

Example Candidate Responses – Paper 2

Cambridge International AS & A Level Law 9084

For examination from 2023



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Introduction

The main aim of this booklet is to exemplify standards for those teaching Cambridge International AS & A Level Law, and to show how different levels of candidates' performance (high, middle and low) relate to the syllabus requirements. This document helps teachers to assess the standards required to achieve marks beyond the guidance of the mark scheme.

In this booklet candidate responses have been chosen from the June 2023 exam series to exemplify a range of answers.

For each question, the response is annotated with examiner comments about where and why marks were awarded or omitted. This is followed by comments on how the answer could be improved. There is also a list of common mistakes and guidance for candidates.

Please refer to the June 2023 Examiner Report for further details and guidance.

The mark scheme is available on the [School Support Hub](#)

9084 June 2023 Question Paper 22

9084 June 2023 Mark Scheme 22

Past exam resources and other teaching and learning resources are available on the [School Support Hub](#)

How to use this booklet

This booklet goes through the paper one question at a time, showing you the high-, middle- and low level response for each question. In the left-hand column are the candidate responses, and in the right-hand column are the examiner comments.

Example Candidate Response – high		Examiner comments
<p>(a)</p> <p>1 section 8 of the theft Act from the source materials apply to this case where Mikhail and Yuri are guilty of robbery under the charges being; stealing the money and in order to do so, force was used to tie Freda on a chair and put her hands under a tie and they put her into fear asking for not calling the police and therefore Freda was subject to force. Section (8) (1)</p> <p>2 In R v Lockley 1995; D was caught shoplifting and therefore used force to run off and was convicted of robbery.</p> <p>3 He appealed contending that there had been</p> <p>4</p>	<p>1 The candidate draws a conclusion.</p> <p>2 The candidate makes it clear money has been stolen.</p> <p>3 The candidate demonstrates there has been a use of force on Freda by tying her to a chair.</p> <p>4 There is a clear link to a threat of force using the scenario facts.</p>	

Answers are by real candidates in exam conditions. These show you the types of answers for each level. Discuss and analyse the answers with learners in the classroom to improve their skills.

Examiner comments are alongside the answers. These explain where and why marks were awarded. This helps you to interpret the standard of Cambridge exams so you can help your learners to refine their exam technique.

How the candidate could improve their answer

- (a)
- The candidate could have been clearer on the point that the force was used by Yuri at the time when Mikhail was stealing the money and in order to steal.
 - The application of *R v Lockley* lacks clarity and certainty way to Yuri and Mikhail.

This section explains how the candidate could have improved each answer. This helps you to interpret the standards of Cambridge exams and helps your learners to refine their exam technique.

Common mistakes and guidance

- Some candidates write out the question and large amounts of the source material which gives them less time to demonstrate application of the law – it is more helpful to refer to the law in the source material and include only the most relevant points to support application.
- In an effort to cover all the issues in a question, it is helpful to identify the issues in the scenario and apply the law to those issues in turn.
- AO1 marks are awarded for the use of citation from the source material, so it is helpful to take the time to consider which points are most relevant. A maximum of 2 marks are available for AO1.

This section lists common mistakes as well as helpful guidance from the examiner. This will help your learners to avoid these mistakes. You can use this alongside the relevant Examiner Report to guide your learners.

Question 1

Example Candidate Response – high

Examiner comments

(a) section 8 of the theft Act from the source materials apply to this case where Mikhail and Yuri are guilty of robbery under the charges being; stealing the money and in order to do so, force was used to tie Freda on a chair and put her hands under a tie and they put her into fear asking for not calling the police and therefore Freda was subject to force. Section (8) (1) in *R v Lockley* 1995; D was caught shoplifting and therefore used force to run off and was convicted of robbery. He appealed, contending that Hale had been overruled on the point relating to appropriation being a continuing Act. His appeal was therefore dismissed. Force used in order to escape is treated as force used in order to steal.

The scenario in *R v Lockley* ~~the~~ similarises with the fact that upon getting caught Mikhail and Yuri used force to escape and also were able to complete the mens rea & Actus rea of the case. In this spectrum; 1st spectrum being making off after force application and an assault with intent to rob is could be argued upon as to using it just for the means of escape and not causing bodily harm. However According to *R v Lockley* the appropriation is a good law and therefore applying the section (8) (a); guilty of robbery, on conviction on indictment shall be liable to imprisonment for life.

R v Hale, two defendants broke and the scenario was similar, the convictions were upheld and appropriation was said to be a continuing act. Similarly in this case, Mikhail and Yuri will be convicted. *R v Hale* and *R v Lockley* both set their bar for being guilty

- 1 The candidate draws a conclusion.
- 2 The candidate makes it clear money has been stolen.
- 3 The candidate demonstrates there has been a use of force on Freda by tying her to a chair.
- 4 There is a clear link to a threat of force using the scenario facts.
- 5 Having made a general reference to Section 8 earlier, the candidate now makes a clear link to s8(1).
- 6 The candidate references *R v Lockley*, which is added to their accurate statutory citation and means they are awarded 2 marks for AO1.
- 7 There is some application of the decision in *Lockley*.
- 8 There is a reference to the maximum sentence which could be applied to Mikhail and Yuri.
- 9 There is a reference to *R v Hale* and a link to the scenario facts on the basis of the case facts being similar.

Mark for AO1 = 2 out of 2
 Mark for AO2 = 7 out of 8

Mark for (a) = 9 out of 10

Example Candidate Response – high, continued

Examiner comments

- (b) In the case of ~~rob~~ R v Robinson 1977, Robinson was owed money by a woman's husband. During a fight he somehow got £5 of £7 owed he was owed. Upon conviction ~~he~~ was held quashed as he did not technically commit a crime.
- Similarly £100 was owed by Tasmin, she had to return it and Suki had her right to regain the money back.
- Suki had an honest belief that she is entitled to that amount of money and there will have to be no theft no robbery.
- To argue R v Clouder could be presented where the defendant wrenched a shopping bag while not physically touching the woman and was therefore ~~was~~ alleged to use force and court called it sufficient. However, this practically will not be legitimate argument since the defendant in the case in hand ~~own~~ owns the money (£100) and will not be charged with the same set of offences.
- Section 8 of the Theft Act states the robbery and use of force to be convicted and (8)(2) says the assault which will not be applied due to the case seen in R v Robinson, despite in action making off with something in Tasmin's possession. And in case of ~~Suki~~ ^{Tasmin} trying to cause a conviction of Suki, the conviction will be quashed and she will not be guilty of the robbery or use of force; as she clearly did not touch her.
- Therefore section (8)(1) & (2) both will deter and Suki will not be convicted.

- 10 The candidate identifies R v Robinson as a relevant case.
- 11 The candidate makes a statement of application based on the similarity of the scenario to the facts in Robinson.
- 12 The candidate makes a statement of application linking Suki's right to an honest belief and what this means in terms of her liability.
- 13 The candidate references R v Clouder, which is added to their previous case citation and means they are awarded 2 marks for AO1.
- 14 There is some application of Clouder, but this is not linked to the fact that there has been an appropriation of the bag and that force has been used in order to do so.
- 15 The candidate makes a reference to s8(2) but the scenario facts link more clearly to reliance on s8(1).
- 16 The candidate discusses Suki's conviction being overturned on appeal but due to her lack of dishonesty she will not be convicted at all.
- 17 The candidate reaches a conclusion that Suki will not be convicted, which is accurate.

Mark for AO1 = 2 out of 2

Mark for AO2 = 6 out of 8

Mark for (b) = 8 out of 10

Example Candidate Response – high, continued

Examiner comments

- (c) In the case *R v Dawson and James* ~~1950~~ 1976, similarly, one of the defendants nudged to make it easier for the other defendant to take his wallet and in this case Rodger bumps the woman and Carol takes her phone. In the case of *R v Dawson*, they were convicted of robbery and the convictions were upheld, therefore the application of both 8(1) & 8(2) of robbery and force and intended oblique actus reus of assault. Although force had to be found out by the jury as it gives no directing to jury.
- Moving on, *Corcoran v Anderton* (1980) defendants knocked the woman and grabbed her handbag, in the case in hand, the woman resisted and they failed in making off without the bag. But they were convicted of robbery due to the presence of the *mens rea* element of robbery which is dishonesty. The convictions were upheld as there was intent to permanently deprive one of the object. In this case first off Rodger knocks the man off; assault; and then grabs the phone clarifying the *mens rea* element despite not making off with the phone, touching property is sufficient to amount to an appropriation.
- Firstly knocking the woman off and stealing her phone and running away qualifies them for whole section 8 to be applied and shall get the imprisonment and additionally according to *Corcoran v Anderton* they will be convicted.
- Robbery being an indictable offence, the defendants will be charged with theft Act and resultantly imprisoned for life for committing two crimes both including the use of force and dishonest mindset.

