

LAW

Paper 9084/11

Paper 11

General comments

Although there were some very good performances from certain candidates in a number of Centres, the overall standard was disappointing. The better answers were well written and there was some good use of primary and secondary sources, but many failed to use sources well, if at all, and there were many short answers which lacked depth of analysis or thought. The candidates in this cohort generally coped well with the restraints of time and wrote answers of equal length and quality for all three questions attempted, but there were also a worrying number of papers which had short third answers, suggesting poor time management.

The poor performance of candidates at the lower end of the mark spectrum can be attributed to a number of factors. The main factor was poor preparation for writing examination answers. It was also clear that some questions were misread or misunderstood. In some cases candidates did not complete the whole paper and often did not seem ready to answer three questions. They appeared to struggle to find a third question on the paper to answer. This suggests that candidates were not always fully prepared for the demands of a paper at this level and the full range of questions which may be set. There was also a lack of reference to authority in the weaker papers, even in answers to question two on statutory interpretation. Background knowledge was often superficial and basic, particularly in answers to question three where the focus of the discussion was often poor.

One of the aspects that still gives cause for concern is that there continues to be a marked lack of critical analysis.

The paper was of a similar level of difficulty to that set in previous years and none of the questions were considered to be particularly difficult.

Comments on specific questions

Question 1

This question was based on a factual scenario and candidates were asked to consider the role of the courts in dealing with the situation set. There were two possible avenues for candidates to consider. Firstly the way the criminal courts would deal with the situation and secondly the way the civil courts would deal with any claim for compensation. Candidates generally found it difficult to distinguish between civil and criminal proceedings and had little knowledge of the relevant procedure. Very few papers identified Jason's likely criminal offences, which were speeding and careless driving. Candidates also found it difficult to identify which courts would have jurisdiction. These omissions are worrying as this is a fundamental aspect of the Law and Legal Liabilities course. The candidates are expected from the outset to be able to distinguish between civil and criminal proceedings and to be able to identify the courts in which the case will be heard. Finally the sanctions in each case were often confused. There was confusion between the award of damages in a civil court and compensation which would be granted in a criminal court or as a result of criminal proceedings. On the whole the responses to this question were very disappointing.

Question 2

This was a general question about principles of sentencing, although deterrence was cited as the main principle to be discussed. Candidates showed a good overall grasp of the main principles of sentencing and some used examples of relevant sentences to illustrate their answers. This was good and was an encouraging aspect to the papers. However there were also a number of candidates who failed to mention deterrence at all, and this affected their overall mark dramatically. There were some answers which included knowledge of recent sentencing policy. This was a very pleasing aspect of the papers.

Question 3

This question focused on the rules of equity. It is always a popular question and, as always, the candidates had no difficulty in discussing the historical background to the question. However, in this cohort of answers far too few candidates referred to the new rights introduced through equity, and there were few detailed answers on the modern developments through equity. The question specifically required reference to recent case law, and a number of candidates either did not refer to any cases or confined their answer to only one, such as *D.C. Builders v Rees*. However on the whole this question was well-answered and the most competent candidates were able to relate the concepts of the trusts and mortgage, with references made to their modern usages with some useful supporting cases, particularly on remedies.

Question 4

This question focused on juries and was popular. However, the quote at the start from Mr Justice Finemore about the jury was either disregarded or used very inadequately, despite the fact that the question had invited the candidates to look at the quotation. This was worrying as it suggests that candidates are not properly prepared to respond to the question set, but instead to simply write a prepared answer. There were a number of inaccuracies, including a number of answers which suggested that the jury can pass sentence. These errors were fundamental errors. However, a very encouraging aspect was the fact that candidates were more prepared to use recent case law to illustrate their answers. As a result, answers to this question often proved to be the best answer of the paper for many candidates.

Question 5

This question focused on the role and significance of the House of Lords. Candidates were invited to explain that the role of the House of Lords was to deal only with the most important cases, and not simply to act as a second appeal court after a request to the Court of Appeal has been turned down. The better answers looked beyond simply discussing the procedure and mechanics of appeals to the House of Lords. A number of answers did this well and concentrated on the 1966 Practice Statement and the relevant case law. There were, however, a large number of answers which simply looked at the whole appeal system and these answers did not really answer the question set. Again it highlights the need for candidates to have some flexibility when they answer the questions, even where they have successfully identified the topic.

Question 6

The last question invited candidates to consider the difference between qualifying as a Solicitor and qualifying as a Barrister. The question expected a critical analysis of whether there was any justification for a divided profession, and also whether the divided profession presented any particular difficulties for a candidate who wished to have a career in law. This question was not answered well by the majority of candidates. Facts about the two professions were often known but were not well-applied, and there were many answers which did not reflect recent changes in the two professions, such as the fact that it is now possible to practice in the courts as a solicitor and that there is now access even to the highest courts for a suitably qualified solicitor advocate.

LAW

Paper 9084/12
Paper 12

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Although there were some very good performances from certain candidates in a number of Centres, the overall standard was disappointing. The better answers were well written and there was some good use of primary and secondary sources, but many failed to use sources well, if at all, and there were many short answers which lacked depth of analysis or thought. The candidates in this cohort generally coped well with the restraints of time and wrote answers of equal length and quality for all three questions attempted, but there were also a worrying number of papers which had short third answers, suggesting poor time management.

The poor performance of candidates at the lower end of the mark spectrum can be attributed to a number of factors. The main factor was poor preparation for writing examination answers. It was also clear that some questions were misread or misunderstood. In some cases candidates did not complete the whole paper and often did not seem ready to answer three questions. They appeared to struggle to find a third question on the paper to answer. This suggests that candidates were not always fully prepared for the demands of a paper at this level and the full range of questions which may be set. There was also a lack of reference to authority in the weaker papers, even in answers to question two on statutory interpretation. Background knowledge was often superficial and basic, particularly in answers to question three where the focus of the discussion was often poor.

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