



GCE A LEVEL MARKING SCHEME

SUMMER 2024

**A LEVEL
LAW – UNIT 3
THE PRACTICE OF SUBSTANTIVE LAW
1150U30-1**

About this marking scheme

The purpose of this marking scheme is to provide teachers, learners, and other interested parties, with an understanding of the assessment criteria used to assess this specific assessment.

This marking scheme reflects the criteria by which this assessment was marked in a live series and was finalised following detailed discussion at an examiners' conference. A team of qualified examiners were trained specifically in the application of this marking scheme. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners. It may not be possible, or appropriate, to capture every variation that a candidate may present in their responses within this marking scheme. However, during the training conference, examiners were guided in using their professional judgement to credit alternative valid responses as instructed by the document, and through reviewing exemplar responses.

Without the benefit of participation in the examiners' conference, teachers, learners and other users, may have different views on certain matters of detail or interpretation. Therefore, it is strongly recommended that this marking scheme is used alongside other guidance, such as published exemplar materials or Guidance for Teaching. This marking scheme is final and will not be changed, unless in the event that a clear error is identified, as it reflects the criteria used to assess candidate responses during the live series.

WJEC GCE A LEVEL LAW

UNIT 3: THE PRACTICE OF SUBSTANTIVE LAW

SUMMER 2024 MARK SCHEME

Marking guidance for examiners

Summary of assessment objectives for Unit 3

The questions assess AO1 and AO2. The assessment objectives focus on the ability to demonstrate knowledge and understanding of legal rules and principles; the ability to apply legal rules and principles to given scenarios in order to present a legal argument using appropriate terminology.

The structure of the mark scheme

The mark scheme for each question has two parts:

- indicative content which can be used to assess the quality of the specific response. The content is not prescriptive and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.
- an assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1 and AO2.

Stage 1 – Deciding on the band

Beginning at the lowest band, examiners should look at the learner's answer and check whether it matches the descriptor for that band. If the descriptor at the lowest band is satisfied, examiners should move up to the next band and repeat this process for each band until the descriptor matches the answer.

If an answer covers different aspects of different bands within the mark scheme, a 'best fit' approach should be adopted to decide on the band and then the learner's response should be used to decide on the mark within the band. For instance, if a response is mainly in band 2 but with a limited amount of band 3 content, the answer would be placed in band 2, but the mark awarded would be close to the top of band 2 as a result of the band 3 content.

Examiners should not seek to mark candidates down because of small omissions in minor areas of an answer.

- The first stage for an examiner is to use both the indicative content and the assessment grid to decide the overall band.
- The second stage is to decide how firmly the characteristics expected for that band are displayed.
- Thirdly, a mark for the question is awarded.

Stage 2 – Deciding on the mark

During standardising (marking conference), detailed advice from the Principal Examiner on the qualities of each mark band will be given. Examiners will then receive examples of answers in each mark band that have been awarded a mark by the Principal Examiner. Examiners should mark the examples and compare their marks with those of the Principal Examiner.

When marking, examiners can use these examples to decide whether a learner's response is of a superior, inferior or comparable standard to the example. Examiners are reminded of the need to revisit the answer as they apply the mark scheme in order to confirm that the band and the mark allocated is appropriate to the response provided.

Indicative content is also provided for banded mark schemes. Indicative content is not exhaustive, and any other valid points must be credited. In order to reach the highest bands of the mark scheme a learner need not cover all of the points mentioned in the indicative content but must meet the requirements of the highest mark band. Where a response is not creditworthy, that is contains nothing of any significance to the mark scheme, or where no response has been provided, no marks should be awarded.

Section A

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Phillipa Peters, a professor of Geography, wrote a book about climate change in which she claimed that this was mainly caused by changes in the earth itself rather than by human behaviour. Phillipa's former lecturer from her University days, Professor Stephens, was asked to write a review of the book for the Sunday Probe, a serious broadsheet newspaper. In her review, Professor Stephens wrote: "Phillipa Peters' book is style over substance. Like the professor herself, it looks pretty on the outside but is full of empty-headed nonsense on the inside." Evan Thomas, the editor of the Sunday Probe, felt that it was in the public interest that a dispute between two well-known professors on such an important subject as climate change should be given greater publicity than to be hidden away in the review column of the paper. He therefore dedicated half a page to the review, under the headline: "Battle of the Boffins – Stephens Blasts Peters Over Climate Change." The story was picked up by a national television network, with the result that Phillipa was sacked from her job at the university.

In light of reported case law and other sources of law, consider whether Phillipa has a case for defamation against the Sunday Probe and Professor Stephens. [50]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Phillipa candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to the subject of defamation. Candidates are expected to apply the full range of legal rules and principles to Phillipa's situation, including the Defamation Act 2013 and relevant case law, to present a legal argument.

