

Specimen Paper Answers – Paper 2

Cambridge International AS & A Level Law 9084

For examination from 2023



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Introduction

These specimen answers have been produced by Cambridge ahead of the examination in 2023 to exemplify standards (high) for those teaching Cambridge International AS & A Level Law 9084. We have selected questions from Specimen Paper 2, Section B, Questions 2(a) and 2(b).

The marks given are for guidance only and are accompanied by a brief commentary explaining the strengths and weaknesses of the answers. Comments are given to indicate where and why marks were awarded, and how additional marks could be obtained. There is also a list of common mistakes and guidance for candidates for each question.

The specimen materials are available to download from the [School Support Hub](#).

2023 Specimen Paper 02

2023 Specimen Paper Mark Scheme 02

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

Details of the assessment

Paper 2 Criminal Law

Written paper, 1 hour 30 minutes, 60 marks

Section A: one compulsory scenario-based problem question using source material. There are three parts to the question.

Section B: one question from a choice of two. There are two parts to the question: one short answer question and one essay.

Topic 2, Criminal law, links with Topic 1, English legal system. Knowledge of material from AS Level Topic 1 is assumed knowledge for AS Level Topic 2.

Externally assessed

50% of the AS Level

25% of the A Level

Assessment objectives

AO1 Knowledge and understanding

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules
- Communicate legal argument coherently on the basis of evidence.

Assessment objectives as a percentage of Paper 2

AO1 Knowledge and understanding 35%

AO2 Analysis and application 50%

AO3 Evaluation 15%

Question 2(a)

Describe the offence of making off without payment.

Specimen answer

Making off without payment is an offence under s1 Theft Act 1978. The actus reus is to leave the point at which payment is due. The mens rea is to be dishonest and intend never to pay.

Total marks awarded = 4 out of 5

Examiner comment

This answer gives the source of the offence and a basic definition of both actus reus and mens rea elements. It could have been improved with a little more detail in both elements; for example, explaining that the goods or services to be paid for must be legal as part of the actus reus, and that the defendant must know that payment on the spot is required or expected as part of the *mens rea*. Alternatively, the answer could have indicated that this is a triable either way offence with a maximum prison sentence of two years in custody.

Common errors and general guidance for candidates

Information on common errors and general guidance for candidates will be available in the examiner report after the first exam series in 2023.

Question 2(b)

Evaluate the role of intention in the criminal law.

Specimen answer

Intention in criminal law means the defendant wanted an unlawful consequence to happen. It is the highest level of mens rea. It is only required for a few crimes such as murder and robbery. In an offence like robbery, where the maximum sentence is life imprisonment, the presence of intention indicates blame and can lead to a defendant's sentence being higher up the scale to reflect that. This means intention is effective as it can be used to send out a strong deterrent message. In murder the sentence is a fixed life term, but the maximum penalty for manslaughter is life imprisonment so intention can be a useful discriminator to convict a defendant of the right offence. This is particularly important because serious and lifelong consequences follow from a murder conviction. However, because of this juries need to be very sure before they convict which is a problem if they are not clear what intention means.

There are two different kinds of intention. Direct intent is where the defendant has a clear purpose to do the unlawful act and sets out to make it happen, this was decided in the case of Mohan. If a defendant has this kind of intent, it is relatively easy to say that they are to blame which helps with fair labelling in sentencing after conviction. However, this kind of intention is not very common as not everyone sets out to do bad things. This means most of the time the courts have to rely on what is known as indirect or oblique intention. This means the defendant may say the unlawful consequence was not what they set out to achieve but it is a foreseeable result of what they do. The Criminal Justice Act 1967 states that foreseeing a consequence is only part of the evidence from which intention can be inferred. The word intention has not been defined in statute as the belief is that juries recognise intention when they see it the judges have worked hard to resolve what the word means using the foresight of consequences test.

