



A-level
LAW
7162/2

Paper 2

Mark scheme

June 2022

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 In a claim for negligence, the court must decide if there has been a breach of the duty of care. Which of the following will the court **not** take into account when reaching this decision?

[1 mark]

Marks for this question: AO1 = 1

C Whether the defendant was an inexperienced learner.

02 In a claim for psychiatric injury, which of the following **best** describes a secondary victim?

[1 mark]

Marks for this question: AO1 = 1

A A bystander who saw or heard the accident.

03 Which of the following is **not** part of the work of the Law Commission?

[1 mark]

Marks for this question: AO1 = 1

B Enacting new laws.

04 When new legislation is enacted in Parliament, which of the two Houses of Parliament is usually more powerful?

[1 mark]

Marks for this question: AO1 = 1

A The House of Commons.

05 Which statement **best** describes the availability of legal aid in a civil case? Legal aid is:

[1 mark]

Marks for this question: AO1 = 1

D rarely available, and is subject to means testing.

06	Explain any three aspects of the role of a High Court judge when hearing a negligence case.	[5 marks]
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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 suggested 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 suggested reasons.
0	Nothing worthy of credit.

Indicative content

AO1

- The requirement for a HCJ to hear a case so as to be impartial and independent of the parties.
- To try a case brought before the court in order to reach a decision as to which party wins.
- An application of the balance of probabilities to decide the case as between C and D.
- To listen to witnesses and to evaluate their credibility.
- To consider and evaluate other forms of evidence such as reports and exhibits.
- Consideration of and rulings on aspects of applicable law for instance on questions relating to duty of care.
- Consideration of and rulings on aspects of applicable law for instance on questions relating to breach.
- Consideration of and rulings on aspects of applicable law for instance on questions relating to causation.
- Consideration of any defence put forward and any impact on the outcome.
- Decision as to remedies (in the event that the claimant wins): amount of damages.
- Decision as to which party pays the costs of the case.
- The appellate function of a HCJ in relation to cases originating in the County Court and, possibly, any work of a HCJ in the Court of Appeal.

Answers which do not explain three aspects cannot achieve marks higher than band 2.

Credit any other relevant point(s).

07	Suggest why Harun owes a duty of care to Izzy under the rules governing occupiers' liability.	[5 marks]
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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 the relevant legal rules and principles.
0	Nothing worthy of credit.

Indicative content

AO1

- Brief explanation of s.1 of the Occupiers' Liability Act 1957 in respect of the definition of 'premises' and dangers due to the state of the premises or to things done or omitted to be done on them.
- Brief explanation of s.1 and s.2 of the Occupiers' Liability Act 1957 in relation to an 'occupier' and a 'lawful visitor' and the notion that the former owes the latter a duty of care in respect of the premises. Possible brief explanation of appropriate supporting case law, eg **Wheat v Lacon**.

AO2

- Application to argue that Izzy, as a guest, had express permission to be in the hotel and therefore was a lawful visitor.
- Application to argue that the hotel was premises for the purposes of the 1957 Act and that Harun was the occupier.
- Application to suggest that Harun, as occupier, therefore owed a duty of care in respect of the premises to Izzy as a lawful visitor.

Reference to the 1957 Act, or its individual section numbers, may be credited but is not required.

Credit any other relevant point(s).

08	With regard to the rules on negligence and contributory negligence, advise Jake of his rights and remedies against Kandy.	[10 marks]
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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. No chain of reasoning is attempted.
0	Nothing worthy of credit.

Indicative content

AO1

- Identification and outline explanation of negligence: duty, breach and damage, including identification of the test for duty, risk factors in breach and damage including personal injury and property damage.
- Identification of a possible defence of contributory negligence: Law Reform (Contributory Negligence) Act 1945.
- Brief explanation of appropriate supporting case law, eg **Donoghue v Stevenson, Caparo v Dickman, Robinson v Chief Constable for West Yorkshire, Nettleship v Weston and the Wagon Mound (No 1), Froom v Butcher.**

AO2

- Application of the rules on duty of care to suggest that Kandy owes a duty of care to Jake on the grounds that it is reasonably foreseeable that one road user would be affected by the failure of another road user to drive with care.
- Application of the rules on breach to suggest that Kandy should be judged by the standard of the reasonable experienced motorist and that Kandy did not reach the standard of the reasonable person in terms of seriousness of risk, likelihood of risk and ease of prevention, given the weather, the light, her use of a phone and the serious risk posed by a moving car.
- Application of the rules on causation to suggest that the injury and loss caused to Jake were reasonably foreseeable consequences of Kandy's failure to take care.
- Application to suggest that Jake may be entitled to a remedy of compensatory damages against Kandy.
- Application to suggest that Kandy may ask the court to reduce the level of damages payable on the ground of Jake's contributory negligence (failure to display lights on a wet evening).