The response might consider issues such as:

- The meaning of defamation under the Defamation Act 2013.
- Defamation Act s.1 imposes a requirement of serious harm to the reputation of the claimant. A statement is not defamatory unless its publication has caused, or is likely to cause, serious harm to the claimant's reputation. Almost certainly the damage to reputation would be considered serious. Further support can be provided by reference to *Sim v Stretch*, *Byrne v Dean*; *Tolley v Fry*; *Munroe v Hopkins*; *Collins*;
- Cases on what can amount to defamation such as *Cassidy v Daily Mirror*, *Charlesworth v MGN* on the impact of photos.
- Applying the elements of defamation to Phillipa's case: the statement must be defamatory; it must refer to the claimant, and it must have been published. Mistaken identity, citing cases like *Hulton v Jones* or *O'Shea v MGN*; for a mistaken identity case to succeed now, the claimant would have to show serious harm to his/her reputation.
- Applying the possible defences that may be used by the Sunday Probe and Professor Stephens including "honest opinion" under the Defamation Act 2013; defence of Publication on a matter of public interest, under s.4 of the Defamation Act 2013.
- section 6 DA 2013 Peer-reviewed statements in scientific or academic journals. Section 6 provides - the qualified privilege defence to those publishing in a scientific or academic journal, provided that the statement related to a scientific or academic matter (section 6(2)) which had been subjected to an independent review as to its scientific/academic merit, either by the editor of the journal or by one or more other experts in the matter concerned.

- The Defamation Act 2013 – the defence of justification has been abolished and replaced by the defence of truth: s.2, which is substantially the same as the old defence.
- A court will consider Phillipa's right to privacy, and the newspaper's freedom of expression.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> • Excellent, detailed knowledge and understanding of legal rules and principles relating to the law of defamation.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to the law of defamation.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to the law of defamation.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to the law of defamation.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> • Excellent, detailed application of legal rules and principles to Phillipa's situation. • Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to defamation.
4	19-24	<ul style="list-style-type: none"> • Very good application of legal rules and principles to Phillipa's situation. • Very good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to defamation.
3	13-18	<ul style="list-style-type: none"> • Good application of legal rules and principles to Phillipa's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to defamation.
2	7-12	<ul style="list-style-type: none"> • Satisfactory application of legal rules and principles to Phillipa's situation. • Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to defamation.
1	1-6	<ul style="list-style-type: none"> • Basic application of legal rules and principles to Phillipa's situation. • Basic presentation of a legal argument, using minimal legal terminology relating to defamation.
	0	Response not creditworthy or not attempted.

Eleri's elderly aunt Maureen asked Eleri to stay at her house to help her as she was recovering from an operation. Maureen gave Eleri her credit card to do some shopping for her. On the third day of her stay Eleri went out to do some food shopping and was stopped and searched in the street by two police officers, who seized her purse and credit cards. When Eleri asked what this was all about, the officers told her that they were arresting her on suspicion of using a stolen credit card. Despite Eleri's protests that she had been given permission to use her aunt's card, she was put into a police car and driven to the local police station where she was placed directly in a cell. After eight hours the police took her fingerprints and a sample of her DNA, and then questioned her for eighteen hours about her various credit card transactions. Eleri asked to be allowed to contact her aunt and speak to a solicitor, but was told that she would have to wait, as the investigation was at a crucial stage. Eleri was then returned to her cell and kept there for a further 46 hours. After that, she was then told that no charges would be brought against her, and that she was free to go.

In light of reported case law and other sources of law, advise Eleri as to the legality of the actions of the police. [50]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Eleri candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to the subject of police powers. Candidates are expected to apply the full range of legal rules and principles to Eleri's situation, including the Police and Criminal Evidence Act 1984 and relevant case law, in order to present a legal argument.

The response might consider issues such as:

- Police and Criminal Evidence Act 1984.
- Power to stop and search: ss 1-3 and Code A.
- Applying the requirement for reasonable suspicion to the scenario: Code A – should not be based on personal factors alone.
- Applying the requirements for a valid search to the search of Eleri: information to be given under s.2; failure renders search invalid: Osman; Bristol.
- Procedure following search: s.3.
- Applying the power of arrest to Eleri: s.24 as amended by the Serious Organised Crime and Police Act 2005, S.110, and code G police may arrest anyone who is, or is reasonably suspected to be, about to commit an offence; or in the act of committing an offence; or is guilty of committing an offence; or is reasonably suspected to be guilty of having committed an offence.
- Arrest power must only be exercised if the officers have reasonable grounds to believe it is necessary s.24(5) the grounds are: to enable the name and address of the person to be ascertained if it is not known, or the police believe it to be false; to prevent the person causing physical injury to himself or another, suffering physical injury, causing loss or damage to property, committing an offence against public decency, or causing unlawful obstruction of the highway; to protect a child or other vulnerable person; to allow the prompt and effective investigation of the offence of the conduct of the person; to prevent any prosecution for the offence being hindered by the disappearance of the person.
- Applying the procedural requirements of a valid arrest: Eleri should be informed of the fact she is under arrest and also the ground for arrest (s.28) and she should be cautioned.
- Treatment of Eleri in police custody: Code C.