18 The candidate identifies *R v Dawson and James* and applies the case based on its similarity to the scenario.

19 The candidate identifies relevant statutory sections which means they are awarded 2 AO1 marks.

20 The candidate identifies *Corcoran v Anderton* before restating information from the source material.

21 The candidate applies *Corcoran v Anderton* to the second part of the scenario involving Roger accurately.

22 There is some vague application as both Roger and Carol will be guilty in relation to the first part of the scenario; however, the use of *Corcoran v Anderton* is not especially relevant based on the facts in the first part of the scenario.

23 The candidate applies *Corcoran v Anderton* to the second part of the scenario facts, making it clear that it does not matter that Roger never fully has control of the phone.

24 The conclusion and sentencing points are valid but without any clear distinction being drawn in the liability of Roger and Carol.

Mark for AO1 = 2 out of 2
Mark for AO2 = 5 out of 8

Mark for (c) = 7 out of 10

**Total mark awarded =
24 out of 30**

How the candidate could improve their answer

(a)

- The candidate could have been clearer on the point that the force was used by Yuri at the time when Mikhail was stealing the money and in order to steal.
- The application of *R v Lockley* lacks clarity and certainty as to why the law in that case will be applied in the same way to Yuri and Mikhail.

(b)

- The application of *R v Clouden* could have been clearer by identifying that an appropriation has taken place.
- The candidate could have been clearer that, although the *actus reus* is present, the *mens rea* is not due to Suki's honest belief in her right to the bag as being equivalent to the amount of money she is owed by Tamsin. This means Suki will not be liable for theft or robbery.

(c)

- There could have been fuller linking of the scenario facts to the law being applied in each part of the scenario.
- It would have been helpful to see greater clarity in the different application of the law to Roger and Carol.

Example Candidate Response – middle

Examiner comments

(a) As seen per in Section (8) Theft act 1968 part one,

- 1 a person is guilty of robbery if he steals and immediately before or at the time of doing so, uses force on any person or puts any person in fear of being would be then and there subjected to force. Like-wise as
- 2 seen in Mikhail and Yuri's case they would be guilty of robbery as in any condition they did put Freda's
- 3 in fear of being by tying her up or in other words using force, more-over as per Section (8) part 2 both Mikhail and Yuri are subjected to Dr. Lobb
- 4 to imprisonment of life, as they carried an intent to rob Freda of her money and also tied her up to escape without a hassle. One of the supporting cases of this situation would be *R v Dawson* and *James* where ^{something as trivial as a} nudging was given the name of force. So in Mikhail's and Yuri's case they didn't only 'push' her into the chair, they also tied her up causing them
- 5 to be under a liability. *R v Lockley* also supports this as they held that force used in order
- 6 to escape is force used in order to steal, they did tie Freda in order to escape without the cops being called hence the act would originally amount to robbery. In some cases Mikhail and Yuri may oppose by putting forward a notion that they used force
- 7 to after the stealing as seen in *R v Hale* or put forward that they did tie her up but ran off empty handed as seen in *Corcoran v Anderton* but both these case scenarios would
- 8 be denied as they visibly took off with the money and they though acted with force after getting
- 9 the money they ~~did~~ appropriation of the money was a continuing act.

- 1 The candidate accurately identifies s8(1).
- 2 The candidate reaches a conclusion on both Yuri and Mikhail.
- 3 There is some application of the use of force linked to tying Freda up. There is a reference to putting a person in fear although this is not applied to the facts.
- 4 Here is an accurate reference to the maximum sentence which could be imposed on Mikhail and Yuri.
- 5 The candidate references *R v Lockley* accurately, which is added to their earlier statutory citation and means they are awarded 2 marks for AO1.
- 6 Here is some accurate application of the point of law in *Lockley*.
- 7 The candidate brings up the legal issue raised in *R v Hale*.
- 8 Although the candidate refers to *Corcoran v Anderton*, which is not a relevant case based on the scenario facts, there is application to the effect that there has been a complete offence of theft.
- 9 The candidate accurately applies the point they have raised from *Hale*.

Mark for AO1 = 2 out of 2

Mark for AO2 = 7 out of 8

Mark for (a) = 9 out of 10

Example Candidate Response – middle, continued

Examiner comments

(b) Suki as seen in the passage though took off with the bag with the intent of taking her money back would still in some way be liable to imprisonment for life as an intent for robbery was there where she grabs it and runs, as seen in section 8 theft act part (2). Though the passage emphasises on the fact that Geri didn't touch Tamsin, amounting to no force but as seen clearly in *R v Clouden* they show and then held that the force that was used on the bag itself was very sufficient to amount force on the person, hence though she didn't even come close to Tamsin the force she applied on the grab before running with it would be force against the person. However closing to these views is the case *R v Robinson* where the money dependent took was originally same or closer to the price he was entitled to get hence theft wasn't conducted. Suki could rule along with this case but some of the visible differences in the both cases are that Robinson picked the money up and kept it, whereas Suki ran with the bag, this differences that Suki might have taken the bag per pure belief but the force she put on the claimant or Tamsin would amount to robbery as per section 8 theft act part (1). Where putting force on a person would amount to the person being guilty of robbery. Hence Suki would be liable for the force she used on Tamsin.

10 The candidate identifies *R v Clouden* as a relevant case.

11 The point of law in *Clouden* is applied accurately to the scenario and in detail.

12 The candidate identifies *R v Robinson* accurately, which is added to their other case citation and means they are awarded 2 marks for AO1.

13 Here, the candidate makes some application of the decision in *Robinson* by use of the words 'pure belief' although they go on to draw an incorrect conclusion as to the full application of the case.

Mark for AO1 = 2 out of 2

Mark for AO2 = 3 out of 8

Mark for (b) = 5 out of 10

Example Candidate Response – middle, continued

Examiner comments

(c) As seen in Carol and Rogers case they would
 14 be guilty of robbery as per section 8 theft
 act part 1 says that force in any case and the
 15 fear of being brought on a victim fully amounts
 to robbery. firstly as seen ~~st~~ Roger bumps into
 a woman and then takes her phone as she
 drops it due to being knocked of balance
 would be declared force as, seen in a
 16 parallel case of R v Dawson it was clear
 that even a nudge would ^{possibly} amount to force,
 which ^{clears} ~~where~~ has Roger almost knocked the woman
 17 of her feet ^{which} ~~which~~ would be more harsh
 18 and aggressive in nature. This would be
 a clear case of robbery or theft due to the
 intent of theft of Roger and Carol alongside
 the ^{blunt} force they used. Furthermore we
 see that Roger in the mans case isn't
 able to get the phone however did attack
 the man and fought him to escape though
 being empty handed. ~~would all amount to~~
 19 ~~theft~~ Corcoran v Anderton Shows that
 though theft was ~~done~~ planned them not
~~being~~ being able to take anything would
 20 not exactly be theft. However in R v
 Lockley it was held that force used in
 order to escape was force used in order
 to steal which concludes that Roger
 might have left empty handed but
 he did use immense force and did
 21 fight the man to escape making
 him liable to imprisonment for life
 as per section 8 theft Act part
 (2).

- 14 The candidate reaches a conclusion on the liability of Carol and Roger.
- 15 The candidate accurately identifies s8(1) as relevant law.
- 16 The candidate identifies R v Dawson (and James) accurately, which is added to their statutory citation and means they are awarded 2 marks for AO1.
- 17 Here is application of the principle in Dawson and James linked to the level of force Roger used.
- 18 The application is extended to Carol as she was able to take the phone due to the force Roger used.
- 19 There is an accurate reference to Corcoran v Anderton, but this does not attract an AO1 mark as the two marks available have already been awarded.
- 20 The reference to R v Lockley and application of the point of law in the case is not appropriate based on the scenario facts.
- 21 The candidate refers to the maximum sentence Roger may receive for the second part of the scenario.

Mark for AO1 = 2 out of 2
 Mark for AO2 = 4 out of 8

Mark for (c) = 6 out of 10

**Total mark awarded =
 20 out of 30**

How the candidate could improve their answer

(a)

- The candidate could have been clearer in linking the threat of force to when Yuri shouts at Freda that she should stay where she is and not call the police.
- The reference to a completed theft is implied rather than made clear.