AO3

- Analysis and evaluation of the concept of duty in relation to a collision between a car and a bicycle on the road in terms of reasonable foreseeability, sufficient proximity and the established nature of the duty of care.
- Analysis and evaluation of the standard of care in breach of duty in determining the appropriate standard to be shown by the reasonable person given the seriousness of risk, likelihood of risk and ease of prevention.
- Analysis and evaluation of the rules on causation in terms of reasonable foreseeability.
- Analysis and evaluation of the rules governing contributory negligence.
- Further reference to and analysis of case authority, developing the discussion of the cases cited above and/or further relevant cases, for example **Bolton v Stone**, **Paris v Stepney BC**, **Latimer v AEC** and **Bradford v Robinson Rentals**.

Credit any other relevant point(s).

09 Examine the relationship between legal rules and moral rules. Discuss the extent to which the Occupiers' Liability Act 1984 (liability towards trespassers) reflects rules of morality.

[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**

- Basic definitions of legal rules and moral rules: the contrast between rules created by authority within a given jurisdiction, and a set of expectations concerning behaviour which is right or wrong.
- Outline explanation of the connection between legal rules and moral rules for instance by identifying similarities and differences.
- Identification of appropriate examples drawn from civil and/or criminal law to illustrate the connection between legal rules and moral rules.
- Identification of material relating to the Occupiers' Liability Act 1984 (in the form, for instance, of appropriate principles, examples and decided cases) to illustrate the extent to which the liability of an occupier toward a trespasser can be related to moral rules.

AO3

- Analysis of the contrast between legal and moral rules, in terms of, for instance, the different origins of the two sets of rules, different methods of enforcement, different consequences of breaking the rules and different mechanisms for changing the rules.
- Analysis of the possible relationship between legal and moral rules, in terms of, for instance whether law does enforce morality, and whether law should enforce morality. Possible reference to theories of law and morality such as the "harm principle" and the Hart-Devlin debate.
- Analysis of appropriate examples to illustrate the differences and the possible relationship between moral rules and legal rules.
- Analysis of relevant legal rules drawn from the Occupiers' Liability Act 1984, for example the possible existence of a duty of care owed by the occupier to a trespasser and the standard of care to be shown by the occupier.
- Evaluation of the relationship between morality and the rules governing the liability of an occupier to a trespasser: for example the duty of 'common humanity' that underlies the Occupiers' Liability Act 1984; the limited nature of the duty so that many trespassers will not have a claim (the requirements of s.1(3) of the Act); the need to protect children who may be unaware of dangers; the factors a court may take into account when deciding if any duty has been breached and whether there should be liability (for instance the cost of precautions, the seriousness of any risk of injury and whether any danger was obvious).

Credit any other relevant point(s).

Indicative Content Groups (ICGs):

ICG1: Morality and law

ICG2: Morality and OLA 1984

10	Consider the rights and remedies of Sam against Ozzy in relation to the operation of the timber yard and of Paula against Ozzy in relation to the damage to her central heating vent.	[30 marks]
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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 tort of private nuisance: an action for unreasonable interference with the use or enjoyment of land with a possible remedy of injunction and/or damages.
- Brief explanation of appropriate supporting case authority for instance **Hunter v Canary Wharf**, **Halsey v Esso** and **St Helens Smelting v Tipping**.
- Identification and outline explanation of the tort contained in the rule in **Rylands v Fletcher**: an action for reasonably foreseeable damage caused by the escape from the defendant's land of a dangerous thing accumulated during the course of a non-natural use of that land with a possible remedy of damages.
- Brief explanation of appropriate supporting case authority for instance **Rylands v Fletcher**, **Transco v Stockport MBC** and **Cambridge Water v Eastern Counties Leather**.

AO2

- Private nuisance: application of the requirement that Sam must demonstrate an appropriate legal interest in the land affected (presumably he can as he is the owner).
- Private nuisance: application to suggest that Sam may be able to show an unreasonable interference with his use or enjoyment of his land in view of locality, frequency of the activity, intensity of the activity, time of day and malice. Counter arguments may include social utility and the possible finite nature of evening work if the school project is limited.
- Private nuisance: application to consider whether an injunction, a partial injunction or no injunction is the appropriate remedy given the difficulty of assessing any financial loss and given the need for a timber yard and its products.
- The rule in **Rylands v Fletcher**: application of the requirement that Paula must demonstrate an appropriate legal interest in the land affected.
- The rule in **Rylands v Fletcher**: application to argue that Paula may be able to show the elements required to establish liability in terms of an accumulation, on Ozzy's land, of a dangerous substance during the course of a non-natural user, an escape of that substance and the escape causing reasonably foreseeable damage.
- The rule in **Rylands v Fletcher**: application to argue a possible defence of act of God in view of a very bad storm capable of carrying off the sacks.
- The rule in **Rylands v Fletcher**: application to suggest that Paula may be entitled to a remedy of compensatory damages.