- Right to take fingerprints and DNA samples under sections 61-63.
- Eleri's right to have someone informed of his arrest: s.56.
- Eleri's right to legal advice: s.58.
- Eleri's time limits on detention: s.41 - 44 allows police to authorise detention up to 36 hours but further detention up to 96 hours requires authorisation by magistrates.
- Eleri's detention should be reviewed after 6 hours and then every 9 hours by a review officer not involved in the case- s 40.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> • Excellent, detailed knowledge and understanding of legal rules and principles relating to police powers.
3	11-15	<ul style="list-style-type: none"> • Good knowledge and understanding of legal rules and principles relating to police powers.
2	6-10	<ul style="list-style-type: none"> • Satisfactory knowledge and understanding of legal rules and principles relating to police powers.
1	1-5	<ul style="list-style-type: none"> • Basic knowledge and understanding of legal rules and principles relating to police powers.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> • Excellent, detailed application of legal rules and principles to Eleri's situation. • Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to the powers of the police.
4	19-24	<ul style="list-style-type: none"> • Very good application of legal rules and principles to Eleri's situation. • Very good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to the powers of the police.
3	13-18	<ul style="list-style-type: none"> • Good application of legal rules and principles to Eleri's situation. • Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to the powers of the police.
2	7-12	<ul style="list-style-type: none"> • Satisfactory application of legal rules and principles to Eleri's situation. • Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to relating to the powers of the police.
1	1-6	<ul style="list-style-type: none"> • Basic application of legal rules and principles to Eleri's situation. • Basic presentation of a legal argument, using minimal legal terminology relating to the powers of the police.
	0	Response not creditworthy or not attempted.

Section B

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Aziz and Leona are world famous ice skating champions. Their agent, Tony, agreed to them taking the leading role in the opening of a new ice-skating rink in London which was owned by Olivia. Unknown to Tony and before he had contracted with Olivia, Aziz had an accident whilst training resulting in a broken leg, which doctors informed him would take at least three months to heal. As a result, he would be unable to perform when the new ice rink opening was scheduled. In the meantime, Leona decided not to perform at the opening because whilst she could perform she was reluctant to do so without Aziz.

In light of reported case law and other sources of law advise Olivia.

[50]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Olivia candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to discharge of contracts. Candidates are expected to apply the full range of legal rules and principles to Olivia's situation, including the doctrine of frustration and relevant case law, in order to present a legal argument.

The response might consider issues such as:

- Common mistake and the contract being void at its inception.
- Relevant citation, for example, *Great Peace Shipping Limited (2002)*.
- The distinction between common mistake and frustration especially in respect of Leona.
- A contract may become frustrated where a person or group under contract becomes unavailable (either through death, illness or unavailability). This generally occurs only for the performance of personal services, and not for generic commercial services such as building work, which could be performed by numerous individuals.
- *Robinson v Davison* involved a piano player who became ill prior to a concert he was contracted to play in; the contract was held to be frustrated. A similar result can be seen in *Condor v The Baron Knights*.
- The scenario relates to the doctrine of frustration and asks whether the contracts can be set aside on the basis that it is no longer possible for the parties to perform their obligations under the contracts.
- This case appears to be one in which the doctrine of frustration could apply, enabling any further performance of the contract.
- The general principle of the doctrine of frustration is that the contract will not be treated as frustrated if it is still capable of being performed.
- There is no detail as to what should happen in the event of the event being cancelled.
- Force Majeure clauses- If the parties to the contract foresee that there might be difficulties which they cannot control and set out in the contract what should happen if these difficulties arise, the courts will give effect to what has been agreed.
- The courts are reluctant to allow the doctrine of frustration to be used in all but the most exceptional cases. This is where it is deemed no longer possible to perform the contract as the very nature of performance renders the contract different to that which the parties originally intended.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to discharge by frustration.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to discharge by frustration.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to discharge by frustration.
1	1-5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to discharge by frustration.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> Excellent, detailed application of legal rules and principles to Olivia's situation. Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to discharge by frustration.
4	19-24	<ul style="list-style-type: none"> Very good application of legal rules and principles to Olivia's situation. Very good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to discharge by frustration.
3	13-18	<ul style="list-style-type: none"> Good application of legal rules and principles to Olivia's situation. Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to discharge by frustration.
2	7-12	<ul style="list-style-type: none"> Satisfactory application of legal rules and principles to Olivia's situation. Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to relating to discharge by frustration.
1	1-6	<ul style="list-style-type: none"> Basic application of legal rules and principles to Olivia's situation. Basic presentation of a legal argument, using minimal legal terminology, relating to discharge by frustration.
	0	Response not creditworthy or not attempted.