(b)

- The candidate could have dealt with the fact that although Suki does not touch Tamsin, she has appropriated the bag.
- The candidate could have been clearer in their application of *R v Robinson*, as Suki's lack of dishonesty due to what they term as her 'pure belief' means there is no theft and therefore no robbery, so she is not guilty of any offence.

(c)

- The candidate refers to the case of *Corcoran v Anderton* in relation to the second part of the scenario but there is no clear application of the relevant point of law to the facts.
- There could have been greater clarity on the point that the force in the first part of the scenario was used in order to steal. The principle of when and why the force is used could also have been applied more clearly in relation to the second part of the scenario.

Example Candidate Response – low

Examiner comments

(a) In this case as Mikhail is putting money in bag, "after Mikhail and Yuri breaks into the house with intention to steal the money Freda hides in money box". Freda arrives in kitchen. Yuri grabs her and pushes her and tie her with chair and threatens her

1 so a force is being used. Therefore section 8 Theft Act 1968 states in it's s(1)

2 "A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or put or seek to put any person in fear of being then subjected to force". s(8)(1) applies to this along with s(8)(2) which states, "A person guilty of robbery or of any assault with intent to rob, shall on conviction on indictment

3 be liable to imprisonment for life."

4

(b) Tamsin owed Money (£1000) by Suki. when suki asked for the money back she replied she cannot repay it yet. A week later Suki saw Tamsin holding a new expensive hand bag worth 1000 Tamsin owed her the same amount which she later tell the police wher arrested. so appranately The conviction of Tamsin will get quashed as there was no theft as Suki has an honest belife that she ~~was~~ was entitled to the money so if there will be no theft there will be no robbery.

5

6

7

1 The candidate states that Yuri has used force on Freda when he pushes her into the chair.

2 Here is an accurate citation of s8(1).

3 There is an implied conclusion that s8(1) applies in this scenario.

4 The candidate references the maximum sentence which can be applied if Yuri and Mikhail are convicted.

Mark for AO1 = 1 out of 2
Mark for AO2 = 3 out of 8

Mark for (a) = 4 out of 10

5 The candidate correctly concludes there was no theft.

6 The candidate accurately states that Suki has an honest belief that she can take the bag from Tamsin.

7 The candidate further concludes that if there is no theft there can be no robbery.

Mark for AO1 = 0 out of 2
Mark for AO2 = 3 out of 8

Mark for (b) = 3 out of 10

Example Candidate Response – low, continued

Examiner comments

(C) Carol and Roger makes money by stealing and selling mobile phones. In a busy park they saw a woman with her phone in hand and steals it by bumping into her and knocking her off and runs away with mobile phone which makes them entitled of Theft Act 1968 S(8)(1) and S(8)(2) as force was applied and cause the woman to fall. However few minutes later Roger see a man taking pictures with his phone. He approach the man and knock him to ground so force was applied but were unable to steal the phone as the man didn't let go of it. Here an appropriation had taken place with relevant dishonest intent to permanently deprive. It was irrelevant that they left empty handed or they never gained full control of the phone since touching property is sufficient to amount to an appropriation so the conviction can get upheld.

8 Here is an accurate reference to relevant statute law.

9 The candidate makes some accurate application of force being used and what that caused.

10 The candidate applies the fact that force has been used in the second part of the scenario.

11 The candidate applies the point of law that not gaining control of the phone does not prevent an appropriation.

12 Here is an accurate conclusion.

Mark for AO1 = 1 out of 2
Mark for AO2 = 4 out of 8

Mark for (c) = 5 out of 10

**Total mark awarded =
12 out of 30**

How the candidate could improve their answer

(a)

- The candidate could have been clearer in separating the use of force on Freda from the threat of force which came from Yuri shouting at her.
- There could have been application of the law to say that there had been a completed theft, that the force was used at the time of stealing and in order to steal as part of a continuing act as in *R v Hale* and that the use of force in order to escape would not prevent Mikhail and Yuri being convicted of robbery.

(b)

- The candidate makes some accurate statements, but they could have been clearer on the statutory and case law on which they were relying as well as being clearer in their correct naming of the characters in the scenario.
- There could have been reference to the issue of force and application of this area of law to the matter of whether Suki had appropriated the bag.

(c)

- The candidate could have supported their application with relevant case citation in each part of the scenario.
- They could have been clearer how the law applied to each of Carol and Roger in the first part of the scenario by adding an explanation of Carol's liability for theft alongside Roger's use of force as well as making the point that the force was used in order to steal.

Common mistakes and guidance

- Some candidates write out the question and large amounts of the source material which gives them less time to demonstrate application of the law – it is more helpful to refer to the law in the source material and include only the most relevant points to support application.
- In an effort to cover all the issues in a question, it is helpful to consider the issues in the order they appear in the scenario and apply the law to those issues in turn.
- AO1 marks are awarded for the use of citation from the source material which is most relevant to the facts in the scenario, so it is helpful to take the time to consider which are the most appropriate cases, remembering that a maximum of 2 marks are available for AO1.
- AO2 is awarded for accurate application of the law in the source material and it is helpful to do this only to the facts provided in the scenario and not speculate about any other possible issues.
- Candidates should make a clear link between the relevant law and how it is applied to the facts in the scenario.
- It is helpful to reach a clear conclusion based on the scenario facts and the law applied from the source material.
- It is good practice to include material on sentencing when directed to do so by the question and the source material.

Question 2

Example Candidate Response – high

Examiner comments

a Chain of causation is an element of actus reus where after factual and legal causation under thin skull rule is applied, the link between the act and consequence must not be broken, for there to be an proper physical element.

chain of causation is seen as an act of the third party like medical treatment might get in the way and actually break the chain, it has to be decided whether poor medical conditions have broken the chain. If chain of causation will not be broken then physical element that the relevant conduct has committed the consequence, the defendant can be guilty of the criminal wrongdoing.

The Act of third party can be seen in the case of R v Smith, where 2 soldiers got into a fight and one stabbed the other in lung, the wounded soldier was carried to the hospital, dropped in the way though, however when taken to the hospital the victim was given artificial respiration, the doctors couldn't declare that the victim had breathing issues, this lead to condition worsening however the defendant was seen guilty as original wounds were still the reason, whereas in R v Jordan, the wounds ~~of~~ in stomach started to heal but the allergic effect of the anti-biotic was the reason, hence

defendant was not guilty. Chain of causation can be implied with ones own Act as well, seen in R v Roberts ~~where~~ however such act like the girl got off an diving car because of advancements of sexual orientation, this was due to the ~~sex~~ foresight actions of defendant. Naturally chain of causation can be broken as well due to damages caused by flood, earthquake causing the link between the act and consequence to break.

1 The candidate identifies that the chain of causation is the link between the act of the defendant and the consequence.

2 The candidate is clear that the chain must not be broken.

3 The candidate accurately describes the act of a third party as being one way the chain of causation can be broken.

4 The candidate describes the victim's own act as being a second way to break the chain of causation.

5 The candidate describes things which are natural but unpredictable events, which is the third way in which the chain of causation can be broken.

Mark for AO1 = 5 out of 5

Mark for (a) = 5 out of 5

Example Candidate Response – high, continued

Examiner comments

b) Burglary is an known offence under s9 of the theft Act 1968. There are 2 types of Burglary. s9(1)(a) is where the initial intent is to commit stealing, grievous bodily harm and criminal damage. where s9(1)(b) is where the initial intend is not relevant and prosecution has to prove that defendant committed stealing, grievous bodily harm and criminal damages. Law of Burglary is wide and gives an detailed information about the physical elements involved for s9 to be committed and the various ways such offence can be taken into place. Actus Rea of Burglary, includes entry, building, part of building and trespassing. The basic definition of the word entry is not stated under this Act, however it was shown in the cases practically that even partial

- 6 The candidate gives some accurate AO1 material about s9 Theft Act 1968 and the offence under s9(1)(a) although they use the word 'and' in relation to the third ulterior offence when 'or' would have been more precise.
- 7 The AO1 material about s9(1)(b) is not entirely accurate but there is some understanding of the second way in which burglary can be committed.
- 8 The candidate makes an AO3 comment about the breadth of burglary.
- 9 The candidate gives AO1 material on the common elements of burglary.
- 10 The candidate makes an AO2 statement as they have analysed the law and identified an issue.

