



A-level
LAW
7162/1

Paper 1

Mark scheme

June 2021

Version: 1.0 Final Mark Scheme



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.

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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 Which of the following is **not** a defence to murder?

[1 mark]

Marks for this question: AO1 = 1

B Duress

02 Which is the **false** statement about the requirements needed to prove the offence of robbery?

[1 mark]

Marks for this question: AO1 = 1

B The defendant can be reckless as to the use of force.

03 Select the statement that most accurately describes the aim of the purposive approach to statutory interpretation.

[1 mark]

Marks for this question: AO1 = 1

B Finding what Parliament intended to achieve

04 A defendant who pleads guilty to an offence in the Magistrates' Court can appeal to the Crown Court against:

[1 mark]

Marks for this question: AO1 = 1

D sentence only.

05 Select the **false** statement about lay magistrates.

[1 mark]

Marks for this question: AO1 = 1

C Lay magistrates do not hear either-way offences.

| | | |
|-----------|---|------------------|
| 06 | Using any two examples, explain extrinsic aids to interpretation. | [5 marks] |
|-----------|---|------------------|

Marks for this question: AO1 = 5

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

Indicative content

- Extrinsic aids are found outside the Act.
- They help explain the meaning of words within the Act.
- They may help the judge find Parliament’s reasons for passing an Act.
- Use of appropriate examples to explain the answer may include: previous Acts of Parliament, historical setting, dictionaries of the time, Hansard, Law Commission Reports etc.
- Appropriate supporting case law may include – **Cheeseman v DPP, Davis v Johnson, Pepper v Hart, Black-Clawson.**

Credit any other relevant point(s).

Answers which do not include any examples cannot achieve marks higher than band 2.

| | | |
|-----------|---|------------------|
| 07 | Using the principle of coincidence (the contemporaneity rule), suggest why, in law, Asha is likely to have satisfied the requirement for both the actus reus and mens rea to be present at the same time. | [5 marks] |
|-----------|---|------------------|

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

| Levels of response mark scheme 5 marks – AO1 (2) and AO2 (3) | |
|---|---|
| Mark range | Description |
| 4–5 Band 3 | 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. |
| 2–3 Band 2 | 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. |
| 1 Band 1 | Knowledge is limited and demonstrates a limited understanding of legal rules and principles. |
| 0 | Nothing worthy of credit. |

Indicative content

AO1

- An actus reus can be composed of one act which continues. Possible reference to a series of acts which comprise one continuous transaction.
- There will be sufficient coincidence if mens rea is present at any time during the above.

AO2

- Application of the rule to suggest that the actus reus was satisfied when the box was placed on Bilal’s arm.
- Application to suggest that the actus reus continued until it coincided with the mens rea which was satisfied when Asha realised what had happened and intentionally failed to remove the box.
- Application to conclude that the actus reus and mens rea were both present.
Cases to enhance the explanation or application may include **Thabo Meli v R, Church, Fagan**.

Credit any other relevant point(s).

| | | |
|-----------|--|-------------------|
| 08 | Advise Cassie, with regard to the mens rea of s18 and s20 (Offences Against the Person Act 1861), whether she could avoid criminal liability for the injury to Daisy by pleading intoxication. | [10 marks] |
|-----------|--|-------------------|

Marks for this question: AO1 = 3, AO2 = 4 and AO3 = 3

| Levels of response mark scheme 10 marks – AO1 (3), AO2 (4) and AO3 (3) | |
|---|---|
| Mark range | Description |
| 7–10 Band 3 | 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. |
| 3–6 Band 2 | 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. |
| 1–2 Band 1 | 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. |
| 0 | Nothing worthy of credit. |

Indicative content

AO1

- Identification and outline explanation of the plea of voluntary intoxication, including the distinction between specific and basic intent offences
- Identification and outline explanation of the mens rea of s20 and s18 (Offences Against the Person Act 1861)
- Identification and outline explanation of the effect of the defence of intoxication in that it can reduce a conviction to the corresponding basic intent offence.
- Appropriate supporting case law may include – **Mowatt, Lipman, Sheehan and Moore.**

