Store, the privity rule would appear to exclude any claim to rights by Carol.
- Application to suggest that there is no evidence of any exception to the privity rule of which Carol could take advantage (possible reference to requirements of the Contracts (Rights of Third Parties) Act 1999).
- Use of a relevant case to assist explanation/application – eg **Tweddle v Atkinson**, **Dunlop v Selfridge**, **Beswick v Beswick**.

**Note:** Use of a case enhances explanation/application of any relevant element.

Credit any other relevant point(s).

<b>08</b>	Taking into account the rules on consideration and on economic duress, advise Felix as to whether he is entitled to claim the additional £1000.	<b>[10 marks]</b>
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**Marks for this question: AO1 = 3, AO2 = 4 and AO3 = 3**

<b>Levels of response mark scheme 10 marks – AO1 (3), AO2 (4) and AO3 (3)</b>	
<b>Mark range</b>	<b>Description</b>
<b>7–10</b> <b>Band 3</b>	Knowledge is good and demonstrates a good understanding of relevant legal rules and principles. Good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario. Good explanation of relevant legal authority to support the application. A good legal argument is presented using appropriate terminology to support advice.
<b>3–6</b> <b>Band 2</b>	Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario. Satisfactory explanation of relevant legal authority to support the application. A satisfactory legal argument is presented using some appropriate terminology to support advice.
<b>1–2</b> <b>Band 1</b>	A limited demonstration of knowledge. Limited analysis of legal rules and principles in relation to the scenario but rules and principles are not applied correctly to the scenario.
<b>0</b>	Nothing worthy of credit.

**Indicative content**

**AO1**

- Identification and outline explanation of consideration as an element in the formation of contract.
- Identification and outline explanation of the elements of economic duress: meaning and remedies.

**AO2**

- Application of the rules on consideration to argue that Felix’s purported consideration for Evan’s promise to pay the additional £1000 was the performance of an act that he was already bound by contract with Evan to perform, so casting doubt on the enforceability of the promise, though not necessarily fatally in view of the change of approach to consideration in more recent years.
- Application of the rules on economic duress to argue that there is evidence of improper pressure by Felix on Evan in view of the circumstances surrounding Evan’s desire to enter the competition and win the prize (possible financial issues), sufficient to suggest that Felix may not be able to persuade a court to enforce the promise (essentially, enabling Evan to rescind the contract to pay the additional sum of money).

**AO3**

- Analysis and evaluation of the requirement for sufficiency of consideration, with particular reference to consideration as the performance of an obligation already contractually owed to the promisor, referring to cases such as **Stilk v Myrick**, **Williams v Roffey Bros**.
- Analysis and evaluation of the rules on the meaning and effect of economic duress, referring to cases such as **Atlas Express v Kafco**, **Universe Tankships of Monrovia v ITWF**, **Pao on v Lau Yiu Long**, **CTN Cash and Carry v Gallagher**.

Credit any other relevant point(s).

ICG 1 = Consideration

ICG 2 = Economic Duress



<b>09</b>	<p>Traditionally, law operated in society to ensure freedom of contract.</p> <p>Examine the concept of freedom of contract. Discuss the extent to which the effect of the Consumer Rights Act 2015 on the contractual relationship between traders and consumers is in conflict with freedom of contract.</p> <p style="text-align: right;"><b>[15 marks]</b></p>
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**Marks for this question: AO1 = 5 and AO3 = 10**