Example Candidate Response – high, continued

Examiner comments

entry will be amounted to an entry if it is effective. As seen in the case of R v Brown, the defendant lower body was outside the shop window and upper body ~~and~~ arms were inside and defendant was rummaging through the goods, it was upheld as

11 conviction as entry into the shop was effective. Similarly seen in the case of R v Ryan,

that the defendant got trapped while trespassing through the window of ~~someone's~~ victims home, lower body was outside, head and right arm were inside, this too was declared as an effective burglary.

hence this can be clearly seen that law under Burglary entry is elaborated enough that partial entry will be considered as entry if it is effective, this hence reduces

12 the defendant to get away with excuses and straightforward physical element

can be seen. ~~the~~ building is widely defined in the s9 of ~~the~~ and it states that houseboats and caravans can be referred to as building as well.

13 Extensive thought can be posed when the cases of Bands v Leathley and ~~Northfolk~~ Northfolk Constabulary v Seeming and could well be distinguished. In both cases it had to be decided whether the storage unit can be building or not.

Bands v Leathley the 29 foot long storage unit was in a farm yard for over

11 The candidate uses accurate AO1 citation and detail to demonstrate their understanding.

12 An AO3 comment evaluates the effect of the cases discussed.

13 The candidate analyses the law and makes an AO2 comment identifying another issue.

Example Candidate Response – high, continued

Examiner comments

- 14 2 years and had door and electricity was supplied, this was stated as building, however in Norfolk's case the lorry trailer had wheels, though it had similar features like storage unit in Leathley's case but ^{due to} wheels the lorry trailer was considered as vehicle and not the building. Such ~~the~~ cases clearly shows how extensively and to the point cases can be distinguished and law of Burglary have explanatory definitions like mention of houseboat and caravans as the buildings, can help in solving such cases of trespassing and hence little gaps ~~to~~ are left and less amendments have to be made. ~~The theft~~ Part of building as well is a part of actus Reus, and it elaborately explains that defendant might be allowed in one part of the building and not in other, seen in the case *R v Walkington* where the defendant in the shop went to the counter area, the critical point here was that area was reserved for the staff and hence there is no permission to go there, hence Burglary (s.9(1)(a)) convicted as intention of stealing could be figured. Part of building under the s.9 explains that the case of *R v Rodwell*, the dwelling is seen as a serious indictment
- 15 Such cases of trespassing and hence little gaps ~~to~~ are left and less amendments have to be made. ~~The theft~~ Part of building as well is a part of actus Reus, and it elaborately explains that defendant might be allowed in one part of the building and not in other, seen in the case *R v Walkington* where the defendant in the shop went to the counter area, the critical point here was that area was reserved for the staff and hence there is no permission to go there, hence Burglary (s.9(1)(a)) convicted as intention of stealing could be figured. Part of building under the s.9 explains that the case of *R v Rodwell*, the dwelling is seen as a serious indictment
- 16 2 years and had door and electricity was supplied, this was stated as building, however in Norfolk's case the lorry trailer had wheels, though it had similar features like storage unit in Leathley's case but ^{due to} wheels the lorry trailer was considered as vehicle and not the building. Such ~~the~~ cases clearly shows how extensively and to the point cases can be distinguished and law of Burglary have explanatory definitions like mention of houseboat and caravans as the buildings, can help in solving such cases of trespassing and hence little gaps ~~to~~ are left and less amendments have to be made. ~~The theft~~ Part of building as well is a part of actus Reus, and it elaborately explains that defendant might be allowed in one part of the building and not in other, seen in the case *R v Walkington* where the defendant in the shop went to the counter area, the critical point here was that area was reserved for the staff and hence there is no permission to go there, hence Burglary (s.9(1)(a)) convicted as intention of stealing could be figured. Part of building under the s.9 explains that the case of *R v Rodwell*, the dwelling is seen as a serious indictment

14 The candidate includes accurate AO1 material which is detailed and explained.

15 Some AO3 comments show how the law has been developed through the cases and the clarification this has provided.

16 The candidate explores another AO1 issue and includes some relevant cases; although in one instance the cited case is named incorrectly (should be *R v Walkington*) the explanation of the point of law is accurate.

Example Candidate Response – high, continued

Examiner comments

offence with sentencing of 14 year imprisonment, Rv Rodmel the defendant went into the garden shed of someones home and took power tools. Increased sentence of Burglary under dwelling can be helped in reducing such crimes as ~~dwelling~~ Burglary in someones residence, can be aggravated as well causing threat to human life. Moreover trespassing is an Actus Reus as well and one of the main points in law of Burglary where this is extensively promoted that trespassing is not just entering somewhere where you don't have permission, but can be going beyond the permission one has been granted. For example, in the case of Rv Jones and Smith, P Smith and Jones went to Smith's father's home and ~~took~~ s9CD(b) stole TVs, however the critical point was that permission was granted to Smith to enter, hence going beyond the permission granted was ~~not~~ needed in the law of Burglary as it further reduces the an offence of s9CD(a) and s9CD(b). Law of Burglary, have mens rea stated that ~~the~~ the person trespassing must have it in knowledge that they

17 The issue of trespass by exceeding permission to enter is explored with accurate AO1 material by using a cited case.

Example Candidate Response – high, continued

Examiner comments

- 18 are trespassing, this hence helps to differentiate between honest trespassing and Burglary, which is ~~also~~ very important as the main idea of criminal law is to deal with cases justly, hence if intention to commit ulterior offence was not there, then defendant will not be guilty and this protects the rights as a human. However, with all such measure taken there can be some gaps left as well like in theft Act 1968.
- 19 amendments had to be made later on in the cases of getting money through deception or making off without payment as seen in the cases of *R v Freddy* and *DPP v Ray*; such gaps might also be left in Burglary. For example, Entry is one of the main elements of actus reus of Burglary and no definition is provided, similarly wide definition of building is provided but basic is not given. Moreover, to consider it is very tough for the prosecution to show that the s9(1)(a) that the person had initial intention as usually under contemporaneous rule, the actus reus and mens reus are a continuous Act and without physical element, mens reus proving is not an easy task. In addition, Aggravated ~~offen~~ Burglary under s10 and Dwelling both can be a part of

18 The candidate uses AO2 analysis to identify another potential issue in burglary.

19 This is developed into AO3 by an evaluation of the need to have both *actus reus* and *mens rea* in an offence so as to deliver justice and protect human rights.

20 Material on later developments in the wider law of property offences is not credited as it is beyond the scope of the question set.

21 After a little repetition, the candidate identifies an AO2 issue relating to the elements of burglary.

Example Candidate Response – high, continued

Examiner comments

Indictment. At the law of Burglary, is extensively explained and usually covers all areas, as aggravated offence under s10 is where with Burglary at the time, a person has with him, fireman, imitation fireman, explosive, weapon. At the time can be difficult to interpret, for s9CD(a) it will be at the time of intention and s9CD(b) at the time of offence as seen in *R v Stealy*. Has with him was elaborated and this evaluates the law of burglary that usually every area was covered as has with him does not have to be in physical form can be seen as how accessible the weapon etc are. Fireman or imitation was seen in s10(C) where fireman is air gun etc and imitation is ~~obj~~ objective that figure, this though can be tough to be shown by Judges and interpret. Weapon can be as small as a screw driver as seen in *R v Miller* and explosive ~~it~~ can be anything with practical effect.

Overall, it can be seen by all statements above that law of Burglary has covered almost from intention to committing.

However, in future further cases might cause new Amendments but for now law of Burglary under s9 of the Act 1968 has been sufficiently satisfactory.

22 Material on aggravated burglary under s10 is not credited as it is a separate offence and beyond the scope of the question.

23 The candidate draws together some of the points they have made and reaches an overall conclusion on the law of burglary which is consistent with the material they have used in their essay.

Mark for AO1 = 10 out of 10
 Mark for AO2 = 4 out of 6
 Mark for AO3 = 6 out of 9

Mark for (b) = 20 out of 25

**Total mark awarded =
 25 out of 30**

How the candidate could improve their answer

- (a) As there are only 5 marks for this question, the command word is 'describe' so the candidate could have been briefer and thus had more time for their answer to part (b). Simply describing the key elements of the chain of causation is sufficient to gain marks.
- (b) The candidate included a lot of detailed AO1 material, and this could impact the time available for AO2 and AO3; better planning might have helped with this.
- (b) The candidate raised valid AO2 issues, and it might have been helpful to go into greater depth in their AO3 to develop the points they had raised.