The leading case for the foresight of consequences test is Nedrick, where a woman was convicted of murder when she put a petrol bomb through someone's letter box in the middle of the night and people died. The woman said she just wanted to frighten the people in the house, but the Court of Appeal said that it could be inferred she intended the act as it was a virtually certain consequence that people would die. This test was used by all courts and was confirmed 12 years later by the House of Lords in the case of Woollin where the court said that virtual certainty was the right test and that the defendant must realise this. These cases

have refined the test for intention; juries start out by trying to decide if the defendant had intention using their common sense and the direction from Woollin is used when juries are not sure what intention means.

The meaning of intention in criminal law does seem to be pretty settled but it can be seen that the definition in the Criminal Justice Act is not the same as the one in the cases. As intention is such a high level of mens rea with serious consequences this could be said to make the law very complex. This means it could lead to inconsistency in the decisions juries make which makes it less effective. It could also be said that letting juries use their common sense is not a good way to make decisions relating to very serious offences and it might be hard to know how fair and consistent the decisions are and the extent to which they are effective.

Total marks awarded = 21 out of 25

Examiner comment

This answer covers most of the major points in relation to intention in the criminal law and it is a good example of weaving together the different Assessment Objectives.

For AO1 (Knowledge and understanding) this answer would be placed in the bottom of Level 4 and score 9 marks. To reach Level 4 the response must be accurate and detailed in most relevant areas. There must also be thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.

The response gives a workable definition and deals with the two different types of intention. It references statute and relevant case law and is able to link the factual material to the concepts which underpin the criminal law, using appropriate legal words to describe and explain intention. To reach the top of the level the response could have made clear the difference between intention and motive, perhaps with an example, and the reference to what the defendant 'wanted' does not make clear that they fully understand intention in a legal sense. An example to illustrate indirect/oblique intent would have added extra depth and demonstrated high level understanding of the idea that wanting something to happen and being aware that it is virtually certain to happen are not the same thing; for example, if I get on a plane to Manchester, I know it is virtually certain that I will arrive there, but I may not actually want to go there!

For AO2 (Analysis and application) this answer would be placed at the bottom of Level 3 and score 5 marks. For Level 3 the response must contain mostly focused and reasoned analysis throughout. The analysis must be supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.

The response does, in the first paragraph, have some analysis of why intention is important in terms of its impact on sentencing in robbery. There is some analysis in the first paragraph as well on the distinction between murder and manslaughter. There is also some analysis in the final paragraph pointing out that the statutory and case law definitions are different. To reach the top of the level and to access Level 4 the response could have picked up on the consequences of juries not being clear about the meaning of intention when a defendant is charged with murder, the complexity that flows from having different definitions and dealt with the point that it is hard for juries to apply a test when they are unsure what is in the defendant's mind.

For AO3 (Evaluation) this response would be placed at the bottom of Level 3 and score 7 marks. For Level 3 the response must be mostly focused and have reasoned evaluation of most of the relevant issues. The evaluation should be effectively supported by relevant material and there should be a coherent argument.

The response has some evaluation in the first paragraph where the range of sentencing for robbery based on the presence of intention is effective in providing deterrence. At the end of the first paragraph there is

some evaluation in relation to murder, but this is not clearly linked to effectiveness. There is a little bit of evaluation in the second paragraph with the link to fair labelling, although it is not clearly linked to effectiveness. In the final paragraph there is some evaluation of the potential inconsistency in jury decision making and an assessment of effectiveness in relation to juries using their common sense to decide on intention in most cases. The evaluation is linked to the material provided in the response and there is a clear thread running through the response. To reach the top of the level and to access Level 4, the evaluation could have been more clearly linked to effectiveness throughout the response and perhaps picked up on wider issues linked to the lack of reform and how this impacts on effectiveness as well as fairness and justice. In terms of structure an overall conclusion rooted in effectiveness would have rounded the response off

Common errors and general guidance for candidates

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