<b>Levels of response mark scheme 15 marks – AO1 (5) and AO3 (10)</b>	
<b>Mark range</b>	<b>Description</b>
<b>13–15</b> <b>Band 5</b>	<p>Knowledge is excellent and demonstrates an excellent understanding of the Nature of Law and legal rules and principles. Excellent selection and use of relevant legal authority.</p> <p>Excellent analysis and evaluation of legal rules and principles; concepts and issues. Excellent drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.</p>
<b>10–12</b> <b>Band 4</b>	<p>Knowledge is good and demonstrates a good understanding of the Nature of Law and legal rules and principles. Good selection and use of relevant legal authority.</p> <p>Good analysis and evaluation of legal rules and principles; concepts and issues. Good drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.</p>
<b>7–9</b> <b>Band 3</b>	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of the Nature of Law and legal rules and principles. Satisfactory selection and use of relevant legal authority.</p> <p>Satisfactory analysis and evaluation of legal rules and principles; concepts and issues. Some drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study.</p> <p>A chain of reasoning starts to develop which leads to a partially justified conclusion.</p>
<b>4–6</b> <b>Band 2</b>	<p>Knowledge is limited and demonstrates a limited understanding of the Nature of Law and legal rules and principles. Limited selection and use of relevant legal authority.</p> <p>Limited analysis and evaluation of legal rules and principles; concepts and issues. Limited drawing together of knowledge and understanding of substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.</p>
<b>1–3</b> <b>Band 1</b>	<p>Knowledge is minimal and demonstrates a minimal understanding of the Nature of Law and legal rules and principles. Minimal selection and use of relevant legal authority.</p> <p>Minimal analysis and evaluation of legal concepts and issues. No chain of reasoning is attempted.</p>

<b>0</b>	Nothing worthy of credit.
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**Distribution of marks for substantive and non-substantive law:**

Substantive	Non-substantive	Total marks
5	10	15

**Indicative content****AO1**

- Basic explanation of the concept/doctrine of freedom of contract and its significance in terms of the role of law in society: the parties should be free to define and enter into any obligations they wish and the obligations should be enforceable at law.
- Basic explanation of the simple limits on the concept/doctrine: factors which bear on freedom, such as lack of capacity, misrepresentation/mistake, duress/undue influence.
- Basic explanation of the provisions of statutes such as the Consumer Rights Act 2015 in terms of implied terms and exclusion/limitation clauses.

**AO3**

- Analysis of the scope of the concept/doctrine revealing the range of matters to which it may apply: confined to a bargain between parties, and so excluding third parties from benefit; applicable to all the terms and remedies for breach.
- Analysis of the consequences of freedom of contract, drawing the distinction between the relatively limited range of formal instances which are recognised as inhibiting freedom and the inevitable imbalance of power between, say, business and commercial interests and individuals.
- Analysis of the mechanisms by which this power imbalance distorted freedom of contract: for example, the notion of the standard form contract in which terms are not negotiated between the parties but are offered on a 'take it or leave it' basis by one party to the other; the attempt to impose burdensome terms which, say, enabled one party to avoid or limit liability for breach.
- Evaluation of the extent to which freedom of contract between traders and consumers has been restricted by a statute such as the Consumer Rights Act 2015, for example by the imposition of implied terms and remedies for their breach and by the prohibition of exclusion or limitation of liability for breach.
- Conclusion perhaps to suggest that, in the case of traders and consumers, statutory intervention has significantly restricted freedom of contract in the interests of restoring a more appropriate balance of power between the parties, and recognising in all of the above the way that law may impact on relationships and commercial and other arrangements in society.

Credit any other relevant point(s).

ICG 1 = Freedom of Contract

ICG 2 = Consumer Rights Act 2015

**10** Consider whether Maya was entitled to ‘cancel’ the contract with Nev. Consider the rights and duties of Maya and Oscar in consequence of the damage to the building, and what remedies may be available to each of them.