Example Candidate Response – middle

Examiner comments

	(a) In order for there to be a criminal offence, two elements must be present: in order for These two elements are of the actus reus (the physical element) and the mens rea (the mental element). In order for the actus reus to be present, the chain of causation is one of its elements. This is when some chain of causes led to the certain consequences. For this to be considered as an
1	actus reus, the chain of causation must not be broken. For example, the act of an intervention by a third party. This could be
2	best explained by the case of R v Miller. Here the defendant went into an empty house and he slept while having his lit
3	cigarette. The lit cigarette fell onto a mattress in the room. This caused a fire and when Miller noticed it, he ignored and showing carelessness went to sleep in the other room. Here the courts held that there was a chain of consequences that led to such an outcome. Therefore Miller was declared guilty. However an opposite situation would be if a third party was involved / broke the chain of causation. This could be seen in the case involving doctors. A victim was stabbed into the stomach. He was doing well and was recovering. Meanwhile the doctor gave him a medicine and he suffered an allergic reaction. The doctor stopped the dose of the medicine but the next day, a different doctor prescribed the medicine again. This led to the victim being dying due to an allergic reaction. Therefore here the Court of Appeal held that even though, the original attacker wounded him, he was not guilty as it was the act of the doctors which led to the death of the victim. Therefore here the doctors ^{did} break the chain of causation but if the doctors would not have given the medicine and the victim would have died then the chain of causation would not be broken and therefore the original attacker would be considered guilty. Therefore for an actus reus to be present, the chain of causation must not be
4	broken for the defendant to be declared guilty under the element of actus reus.

1 The candidate identifies that a cause leads to a certain consequence.

2 The candidate makes the point that the chain of causation must not be broken.

3 The candidate describes one way in which the chain of causation can be broken.

4 Here is a repetition of the fact that the chain of causation must not be broken.

Mark for AO1 = 3 out of 5

Mark for (a) = 3 out of 5

Example Candidate Response – middle, continued

Examiner comments

(b) Burglary is defined under s.9 of the theft act 1968 as in ⁵ s.9(1)(a) it says, 'entry of a building or a part of a building ^{asa} with the intention to commit theft or grievous bodily harm and criminal damage', while s.9(1)(b) explains it as "Entry of building as a trespasser and then inflicting to steal....". The ⁶ difference between both the s.9(1)(a) and s.9(1)(b) is the ⁷ intention. For s.9(1)(a) the intention is to be present before trespassing and the intention must be of carrying out one of the three listed ulterior offences, while for s.9(1)(b) ⁸ the intention at the time of entry is irrelevant. It is on the prosecution side to show ⁹ proof that the defendant had the proper intention of committing the theft (and they shall know believe) they are trespassing. However there are similarities between the two subsections. There are entry, part of a building and ~~as~~ as a trespasser. Under the law of burglary the actus reus of burglary includes entry, building or part of building, as a trespasser while the mens rea is the element of intention and then carrying out any of the ulterior offences.

For the offence of Burglary to be established, firstly the elements of actus reus are to be fulfilled. Firstly, it must be proven that there was an entry. Entry is defined in the s.9(a) of the theft act as being a lawful entry or not and the question of whether an entry is lawful and not was decided upon by the judges in the future cases. ¹⁰ For it to be a lawful entry, a person's body / some part of it should be inside to be considered in the act of being a lawful entry. This was seen in the case of ~~R v Brown~~ ¹¹ R v Smith. Here the defendant's half body was outside the

⁵ The candidate correctly identifies the statutory source of the law on burglary.

⁶ The candidate goes on to identify s9(1)(a), its key elements and the specific offences which are covered by the statute.

⁷ The candidate identifies s9(1)(b) but with less clarity as to the statutory provision.

⁸ Here is some relevant factual material on the difference between the two offences in s9.

⁹ Having explained differences between the two sections, the candidate makes an AO3 evaluative statement to balance this by reference to the common elements between the two offences.

¹⁰ The candidate gives accurate AO1 factual information on one of the common elements of burglary.

¹¹ Although the name of the case is incorrect, the candidate gives accurate factual information on R v Brown.

Example Candidate Response – middle, continued

Examiner comments

with his upper body inside. He was rummaging through the goods. The court held this as being an effective entry as the defendant's upper body was inside while his lower body was outside amounting to an effective entry. Another case where the judges said to be an effective entry was the case of *R v Ryan*. In the case of *R v Ryan*, the defendant got stuck into the window of a house in the early hours of the day with his ~~hand~~ ^{upper} hands and head inside while the rest of his body was outside the window. The judges declared this to be an effective entry as some part of his body was still inside, amounting to an entry.

The second element of the actus reus that must be proven is the entry inside a building or a part of a building. The Act itself does not provide us their information/detail about what amounts to property, but judges have been lately using the approach of believing that normally houses, boats etc could be considered as property/buildings. However problems have arisen in courts when the cases involves caravans, moving vans etc.

The courts have given completely opposite judgements in the case of *R v Constanbly Corp* and another case. In the case of *R v Norfolk Constabulary*, the judges considered a long footed freezer not be a building. Even though it was connected with the electricity and stairs up to it.

It still had wheels attached to it. Therefore on this basis it was not considered a property. However the opposite was seen in the case of *R v New Windsor Corporation* where the judges considered a 25 foot long freezer as being property. This was done on the basis that the freezer was connected to the electricity supply and had stairs up to it. It had no wheels and therefore

12 The analysis is supported by accurate AO1 information on the two most relevant cases.

13 The candidate moves on to the final common element, analyses the law in terms of its clarity and goes on to demonstrate this with two relevant and accurately explained cases.

14 Here is some factual material relating to general points about *mens rea*.

15 The material on aggravated burglary is not credited as this is beyond the scope of the question set.

Example Candidate Response – middle, continued

Examiner comments

on that basis, the freezer was considered a property.

16

The last element of *actus reus* that must be proven is of being a trespasser. The act gives a clear definition of what does a trespasser mean and there have been a number of cases where it was made clear that what situation would a person be considered a trespasser. The best example is the case of *RV Walkington*. In this case, the defendant, while shopping, went inside the counter area and took out the cash from the cash register. Here the court held the defendant to be a trespasser due to the fact that he went beyond the power/authority that was given to him. Therefore if a manager says keep your staff off this is our responsibility to not trespass. Another relevant example is the case of *RV Jones and Smith*. In the case of *RV Jones and Smith*, Smith with his friend Jones went to Smith's father house. They stole the T.V. while the father was at home and was away. Here they were considered guilty and when the father appealed that his son had the permission to enter as it was his own home the court held the decision stands that both Jones and Smith went beyond the permission granted by stealing the TV, therefore they were guilty of being a trespasser.

17

Once the *actus reus* has been formed, the *mens rea* needs to be shown. The *mens rea* for burglary is the intention. This means that the intention should be dishonest and how quick the intention is to be prescribed by the judges. The intention for burglary is to be that whether the defendant knew as to whether they were trespassing or not. If the defendant knows for a fact that in law by

16

The candidate moves on to the final common element, analyses the law in terms of its clarity and goes on to demonstrate this with two relevant and accurately explained cases.

17

Here is some factual material relating to general points about *mens rea*.

Example Candidate Response – middle, continued

Examiner comments

trespassing, they are breaking the law they would be guilty. The courts have also recently held that even a mere suspicion/belief that they are trespassing can amount to burglary.

S.10 of the theft act highlights the offence of aggravated burglary. This means that the person commits burglary but at the time has with him any explosives, firearms, weapon of offence or any imitation firearm. Under S.10 of the theft act the actus reus of burglary and the mens rea must first be established and then it has to be proven that under s.10(2)(3)(4)(5), the person carried any of the weapons of offence. These can include air guns, knives, bombs, explosives etc. Therefore while the sentence of burglary under S.9 is of 14 years imprisonment the sentence of aggravated burglary could be a life imprisonment or a term equivalent.

Therefore while concluding it is firstly vital to recognise that the act has clearly provided the information as to whether what a person is trespassing. It is clearly mentioned that the courts have to consider a person as being a trespasser or not. Furthermore even if one element of actus reus is not present there would be no offence of burglary which leads to injustice. The case of R v New Windsor Corp and R v Norfolk Constabulary do cater to each other. While the facts of the cases were mostly the same the judges went on with different judgments in both the cases which leads to an absurdity in law. The test for dishonesty while checking the intention is of a subjective nature which might mean that if the Barton and Booth test is applied chance of injustice is high.