AO2

- Application of the effect of voluntary intoxication on criminal liability for the specific intent offence (s18) to suggest that if Cassie was capable of forming the necessary mens rea, regardless of the intoxication, then the defence will fail. However, if the extent of the intoxication, through alcohol and drugs, prevented Cassie from forming the necessary mens rea then the defence will succeed and s20 will be substituted.
- Application to support the s18 charge in that Cassie had an intention to cause serious injury (s18) as she intended to cause serious bodily harm as she armed herself with a weapon (tennis racket) and struck Daisy a 'powerful blow'
- Application of the effect of voluntary intoxication on criminal liability for the basic intent offence (s20) to suggest that the intoxication itself will constitute a recklessness course of conduct and so the defence will fail.
- Application to support the s20 charge in that Cassie did not have specific intention but rather the facts suggest an intention/subjective recklessness as to cause some harm through the 'powerful blow'

AO3

- Analysis and evaluation of the availability of voluntary intoxication in relation to basic and specific intent offences.
- Analysis and evaluation of mens rea requirements to distinguish between s18 and s20 OAPA 1861.
- Analysis and evaluation of the effect of voluntary intoxication on the conviction.
- Authority to support arguments: Offences Against the Person Act 1861 s20 and s18, **DPP v Majewski** etc.

Credit any other relevant point(s).

| | | |
|-----------|--|-------------------|
| 09 | <p>Examine the principle of fair labelling and the principle of correspondence. Discuss the extent to which any one of the non-fatal offences against the person satisfies one of these principles.</p> | [15 marks] |
|-----------|--|-------------------|

Marks for this question: AO1 = 5 and AO3 = 10

| Levels of response mark scheme 15 marks – AO1 (5) and AO3 (10) | |
|---|--|
| Mark range | Description |
| 13–15 Band 5 | <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> |
| 10–12 Band 4 | <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> |
| 7–9 Band 3 | <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> |
| 4–6 Band 2 | <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> |
| 1–3 Band 1 | <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.</p> <p>No chain of reasoning is attempted.</p> |
| 0 | Nothing worthy of credit. |

Distribution of marks for substantive and non-substantive law:

| Substantive | Non-substantive | Total marks |
|--------------------|------------------------|--------------------|
| 5 | 10 | 15 |

Indicative content**AO1**

- Identification and explanation of the meaning of fair labelling; conviction should carry the correct 'label'.
- Identification and explanation of the meaning of correspondence; where the actus reus and mens rea should correspond, the offender's liability should not exceed the harm encompassed by his mens rea.
- Possible explanation of the significance and link between fair labelling and correspondence.
- Outline explanation of the extent to which the non-fatal offences against the person comply with either fair labelling or correspondence.

AO3

- Analysis and evaluation of the principle of fair labelling and the principle of correspondence as reflected in society; possible link to moral stigma and appropriate punishments.
- Analysis and evaluation of the significance of fair labelling and correspondence within the drafting of a law. For example; it is argued that it is unfair to label a person a 'murderer' if they did not intend to kill.
- Analysis of fair labelling in relation to the non-fatal offences may include discussion of the need for the 'label' to differentiate the offence committed from other offences through the comparison of s47 OAPA 1861 or s18/s20 OAPA 1861.
- Analysis of correspondence in relation to the non-fatal offences. For example, discussion of s47 or s20 OAPA non-compliance as liability can arise when the harm intended/foreseen was less than the harm caused.

Credit any other relevant point(s).

| | | |
|-----------|---|-------------------|
| 10 | Consider the criminal liability of Elijah for the murder of Fern and her unborn child and for the attempted murder of Gianni. | [30 marks] |
|-----------|---|-------------------|

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

| | Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10) |
|-----------------------------------|--|
| Mark range | Description |
| 25–30 Band 5 | <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> |
| 19–24 Band 4 | <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> |
| 13–18 Band 3 | <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> |
| 7–12 Band 2 | <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> |
| 1–6 Band 1 | <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> |
| 0 | Nothing worthy of credit. |

Distribution of marks for substantive and non-substantive law:

| Substantive | Non-substantive | Total marks |
|-------------|-----------------|-------------|
| 30 | 0 | 30 |

Indicative content**AO1**

- Identification and outline explanation of the actus reus and mens rea for murder (unlawful killing, reasonable creature in being, under the Queen's peace with malice aforethought) including identification of causation issues.
- Identification and outline explanation of the specific defence to murder of diminished responsibility.
- Identification and outline explanation of attempted murder.
- Identification and outline explanation of the insanity defence as an alternative to diminished responsibility and/or as a defence to attempted murder.
- Reference to appropriate supporting case and statutory authority, for example, s2 Homicide Act 1957, s52 Coroners and Justice Act 2009, s1(1) of the Criminal Attempts Act 1981.
- Use of supporting case authority may include: **R v Malcherek**, **R v Vickers**, **R v Mohan**, **R v Woollin**, **R v Blaue**, **R v Byrne**, **R v Golds**, **M'Naghten**, **R v Windle**, **R v Gullefer**, **R v Campbell**, **R v Jones**, **R v White**.