**[30 marks]**

**Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10**

<b>Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10)</b>	
<b>Mark range</b>	<b>Description</b>
<b>25–30</b> <b>Band 5</b>	<p>Knowledge is excellent and demonstrates an excellent understanding of relevant legal rules and principles. Excellent selection and use of appropriate legal authority.</p> <p>There is excellent analysis and evaluation of legal rules and principles leading to excellent application of the correct rules and principles to the scenario.</p> <p>An excellent legal argument is presented using appropriate terminology.</p> <p>A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.</p>
<b>19–24</b> <b>Band 4</b>	<p>Knowledge is good and demonstrates a good understanding of relevant legal rules and principles. Good selection and use of appropriate legal authority.</p> <p>There is good analysis and evaluation of legal rules and principles leading to good application of the correct rules and principles to the scenario.</p> <p>A good legal argument is presented using appropriate terminology.</p> <p>A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.</p>
<b>13–18</b> <b>Band 3</b>	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of relevant legal rules and principles. Satisfactory selection and use of appropriate legal authority.</p> <p>There is satisfactory analysis and evaluation of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario.</p> <p>A satisfactory legal argument is presented using some appropriate terminology. A chain of reasoning starts to develop which leads to a partially justified conclusion.</p>
<b>7–12</b> <b>Band 2</b>	<p>Knowledge is limited and demonstrates a limited understanding of relevant legal rules and principles. Limited selection and use of appropriate legal authority.</p> <p>There is limited analysis and evaluation of legal rules and principles which may lead to limited application of the correct rules and principles to the scenario.</p> <p>A limited legal argument is presented using little appropriate terminology.</p> <p>Some reasoning is attempted which leads to a limited conclusion.</p>
<b>1–6</b> <b>Band 1</b>	<p>Knowledge is minimal and demonstrates minimal understanding of legal rules and principles. Minimal selection and use of legal authority.</p> <p>There is minimal analysis and evaluation of legal rules and principles which may lead to minimal application of the correct rules and principles to the scenario.</p> <p>A fragmented legal argument is attempted.</p> <p>No chain of reasoning is attempted.</p>
<b>0</b>	Nothing worthy of credit.

## Indicative content

### AO1

- Identification and outline explanation of the elements of misrepresentation: meaning, kinds and remedies.
- Identification and outline explanation of the elements of termination of contract by frustration.
- Identification and outline explanation of the consequences of termination by frustration – Law Reform (Frustrated Contracts) Act 1943.
- Identification and outline explanation of fundamental breach and remedies.

### AO2

- Application of the rules on misrepresentation to argue that Nev’s use of the photos was a misrepresentation on which Maya probably relied (in part) in entering into the contract.
- Application to argue that the misrepresentation was fraudulent as being a deliberate untruth on Nev’s part.
- Application to argue that, in the absence of any barriers to rescission, Maya was entitled to rescind the contract (possible reference to a claim for damages for loss arising).
- Application of the rules on frustration to argue that the contract between Maya and Oscar for the replacement of some of the windows might be frustrated by a fundamental change in the circumstances making performance something wholly different in nature from that originally envisaged, even though the windows could still be installed – frustration of the common venture (note that destruction of the subject matter could be canvassed but, on the facts, was unlikely to be an explanation for frustration).
- Application to argue the possibility that Maya might be alleged to be at fault for the condition of the wiring in the building, so casting doubt on whether frustration would apply.
- Application of the provisions of the Law Reform (Frustrated Contracts) Act 1943 to suggest that, prima facie, Maya would be entitled to the return of the £8000 already paid and the remaining sum would cease to be payable. However, a court would have power to award Oscar up to £5000 in expenses out of the £8000, and also a further sum for any valuable benefit conferred on Maya by the work done but taking into account the effect of the frustrating event on that benefit.
- Application to argue alternatively that, if the contract was not frustrated because of Maya’s fault in relation to the fire, then her refusal to allow Oscar to continue would be a fundamental breach entitling Oscar to damages based probably on his expectation loss.

### AO3

- Analysis and evaluation of the meaning of a (mis)representation and of the reliance requirement, referring to a case such as **Attwood v Small**.
- Analysis and evaluation of the meaning of ‘fraudulent’ in misrepresentation, referring to a case such as **Derry v Peek**, and of the remedy of rescission (possible analysis and evaluation of damages).
- Analysis and evaluation of the meaning and scope of termination by frustration, referring to cases such as **Taylor v Caldwell**, **Krell v Henry**, **Herne Bay Steamboat Co v Hutton**.
- Analysis and evaluation of possible limitation on frustration where the alleged frustrating event may be said to be self-induced, referring to a case such as **Maritime National Fish Ltd v Ocean Trawlers Ltd**.
- Analysis and evaluation of the provisions of the Law Reform (Frustrated Contracts) Act 1943 s1(1)-(3).
- Analysis and evaluation of fundamental breach and the remedies of termination and damages.