Therefore even though the law on burglary has flaws, it still highlights the safeguards the rights of the people as it leads to justice being given. Therefore the sentence for burglary is also effective as it carries a sentence of ten years of imprisonment and unlimited sentence of imprisonment of 14 years if it is done in dwelling.

18 The material on aggravated burglary is not credited as this is beyond the scope of the question set.

19 Here is some AO3 evaluation of the earlier analysis about the issue of how trespass is defined.

20 The candidate evaluates the issue they have raised earlier about buildings, linking it to the fact that the absence of one element will result in no conviction.

21 This is then linked to the issue of proving dishonesty and the most recent authority on the law is cited, although not accurately explained.

22 The candidate gives a conclusion which is consistent with the points they have made and makes accurate links to maximum sentences.

Mark for AO1 = 9 out of 10

Mark for AO2 = 2 out of 6

Mark for AO3 = 5 out of 9

Mark for (b) = 16 out of 25

Total mark awarded = 19 out of 30

How the candidate could improve their answer

- **(a)** There is a lot of detailed factual material on one way the chain of causation can be broken and it would have been helpful for the candidate to use their time to also describe the other two ways the chain can be broken.
- **(b)** There is a lot of accurate and detailed factual information and case law, but the candidate could have improved their answer with more accuracy in relation to the s9(1)(b) offence.
- **(b)** The candidate could have raised a broader range of analytical points, particularly surrounding s9(1)(b); it would also have been helpful if their AO3 had been more clearly and systematically linked to their AO2 as they moved through their essay and planning might have helped with this.

Example Candidate Response – low

Examiner comments

a) The actus reus is any physical element of the criminal act and constitutes s(2)(4)(5) of the theft act 1968. The chain of causation is a chain that needs not to be broken if the presence of ~~theft~~ ^{accountability of guilt} is to be determined. One case in law under this element is RV Smith. Two soldiers end up fighting and one gets brutally stabbed. They take him to the hospital where he is accidentally dropped on the way. On arrival at the hospital he begins to recover however ends up dying even after the doctors start to treat him. Although there are a number of causes that added to his death the chain of causation was started when the soldier was stabbed. Thus the other soldier will be liable for his death. However, in RV Jordan a person is stabbed and brought into the hospital. He begins to recover but suffers an ~~reaction~~ ^{allergic reaction} to a medicine and dies. In this case the doctor's intervening act caused the death and thus the initial person will not be liable.

B) ~~Burglary~~ Burglary is defined in the theft act 1968 section 9(1)(a) and section 9(1)(b). s9(1)(a) states that if any person enters a building or part of a building with or without the intent to steal but performs any of the following offences; theft, criminal damage and grievous bodily harm. They will be convicted for ~~Burg~~ burglary. s9(1)(b) states that a person must ~~to~~ enter the building or part of a building with ~~either~~ the intention of stealing or causing harm to someone. Both these sections talk about entering a building or part of a building however, the intention factor is different for both. In s9(1)(a) it is not necessary to have the mens rea (intent to be listed offences) for you to be convicted for burglary. Building or part of a building can be defined in a few case laws. For instance in Band S.V. Leathley a 25ft long freezer was kept in a farm

1 The candidate makes an accurate point in that the chain of causation must not be broken if liability is to be established.

2 The candidate makes the point that the chain has been broken by the doctor and, by implication, that they are a third party.

Mark for AO1 = 2 out of 5

Mark for (a) = 2 out of 5

3 The candidate identifies that there are two different offences under s9.

4 The candidate gives some AO1 detail on s9(1)(a) although they lack clarity on the intention issue.

5 Here is a partial definition of the offence under s9(1)(b).

6 The candidate makes an accurate AO1 statement on two of the common elements in burglary.

Example Candidate Response – low, continued

Examiner comments

yard and had a lock and door. This freezer was defined as a building. Part of a building means that sometimes a person is allowed in one part of the building but not the other and is thus seen as a trespasser when they enter that part. This is defined in the case of R v walking, a customer in the shop goes behind the cashier when he is not allowed near the cash machine. On conviction he appealed that he was not a trespasser as he was allowed in the shop however, it was stated that he was not allowed in the area of the cash counter and was thus a trespasser.

7

7 This paragraph contains accurate AO1 factual information, supported by relevant case law, on one of the common elements.

It is often possible that a person has the permission to enter the specified area or building but ~~does not~~ can still be convicted in the act of ~~that~~ burglary.

8

8 This paragraph gives accurate AO1 information on another common element but without any clear link to the concept of trespass.

This can be seen in the case of R v Jones and Smith, Smith took his friend to his dad's house that he was allowed to enter. They broke in and stole a television set. On conviction it was stated by the father that his son did have the permission to enter his house and the court stated that even though there was permission to enter, there was not permission to carry out this act.

9 The candidate makes an accurate AO1 statement about maximum sentences.

Burglary is most likely to be an indictable case to be tried in the Crown Court. Burglary that takes place in a dwelling can have an imprisonment of up to 14 years and any other place can constitute of up to 10 years. Aggravated

9

burglary is ~~B~~ burglary that takes place with force/harm to another person. It states that any person

10

10 The material on aggravated burglary is not credited as it is beyond the scope of the question.

that has with them a firearm ~~or~~ or imitation of a firearm, a dangerous object or an explosive will

be subjected to aggravated burglary. For example in R v Cleary when a burglar enters the house and on entering decides to pick up a knife from close by. Moreover, R v Kelly shows how a dangerous object can also be something very unlikely but that is intended to be used as a means to help with the burglary. Such as in the above case a screw driver was used.

11

11 The final sentence gives a sense of a conclusion.

Overall, ~~B~~ burglary can be a serious crime depending on the acts taken ~~for~~ to fulfil it.

Mark for AO1 = 9 out of 10
Mark for AO2 = 0 out of 6
Mark for AO3 = 1 out of 9

Mark for (b) = 10 out of 25

**Total mark awarded =
12 out of 30**

How the candidate could improve their answer

- **(a)** The candidate could have improved their answer with some more description of the chain of causation and clear description of the three different ways in which it can be broken in preference to detailed explanation using cases of one category which is not overtly named.
- **(b)** The candidate could have improved their answer with more detailed AO1 material which went beyond the common elements of burglary to the different aspects found in s9(1)(a) and (b).
- **(b)** With a focus on AO1 material, the candidate could have improved their answer by analysing the law and making AO2 points relating to the issues in the common elements which they had described using relevant case law. This would have given them the opportunity to achieve AO3 marks by evaluating these issues and reach an overall conclusion based on the evidence they had presented in preference to their one simple sentence of conclusion.

Common mistakes and guidance

- **(a)** As there are 5 AO1 marks for this question, it is helpful to make clear points of description in response to the question set. These can be brief and a bullet point format is acceptable.
- Some candidates go into a lot of detail, often including extensive description of cited cases, and this takes time which it would be better to use to think about, plan and then answer the part (b) question.
- **(b)** It is very helpful to highlight the key words in the question in an effort to use only relevant material.
- There can be a tendency to include extensive factual material – it is helpful to remember that there are a maximum of 10 marks available for AO1; clear, simple and accurate definitions and citations which use only the key facts and focus on the point of the law in the case are the most helpful way to maximise marks for AO1.
- AO2 focuses on analysis of the law and it is helpful to think of this in terms of identifying issues – these might come from the way the law was written or has been developed by the judges as well as things such as changing social need.
- These can then be developed into AO3, which is evaluation of the law, and it is helpful to explore at least some of the issues raised in depth to move up the levels of the mark scheme.
- It is helpful to make a plan so as to keep the question in mind throughout and more easily reach an overall conclusion at the end which comes back to the question and fits with the material which has been included.

Question 3

Example Candidate Response – high

Examiner comments

(a) Factors that are to be considered while sentencing the youths offenders are the

- 1 Nature of the crime, if it summary offence, indictable offence or triable either way offence.
- 2 The ~~past~~ medical report of the child, if he/she facing trauma, mental illness etc.
- 3 Age of the child as 10-11 has different sentencing, ~~at~~ age 12, 16, 14, 18, ~~the~~ between has different sentencing.
- 4 Role of Parent as how attentive and careful they are. Moreover if the child is charged ~~or~~ ~~for~~ for fine it is said to check parents financial background to set the money.

(b) Adult offenders are those who are above 18 also that they are legally independent. More right age is said to be ~~at~~ 20-21.