AO2

- Application of the facts to suggest that Elijah's conduct has satisfied the actus reus for murder in relation to Fern as he pushed her down the stairs which brought about her death. However, he does not satisfy the actus reus for the murder of the unborn child or Gianni as they would not be considered, in law, to be 'creatures in being'.
- Application of the thin skull rule in relation to Fern's pre-existing brain condition to conclude that the condition would not break the chain of causation.
- Application of the facts to suggest that 'forcibly' pushing Fern down the 'steep' staircase indicates that Elijah directly intended to kill or at the least cause serious harm. Alternative application may suggest that Elijah only intended some harm rather than serious harm leading to consideration of oblique intention to conclude that death or serious injury is a virtually certain consequence of his conduct and question whether Elijah realised this.
- Application to suggest that Elijah could raise the defence of diminished responsibility due to his 'extreme paranoia' as a recognised medical condition. Conclusion to suggest that the paranoia had substantially impaired his ability to form a rational judgement evident in his belief that his neighbours were trying to kill him and that there is a sufficient causal connection between the extreme paranoia and the conduct. If the defence is successful, Elijah will be found guilty of voluntary manslaughter.
- Application of the law on attempts to suggest that when Elijah entered the house with a knife this could be seen as mere preparation but that when he stabbed Gianni he 'embarked on the crime proper' and satisfied the actus reus for attempted murder.
- Application of the law on attempts to suggest that Elijah had the higher level of mens rea required in that he had intention to kill as he stabbed Gianni several times.
- Application of the law on attempting to do the impossible as in this scenario Gianni was already dead it would be impossible for Elijah to commit the offence of murder.
- Application to conclude that Elijah did an act which was more than merely preparatory to the commission of the offence and that he had the required mens rea and so would be criminally liable for the attempted murder of Gianni.

- Application of the rules of insanity could be raised in relation to the murder of Fern and the attempted murder of Gianni to suggest that the ‘extreme paranoia’ is a disease of the mind which could have impaired his ability to understand the nature of his conduct or know that his conduct was legally wrong. If the defence is successful the jury will be directed to return the special verdict of ‘not guilty by reason of insanity’.

AO3

- Analysis and evaluation of the rules relating to reasonable creature in being (**A-G Ref NO. 3 OF 1994**).
- Analysis and evaluation of the rules of causation in relation to the thin skull rule.
- Analysis and evaluation of malice aforethought, expressed or implied along with direct or oblique intention.
- Analysis and evaluation of the defence of diminished responsibility.
- Analysis and evaluation of the defence of insanity.
- Analysis and evaluation of the law on attempts, the required mens rea (**R v Whybrow**) and the law related to attempting to do the impossible (**R v Shivpuri**).
- Analysis and evaluation of the defence of insanity in relation to the murder and attempted murder and its effect if successful.

Credit any other relevant point(s).

ICG's

1. Murder
2. Attempted murder
3. Insanity and/ diminished responsibility

| | |
|-----------|--|
| 11 | <p>Consider the criminal liability of Hayden in relation to the bicycle and for the injury suffered by Ian.</p> <p>If Hayden were to face trial at the Crown Court, assess the role that barristers may carry out during the trial.</p> <p style="text-align: right;">[30 marks]</p> |
|-----------|--|

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

| | Levels of response mark scheme 30 marks AO1 (10), AO2 (10) and AO3 (10) |
|--|--|
| Mark range | Description |
| <p>25–30</p> <p>Band 5</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>19–24</p> <p>Band 4</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>13–18</p> <p>Band 3</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>7–12 Band 2</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>1–6 Band 1</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>0</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 the offence of theft under the Theft Act 1968.
- Identification and outline explanation of an offence under s47 of the Offences Against the Person Act 1861.
- Identification and outline explanation of the defence of automatism.
- Identification of the role of barristers at a Crown Court trial.
- Use of supporting case authority may include: **R v Morris, R v Vinall, R v Woodman, Ivey v Genting Casino Ltd/ Barton and Booth v R, Collins v Wilcock, Chan Fook, Roberts, R v T, Hill v Baxter.**