Credit any other relevant point(s).

ICG 1 = Misrepresentation

ICG 2 = Frustration

<b>11</b>	<p>Consider whether Ivy has any rights in contract against Jax in connection with the fridge. Consider the rights and remedies of Jax against Kentstore in connection with the cupboards.</p> <p>Assess what options are open to Jax to pay for any legal advice and representation that may be needed in his dispute with Kentstore.</p> <p style="text-align: right;"><b>[30 marks]</b></p>
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**Marks for this question: AO1 = 10, AO2 = 10 and AO3 = 10**

	<b>Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10).</b>
<b>Mark range</b>	<b>Description</b>
<p><b>25–30</b></p> <p><b>Band 5</b></p>	<p>Knowledge is excellent and demonstrates an excellent understanding of the English legal system and legal rules and principles. Excellent selection and use of relevant legal authority.</p> <p>There is excellent analysis of legal rules and principles leading to excellent application of the correct rules and principles to the scenario.</p> <p>An excellent legal argument is presented using appropriate terminology.</p> <p>There is excellent analysis and evaluation of legal concepts and issues.</p> <p>Excellent drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. A logical, sustained and well-developed line of reasoning is maintained leading to a valid, relevant and substantiated conclusion.</p>
<p><b>19–24</b></p> <p><b>Band 4</b></p>	<p>Knowledge is good and demonstrates a good understanding of the English legal system and legal rules and principles. Good selection and use of relevant legal authority.</p> <p>There is good analysis of legal rules and principles leading to good application of the correct rules and principles to the scenario.</p> <p>A good legal argument is presented using appropriate terminology.</p> <p>There is good analysis and evaluation of legal concepts and issues.</p> <p>Good drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study.</p> <p>A sustained and, but not yet fully, developed line of reasoning is established leading to a partially justified conclusion.</p>
<p><b>13–18</b></p> <p><b>Band 3</b></p>	<p>Knowledge is satisfactory and demonstrates a satisfactory understanding of the English legal system and legal rules and principles. Satisfactory selection and use of relevant legal authority.</p> <p>There is satisfactory analysis of legal rules and principles leading to satisfactory application of the correct rules and principles to the scenario.</p> <p>A satisfactory legal argument is presented using some appropriate terminology.</p> <p>There is satisfactory analysis and evaluation of legal concepts and issues.</p> <p>Some drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study.</p> <p>A chain of reasoning starts to develop which leads to a partially justified conclusion.</p>

<p><b>7–12</b> <b>Band 2</b></p>	<p>Knowledge is limited and demonstrates a limited understanding of the English legal system and legal rules and principles. Limited selection and use of relevant legal authority. There is limited analysis of legal rules and principles leading to limited application of the correct rules and principles to the scenario. A limited legal argument is presented using little appropriate terminology. There is limited analysis and evaluation of legal concepts and issues. Limited drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. Some reasoning is attempted which leads to a limited conclusion.</p>
<p><b>1–6</b> <b>Band 1</b></p>	<p>Knowledge is minimal and demonstrates a minimal understanding of the English legal system and legal rules and principles. Minimal selection and use of relevant legal authority. There is minimal analysis of legal rules and principles leading to minimal application of the correct rules and principles to the scenario. A fragmented legal argument is attempted. There is minimal analysis and evaluation of legal concepts and issues. Minimal drawing together of knowledge and understanding from substantive and non-substantive law from across the course of study. No chain of reasoning is attempted.</p>
<p><b>0</b></p>	<p>Nothing worthy of credit.</p>

**Distribution of marks for substantive and non-substantive law:**

Substantive	Non-substantive	Total marks
23	7	30

**Indicative content**

**AO1**

- Identification and outline explanation of agreement as an element in formation of contract.
- Identification and outline explanation of terms implied into a contract for the supply of goods in a trader/consumer relationship under the Consumer Rights Act 2015 – satisfactory quality (s9), fitness for purpose (s10), description (s11).
- Identification and outline explanation of remedies for breach of the above terms: short-term right to reject (s20); repair or replacement (s23); price reduction or final right to reject (s24); and of common law damages.
- Identification of various sources of funding for legal advice and representation: possible free sources, eg Internet, CAB, telephone helplines; own resources, insurance, conditional fees (absence of state funding).