6 Sentencing the adult offenders are for ~~exam~~ example on the nature of crime they have committed. They can be sentenced for custodial orders, Fines, discretionary life sentence etc. But sentencing an offender has its aim.

The aims of sentence are that the courts wants people to know what type of sentencing they will be faced if they ~~er~~ do crimes. For example, for theft they have seven years of imprisonment. For manslaughter they

7 have life imprisonment. They have aims for sentencing but the most ^{effective} aim of sentencing is deterrence.

1 The candidate accurately describes the factor of the nature of the crime.

2 Here is the factor of trauma and it is linked to the medical report.

3 The candidate identifies mental illness as another relevant factor.

4 Age is identified as a relevant factor with a brief but accurate description.

5 The role of the parent is credited as it is linked to the wellbeing of the young offender and the potential impact on their behaviour.

Mark for AO1 = 5 out of 5

Mark for (a) = 5 out of 5

6 This is a general introduction but is not linked to the aims of sentencing.

7 The candidate makes a statement which appears to be a conclusion.

Example Candidate Response – high, continued

Examiner comments

8

Deterrence ~~can be~~ is that ~~is~~ making people fear to do a crime, to harm others. It can be done for two types that first it can be done on individual basis, as for the people who committed the crime, they were charged for their crime and sent to jail for the set period of the time given by law and judge. It make them have fear that they know how is the life of ~~a~~ prison they will be guilty of the crime they ~~was~~ committed and damaged they caused. For example when a person ~~was~~ ^{assault} the ~~person~~ they will be imprisoned. This will make him think twice before he commits any type of crime.

8 In this paragraph, the candidate explains what deterrence is and then gives accurate AO1 material on individual deterrence, the sentences that can be used and the impact it is intended to have.

9

~~the~~ Deterrence done generally ~~is~~ is to create fear in the public. It done so no one can try to commit these sort of crimes. It helps in bringing ^{down} the ratio of crime in the country ~~also~~. More over, it ~~helps~~ make people aware of their result if they ~~commit~~ the crime which make them rethink if before they try any thing or try to harm anyone. It also make the violence to be at the lowest and have peace in the society. The indictable and triable either way offence are the ones having ~~a~~ serious sentences. For example in some countries in ~~Asia~~ Asia have ~~death~~ death sentences too. ~~the~~

9 The candidate moves on to explain general deterrence using AO1 material to show their knowledge and understanding.

10

For example as in a case, a guy raped a girl, killed her and threw her body in empty roads of motor way, for this the court charged him to death sentence in public. He was hanged in public making a life lesson for every one and increase the awareness of the result of the crime. There are long imprisonment. As well as, in a case a son tried to kill his mother for getting the inheritance but

10 The material on public hanging is not credited as it refers to another jurisdiction and the course deals only with the English legal system where the death penalty is not used as a punishment.

11

the mother died ~~of~~ heart attack. As for attempt of killing he ~~is~~ was charged for imprisonment.

11 The candidate makes reference to a case but without citation and no clear statement as to the relevance of the case in terms of deterrence as an aim of sentencing.

Example Candidate Response – high, continued

Examiner comments

12 Deterrence might bring fear in everyone and decrease the rate of crime but they also make people more angry and vengeful. The person who went to jail for committing a crime can make him more dangerous when he comes out of prison as he met more people who had done more intense crimes. His fear of getting punished will be no more left as he lived the life there. He will know more way to do crime as well the might also harm the victim.

12 The candidate makes an AO3 comment which evaluates the balance to be struck in sentencing and its relationship to deterrence.

13 Some times ~~times~~ courts have different aims as well for example a ~~poor~~ pocket picker was a drug ~~addict~~ addict, he will be given rehabilitation session so he could be a better person and ~~live~~ live a better life being productive and asset to the country. They are known as community orders.

13 Here is AO2 analysis of the issue the candidate has just raised.

14 At their who was illiterate could be given skills courses so he can ~~to~~ earn money rather than damaging people's belonging. It will help him see the life differently, he can enhance his skills.

14 This leads into an AO3 comment as to the consequence which this can lead to.

15 ~~Some~~ Sometimes the aim can be to make people believe the law is just to everyone and it does not matter from what background the offender belongs, they all fall under same law. For example a poor guy was ~~be~~ caught shoplifting snack and other items he was given a two year custodial order. But when a rich boy was caught shoplifting a watch he will be imprisoned for two years as well.

15 The evaluation is developed to extend beyond the increased likelihood of offending to an added chance of committing a more serious offence than would otherwise have been the case.

16 Deterrence can be ~~of~~ really effective for the crimes such as summary offence or summary trial offences but the offences done by adult offenders such as indictable offence, aggravated offence where ~~is~~ it's without lawful excuse. ~~as~~ the aims are much more than just deterrence,

16 The general material here is not linked to the aim of deterrence.

17 it can be to save public and maintain peace situation in the country. To stop the crime and save people getting hurt. To make make people believe in law and it fairness for everyone.

17 The candidate gives AO3 evaluation about the impact of deterrence in different types of offences.

18 As part of their overall conclusion, the candidate suggests that other aims can also have an impact when sentencing.

19 The candidate ends with a general conclusion on sentencing and what it is for.

Mark for AO1 = 9 out of 10

Mark for AO2 = 1 out of 6

Mark for AO3 = 7 out of 9

Mark for (b) = 17 out of 25

Total mark awarded =
22 out of 30

How the candidate could improve their answer

- **(a)** The candidate could have covered a wider range of factors instead of making two points connected to parental involvement but they approached the question in a methodical way and were brief but accurate in their identification and description which is sufficient for the 5 AO1 marks available.
- **(b)** The candidate could have improved their answer with AO1 material which extended to the role of educative deterrence and how this can be used to change standards in society.
- **(b)** Better planning would have allowed the candidate to improve their answer by highlighting more issues raised by the different kinds of deterrence which they could then analyse and evaluate; this would have added to the overall coherence of the essay as their conclusion early on was not fully explored and supported by the AO1, AO2 and AO3 material they used in their answer.

Example Candidate Response – middle

Examiner comments

(a)	A young offender is characterised as an offender below the age of 18 but above the age of 10. Young offenders can have a wide range of sentences from community orders to custodial sentences with the sentence varying on at depending on a certain set of factors.
1	One factor would be age, this is due to the development of the brain would relate to the aspect of mens rea. With age, the more the brain develops which relates to the aspect
2	of intent as a younger child may not fully intend to steal. However, the older the child gets, the easier to prove the role of intent in their crimes as there is a likelier chance of knowing the consequences.
	Another major factor is repeat offenders, this is in part due to the aspect of aims of sentencing for young offenders, the courts tend to aim to re-educate the youth to not perform the crime once again. However, if the young
3	offender is a repeat offender then it would be much more likely that the intent to perform the crime with full knowledge of the consequences is present. This is as punishment had been issued before thus the young offender should know the consequences of doing the crime.
	Yet another factor would likely be their upbringing as one type of sentence issued to young offenders would be fines which the parents would have to pay as the children
	would likely not make money for themselves due to child to labour laws. Generally, young
4	offenders which have a worse upbringing would perform more crimes due to their lack of knowledge of other methods.
	Overall, these are some of the factors which courts consider when issuing sentences to young offenders.

1 The candidate describes age as a relevant factor when sentencing a young offender.

2 Although not named, the candidate describes maturity and how it works as a factor when sentencing.

3 The candidate describes the record of offending as a factor in sentencing.

4 Here is a reference to the impact of family circumstances as a relevant factor.

Mark for AO1 = 4 out of 5

Mark for (a) = 4 out of 5

Example Candidate Response – middle, continued

Examiner comments

Cb)	Deterrence is one of the few aims of sentencing
5	a adult adult offenders which are outlined in the Criminal Justice Act 2003.
6	There are two types of deterrence which are general deterrence and educational deterrence
7	which have different aims. General deterrence is a method of warning and educating the public about certain crimes such as murder or rape. with its target audience being the general public. on the other hand, educational
8	deterrence is intended to educate the guilty as to not perform the crime again. This can generally be aimed at young offenders as they have a possible second chance in life to turn away from crime.
However, deterrence may not always be the most effective aim as close to 90% of young offenders tend to reoffend. This may be in part due to the issues lying within the concept of custodial sentences. the within prisons, there are a lack of methods to re-educate the young offenders and informing about alternative methods to crime. Evermore, general deterrence may only work with a certain set of young offenders as with older children there may	
9	Despite this, deterrence may not be very effective for adult offenders as this is due to adults most likely knowing the consequences of certain crimes it of certain crimes.
Moreover, this type of deterrence may be more effective on young offenders rather than adult offenders due to effect on their mental state.	