AO3

- Private nuisance: analysis and evaluation of the factors that the courts use to decide whether there is an unreasonable interference with a right to use or enjoy land with reference to issues of locality, frequency of the activity, intensity of the activity, time of day, malice and social utility.
- Private nuisance: analysis and evaluation of the factors that govern the grant of a remedy in terms of an injunction, a partial injunction or damages instead of an injunction.
- Private nuisance: further reference to and analysis of case authority, developing the discussion of the cases cited above and/or further relevant cases, for example **Barr v Biffa**, **Coventry v Lawrence**, **Murdoch v Glacier Metals**, **Christie v Davey**, **Hollywood Silver Fox Farm v Emmett**, **Dennis v MoD**, **Miller v Jackson**.

- The rule in **Rylands v Fletcher**: analysis and evaluation of the requirements for liability (accumulation, dangerous substance, non-natural user of the land, escape causing reasonably foreseeable damage).
- The rule in **Rylands v Fletcher**: analysis and application of the relevant fault element (strict liability).
- The rule in **Rylands v Fletcher**: further reference to and analysis of case authority, developing the discussion of the cases cited above and/or further relevant cases, for example **Rickards v Lothian**, **Read v Lyons** and **Nichols v Marsland**.

Credit any other relevant point(s).

Note: in the case of Paula's claim, credit an answer that uses general negligence to the extent that it deals with the issues raised by the scenario.

Indicative Content Groups (ICGs):

ICG1: Nuisance

ICG2: The Rule in **Rylands v Fletcher**

11	<p>Consider the rights and remedies of Leroy against Nickie and of Leroy against Movers in relation to his loss.</p> <p>In relation to the disagreement between Leroy and Movers, assess the different methods of dispute resolution available, both in and out of court.</p> <p style="text-align: right;">[30 marks]</p>
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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 economic loss and of the possibility of an action in negligence to recover damages for a negligent misstatement albeit on a restricted basis.
- Brief explanation of appropriate supporting case authority for instance **Spartan Steel v Martin**, **Hedley Byrne v Heller** and **Caparo v Dickman**.
- Identification and outline explanation of an action in vicarious liability against an employer for the negligence of an employee committed during the course of employment.
- Brief explanation of appropriate supporting case authority for instance **Ready Mix Concrete v Minister of Pensions**, **Century Insurance v NI Road Transport Board** and **Lister v Hesley Hall**.
- Identification and outline explanation of the different methods of dispute resolution: litigation in court, negotiation and mediation.

AO2

- Negligent misstatement: application of the rules governing the difference between a consequential economic loss and a pure economic loss to suggest that Leroy has sustained a pure economic loss.
- Negligent misstatement: application of the rules governing the differing ways in which the courts treat a claim for pure economic loss caused by negligent acts and negligent statements to suggest that Leroy has sustained a pure economic loss caused by a statement.
- Negligent misstatement: application of the elements necessary to establish a special relationship between the claimant and defendant such as an expertise on the part of the defendant, a voluntary assumption of responsibility towards a known user and reasonable reliance on the part of the claimant to consider whether Leroy and Nickie have such a special relationship in the context of a valuation of goods.
- Vicarious liability: application of the rules determining whether a worker is an independent contractor or an employee to consider the status of Nickie, for instance the control test, the integration test and the multiple test.
- Vicarious liability: application of the rules determining whether a tort was committed in the course of employment to consider the status of Nickie's statement with reference to, for instance, authorised acts and the 'so closely connected' test.
- Application to suggest that Leroy may be entitled to a remedy of compensatory damages against Nickie and Movers.

AO3

- Negligent misstatement: analysis and evaluation of the requirements for a claim in negligence for pure economic loss with reference to the restricted nature of the duty of care.
- Negligent misstatement: analysis and evaluation of the elements required to establish the special relationship in the context of a social event.
- Negligent misstatement: further reference to and analysis of case authority, developing the discussion of the cases cited above and/or further relevant cases, for example **Chaudhry v Prabhakar**, **Patchett v SPATA** and **Smith v Bush**.
- Vicarious liability: analysis and evaluation of the requirements for a worker to be considered an employee (for example level of control, connection to the employer's business, mutuality of obligation).
- Vicarious liability: analysis and evaluation of the requirements to establish that an employee was acting in the course of employment (for instance the difference between an unauthorised act and an authorised act carried out in an unauthorised manner, disobeying a direct instruction, whether an act was so closely connected to the employment that it is fair and just to hold the employer liable).
- Vicarious liability: further reference to and analysis of case authority, developing the discussion of the cases cited above and/or further relevant cases, for example **Various Claimants v Catholic CWS**, **Barclays v Various Claimants**, **Limpus v London General Omnibus**, **Rose v Plenty** and **Morrisons v Various Claimants**.
- Dispute resolution: analysis and evaluation of the alternative ways to resolve the dispute. Considerations of, for instance, informality, privacy, time, cost and whether any outcome is binding.

Credit any other relevant point(s).

Indicative Content Groups (ICGs):

ICG1: Negligent misstatement

ICG2: Vicarious liability

ICG3: Dispute resolution

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