**AO2**

- Application to the case of Ivy and Jax to argue that Jax made an offer to buy the fridge for £80, to which Ivy’s response of “How about £95?” was probably a counter offer but could have been a request for further information.
- Application to argue that if Ivy’s response was a counter offer, then it operated as a rejection of the £80 offer, which could not then be accepted later by Ivy; but that if Ivy’s response was merely a request for further information then the offer persisted – unless it terminated by lapse of time – and could be accepted.

- Application to conclude that Ivy probably has no rights because there was no contract but, in the alternative, that (theoretically) she could sue for breach of contract. In either case, knowledge of Jax's subsequent purchase of a fridge would have no bearing on Ivy's rights.
- Application to the case of Jax and Kentstore to argue that it is possible that terms as to satisfactory quality (the weak cupboard), fitness for purpose (the weak cupboard, the oversize cupboards) and description (the oversize cupboards, the cupboards of different design) have all been broken.
- Application to argue that Jax could opt for, say, rejection of the whole set of cupboards, given the various errors in supply, but that it is more likely that he would choose the remedy of replacement of the specific cupboards, with removal and re-installation at Kentstore's expense.
- Application to argue that Jax may exercise the right to a price reduction in the event that the remedy of replacement falls short in some way (final rejection is an alternative, rather drastic, remedy) supplemented by any further claim for damages.

### AO3

- Analysis and evaluation of the rules on offer and acceptance, dealing in particular with the distinction between counter offers and requests for further information.
- Analysis and evaluation of the rules on the effect of a counter offer as rejection of an offer, and of other ways in which offers terminate, referring to cases such as **Hyde v Wrench** and **Stevenson v McLean**.
- Analysis and evaluation of the terms implied by the Consumer Rights Act 2015 into a trader/consumer contract for the supply of goods as to satisfactory quality, fitness for purpose, and description, incorporating (where relevant) case law from pre-existing legislation.
- Analysis and evaluation of the remedies for breach of the above (including, in particular, their interrelationships): the short-term right to reject; repair or replacement; price reduction or final right to reject; and, additionally, of the common law remedy of damages.
- Analysis and evaluation of the funding options in relation to the probable costs that would be incurred, suggesting that in the absence of sufficient personal funds or appropriate insurance, some form of conditional fee agreement may be appropriate if legal costs are recoverable.

Credit any other relevant point(s).

ICG 1 = Offer and Acceptance

ICG 2 = Consumer Protection Act 2015

ICG 3 = Legal Advice

**Assessment Objectives Grid**

	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>	<b>Total</b>
1	1			<b>1</b>
2	1			<b>1</b>
3	1			<b>1</b>
4	1			<b>1</b>
5	1			<b>1</b>
6	5			<b>5</b>
7	2	3		<b>5</b>
8	3	4	3	<b>10</b>
9	5		10	<b>15</b>
10	10	10	10	<b>30</b>
11	10	10	10	<b>30</b>
<b>Paper Total</b>	<b>40</b>	<b>27</b>	<b>33</b>	<b>100</b>



**Distribution of marks for substantive and non-substantive law**

<b>Question</b>	<b>Substantive</b>	<b>Non-substantive</b>	<b>Total Marks</b>
1	1		1
2	1		1
3		1	1
4		1	1
5		1	1
6		5	5
7	5		5
8	10		10
9	5	10	15
10	30		30
11	23	7	30
<b>Total</b>	<b>75</b>	<b>25</b>	<b>100</b>
<b>Total %</b>	<b>75</b>	<b>25</b>	<b>100</b>