5 In the opening sentence, the candidate makes it clear that they know the statute which covers the aims of sentencing although they do not identify the relevant section.

6 The candidate identifies two types of deterrence, although one is not named correctly (should be educative deterrence) and recognises that they are different.

7 Here is some accurate AO1 material on general deterrence.

8 Here the type of deterrence is not named accurately, and the description does not match how the aim works. The candidate also links to young offenders when the focus of the question is on adults.

9 The candidate makes a general AO3 evaluative comment about the ineffectiveness of deterrence and the reason for this. As before, the reference to young offenders is not credited as they are not the focus of the question.

Example Candidate Response – middle, continued

Examiner comments

10	Additionally, it may be argued that protection to the public may be a more effective aim when sentencing adult offenders. This is due to the presence of intent for their crimes as murderers stun or rapist, which are indictable offences, should be kept away from the general public in order to keep the safety of the public ensured. As well,
11	ensuring the safety of the public may be easier and more effective to ensure than deterrence as it for deterrence focuses on the mentality
12	of the def offender rather than their physical location.
13	Through this However, deterrence may be effective in certain scenarios where the offenders may be able to change due to the educational deterrence issued. As well, the general deterrence may work in part due to ensuring that adults
14	do not intend to commit crimes by knowing the consequences.
15	Overall, se deterrence may not be the most effective aim of sentencing as protection of the public may be the most effective. As it would likely to be easier to ensure due to a number of factors.

10 The candidate suggests a more effective aim when sentencing adults and gives some factual AO1 material in support.

11 Here is an AO3 evaluation of why protection of the public may be more effective.

12 The candidate makes an AO3 comment which compares deterrence and protection of the public in an evaluative way.

13 The candidate offers a conclusion that deterrence may be more effective at times although this is rooted in some misunderstanding of educative deterrence.

14 The candidate gives some evaluation on the level of effectiveness of general deterrence and the reason this might be the case.

15 In this paragraph, the candidate draws their answer to a close with a closing statement which reflects the evidence they have used and the points they have made.

Mark for AO1 = 5 out of 10

Mark for AO2 = 0 out of 6

Mark for AO3 = 8 out of 9

Mark for (b) = 13 out of 25

**Total mark awarded =
17 out of 30**

How the candidate could improve their answer

- **(a)** The candidate could have covered another from the range of factors and been slightly briefer in each of the descriptions they gave so as to maximise their time in gaining the 5 AO1 marks available.
- **(b)** The candidate could have improved their answer with AO1 material on individual deterrence in more detail and showed a clearer understanding of educative deterrence by reference to examples.
- **(b)** In order to access AO2 marks, it would have been helpful for the candidate to raise issues associated with the different types of deterrence.
- **(b)** The candidate makes valid evaluative comments which are credited as AO3 but these could have had more impact if they had been in response to AO2 issues raised after explaining relevant AO1 material so all three elements support and build on each other in an answer.

Example Candidate Response – low

Examiner comments

a) When sentencing a young offenders, there can be non-custodial orders given in which the freedom is not taken away as they are not being taken into custody. They can be given probation order or community service order. Where the defendant would be required to do unpaid work for the society. One of the major factor is age to be consider and for this under 15 years community service or probation order where the offender is supervised by an officer is used. Then also offender like juvenile or under 18 or even 21 are such kinds of sentences as they must not be kept with hardened criminals as that can influence them and will not let them mould themselves into a law abiding citizen.

1 The candidate identifies age as a relevant factor when sentencing a young offender and describes how this might work in relation to a sentence.

Mark for AO1 = 1 out of 5

Mark for (a) = 1 out of 5

Example Candidate Response – low, continued

Examiner comments

b) While sentencing there are number of aims in the mind of the judge those he may consider thoroughly before sentencing. One of them is deterrence. Deterrence is used when the judge is considering giving an usual harsh punishment to the offender to stop the offender from re-offending and other potential offenders from following the offender's footsteps. The aim of deterrence to make an example out of the offender to show the consequences on getting caught. Deterrence was criticised by Taylor Chief Justice in England as being unfair for an offender to get an usual harsh punishment beyond the seriousness of his crime in the case of R v Cunningham where the offender was liable for theft as he was reckless however he didn't know the consequences of his act so was not intentionally or subjectively reckless. However, deterrence is commonly used in drunk driving cases as the aim here is to protect the society.

There are also a number of various aims that judge may consider along with deterrence. Like retribution, where the aim is to punish proportionate to the seriousness of the crime. It is to take revenge on the behalf of the society and is based on the theory of an eye for an

2 The candidate gives some AO1 material on both individual and general deterrence although these are not named as aims.

3 The candidate identifies an aim of deterrence in a general way.

4 Here, the candidate analyses the law on sentencing and raises an issue connected with deterrence which is credited as AO2.

5 The candidate identifies a type of offence where deterrence is a common aim.

6 The candidate then evaluates this in a general way and without naming the particular type of deterrence they have just described.

Example Candidate Response – low, continued

Examiner comments

eye'. It is to stop the offenders from serious crimes as the punishment will be severe.

Then there is rehabilitation, the aim is here to mould the offender into a law abiding citizen. It believes that no one is born criminal and we can ~~stop~~ stop the crime by identifying the reason of the crime. It is most common in ~~young~~ young offenders.

Then, there is incapacitation, this is where the judge had incapacitation in his mind he would order detention or imprisonment for persistent serious offenders to protect the public or society from any serious harm. This is most common with offenders of violent or sexual nature.

Then, there, denunciation, where the aim is to punish the offender to show contempt to the society that such kind of behaviour will not be tolerated. It is used when there is a need of restating the common values of the society and to bind the society together. It is common with child rape offenders.

Then, there, reconciliation, where the victim and the defendant reconcile through an apology.

Then, there is also reparation and restoration, where the defendant repair the damages and restore the situation. This is mostly done by paying compensation for the offence.

7 In these paragraphs, other aims of sentencing are described but there is no link to, or comparison with, deterrence.

Mark for AO1 = 5 out of 10

Mark for AO2 = 1 out of 6

Mark for AO3 = 2 out of 9

Mark for (b) = 8 out of 25

Total mark awarded =

9 out of 30

How the candidate could improve their answer

- **(a)** The candidate could have improved their answer by describing a wider range of factors. It would also have been helpful to highlight the word factors in the question so as to give their answer a better focus rather than giving detail on the types of sentences and the aims which might lie behind them; this would have allowed them to access the full range of the five AO1 marks available.
- **(b)** The candidate could have improved their answer with AO1 material which made clear their understanding of the three types of deterrence, perhaps by naming them before using the relevant factual information they included in their answer.
- **(b)** Planning, such as highlighting the key words in the question, might have helped the candidate make better use of their time, as would an understanding that AO1 material accounts for a maximum of 10 marks. It would also have helped the candidate if the material they included on other aims of sentencing was dealt with in terms of effectiveness and compared to deterrence in this context.

Common mistakes and guidance

- **(a)** As there are 5 AO1 marks for this question, it is helpful to make clear points of description in response to the question set, particularly in this question with its focus on factors rather than sentences and on only young offenders. These points can be brief and a bullet point format is acceptable.
- Some candidates go into a lot of detail, often including extensive description, and this takes time which it would be better to use to think about, plan and then answer the part **(b)** question.
- **(b)** It is very helpful to highlight the key words in the question in an effort to use only relevant material and this question suggests a focus on comparing other sentencing aims to that of deterrence.
- There can be a tendency to include extensive factual material – it is helpful to remember that there are a maximum of 10 marks available for AO1; clear, simple and accurate definitions with relevant supporting examples are the most helpful way to maximise marks for AO1.
- AO2 focuses on analysis of the law and it is helpful to think of this in terms of identifying issues – these might come from the way the law was written in the Criminal Justice Act 2003 or has been developed by the Sentencing Council and used by judges as well as things such as the changing demands which come from politicians and society.
- These can then be developed in AO3, which is evaluation of the law, and it is helpful to explore at least some of the points raised in depth to move up the levels of the mark scheme. A question which explores whether something is ‘most effective’ also invites evaluative comparisons.
- It is helpful to keep the question in mind throughout the answer and reach an overall conclusion at the end which comes back to the question and fits with the AO1 and AO2 material which has been included.

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