AO2

- Application of the facts to suggest that there was an appropriation through the initial taking of the bicycle from the side of a house, it does not matter that it was next to charity collection bags. The good condition of the bicycle suggests that it was not to be given away and so the property is still in the possession/control of the owner and was not abandoned.
- Application of the mens rea requirement of dishonesty to the facts to conclude that Hayden’s conduct was dishonest as taking a bicycle, in good condition from outside a house would be seen as dishonest according to the ordinary standards of reasonable and honest people.
- Application of the mens rea requirement of intention to permanently deprive to question whether Hayden had intention to return the bicycle when he originally took it. The mens rea is not satisfied if

he was simply borrowing the property. An alternative argument is that as the bicycle was in 'good condition; Hayden did not intend to return it but instead keep it for himself.

- Credit given to an alternative application of the facts to suggest that the dishonest, appropriation requirements are satisfied through the subsequent actions of Hayden when he threw the bicycle into the river.
- Conclude to suggest that that the intention to permanently deprive could have been formed when the bicycle was first taken or at the time of the subsequent damage and disposal.
- Application of the actus reus and mens rea for s47 OAPA 1861 through battery to suggest that when Hayden 'punched' Ian he applied unlawful force to another and this caused actual bodily harm in the form of soreness and bruising to the face, it is likely that he intended/was reckless based on the facts.
- Application to the facts to suggest that the defence of automatism may be raised in relation to the theft, if completed after the crash and the attack on Ian. Argument to focus on non-insane automatism as a result of the head injury he suffered during the crash which will be seen as external factor.
- Application to suggest that the act of throwing the bicycle is unlikely to be seen as an involuntary action as he was able to pick the bicycle up and throw it over the railings, this would suggest some partial control.
- Application of the defence in relation to the actual bodily harm to suggest that the defence will only succeed if it is proven that the punch was an involuntary action, possibly a reflex reaction.

AO3

- Analysis and evaluation of the rules on appropriation of property (s3(1) TA 1968) and belonging to another (s5(1) TA 1968) (Possible reference to **R on the application of Ricketts v Basildon Magistrates' Court** (2010)).
- Analysis and evaluation of the dishonesty requirement (s1(2) TA 1968) and the test from **Ivey v Genting Casino Ltd/ Barton and Booth v R, R v Small**.
- Analysis and evaluation of the mens rea; 'intention of permanently depriving' (s6 TA 1968) **R v Lloyd**.
- Analysis and evaluation of the requirements for s47 OAPA 1861.
- Analysis and evaluation of the complete defence of automatism and its legal effect on the assault occasioning actual bodily harm (and possibly the theft)
- Analysis and evaluation of the role of barristers within a criminal trial. Role may include: presenting opening and closing statements, cross examination of witnesses, acting as an advocate for the CPS, proving the case beyond all reasonable doubt or attempting to raise reasonable doubt, working on the instruction of a solicitor, presenting a plea in mitigation in the event that the defendant is found guilty etc.

Credit any other relevant point(s).

ICG's

1. Theft
2. s47 and automatism
3. Non substantive element

Assessment Objectives Grid

| | AO1 | AO2 | AO3 | Total |
|--------------------|------------|------------|------------|--------------|
| 1 | 1 | | | 1 |
| 2 | 1 | | | 1 |
| 3 | 1 | | | 1 |
| 4 | 1 | | | 1 |
| 5 | 1 | | | 1 |
| 6 | 5 | | | 5 |
| 7 | 2 | 3 | | 5 |
| 8 | 3 | 4 | 3 | 10 |
| 9 | 5 | | 10 | 15 |
| 10 | 10 | 10 | 10 | 30 |
| 11 | 10 | 10 | 10 | 30 |
| Paper Total | 40 | 27 | 33 | 100 |

Distribution of marks for substantive and non-substantive law

| Question | Substantive | Non-substantive | Total Marks |
|-----------------|--------------------|------------------------|--------------------|
| 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 |
| Total | 75 | 25 | 100 |
| Total % | 75 | 25 | 100 |