Andy contracted to carry out certain plumbing work on Susan's building project. The contract specified that it would be completed by the 1st of May. It became clear that Andy had underpriced the job and would not complete it on time. Completing the job on time was critical to Susan since she wanted to sell the building and the market price was dropping every day. Susan therefore promised to pay Andy an additional fifty percent of the contract price if he completed on time. Andy completed the job on time. Susan is now refusing to pay Andy a penny more than the original contract price.

In light of reported case law and other sources of law, advise Andy. [50]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Andy candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to the subject of consideration and promissory estoppel. Candidates are expected to apply the full range of legal rules and principles to Andy's situation, in order to present a legal argument.

The response might consider issues such as:

- Essential requirements of a valid contract
- Issue of consideration - each party must give something in return for what is gained by the other party.
- It can be described in terms of benefit to the person making the promise and detriment to the person to whom the promise is being made.
- Rules of consideration: Consideration need not be adequate but must be sufficient – *Chappell v Nestle* (1960) Past consideration is no consideration – the consideration must be given in return for the promise – *Re McArdle* (1951).
- Exception: where it is at the promisor's request and that payment will be made later – *Lampleigh v Braithwaite* (1615).
- The consideration must move from the promisee – *Tweddle v Atkinson* (1861)
- Performing an existing duty cannot be consideration for a new promise – *Collins v Godefroy* (1831).
- However, the position has changed slightly in recent years:
- Contractual duties to supply goods or services – *Williams v Roffey* (1991) If the performance of the existing duty confers an additional benefit then it will be sufficient consideration.
- Contractual duties to pay existing debts – *Pinnel's case* (1602) Part payment of a debt does not in itself constitute consideration, but it will be binding if there is some additional element that can be treated as consideration.
- The development of the doctrine of promissory estoppel and the *High Trees* case.
- The concept of promissory estoppel as being a shield and not a sword. However, under the doctrine of promissory estoppel, a contract can be formed even where there is no consideration. A contracting party who promises not to enforce a contractual right will not be able to enforce that right later if it is inequitable to do so – *Central London Property Trust v High Trees House* (1947)
- Relevant citation, for example, *Williams v Roffey*; *D & C Builders v Rees*.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of legal rules and principles relating to consideration and promissory estoppel.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of legal rules and principles relating to relating to consideration and promissory estoppel.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of legal rules and principles relating to relating to consideration and promissory estoppel.
1	1 -5	<ul style="list-style-type: none"> Basic knowledge and understanding of legal rules and principles relating to consideration and promissory estoppel.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> Excellent, detailed application of legal rules and principles to Andy's situation. Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to consideration and promissory estoppel.
4	19-24	<ul style="list-style-type: none"> Very good application of legal rules and principles to Andy's situation. Very good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to consideration and promissory estoppel.
3	13-18	<ul style="list-style-type: none"> Good application of legal rules and principles to Andy's situation. Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to consideration and promissory estoppel.
2	7-12	<ul style="list-style-type: none"> Satisfactory application of legal rules and principles to Andy's situation. Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to consideration and promissory estoppel.
1	1-6	<ul style="list-style-type: none"> Basic application of legal rules and principles to Andy's situation Basic presentation of a legal argument, using minimal legal terminology, relating to consideration and promissory estoppel.
	0	Response not creditworthy or not attempted.

Section C

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Robert was woken up in the middle of the night by the sound of somebody moving around downstairs. Robert's wife was still asleep, so not wishing to worry her, Robert went quietly into the bedroom where his two young sons slept, to check that they were safe. The bed of his younger son, Charlie, was empty, and Robert thought he could hear her crying downstairs in the living room. Full of fear and rage, Robert ran down the stairs and burst into the living room. He found Charlie crying and cuddling the family's dog, which was bleeding from a blow to the head. Near to Charlie stood a frightened-looking young man with a baseball bat in his hand. The young man tried to run past Robert and escape, but Robert picked up the nearest hard object he could find, which happened to be his bass guitar, and struck him with such force that he later died from his injuries.

In light of reported case law and other sources of law consider whether Robert may have any defences to a charge of murder. [50]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Robert candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to the defence of self defence and loss of control. Candidates are expected to apply the full range of legal rules and principles to Robert's situation.

The response might consider issues such as:

- definition of murder- Lord Coke; actus reus of murder, factual and legal causation; cases of White; Pagett; Smith; Jordan; Cheshire
 - mens rea of murder: the intention to kill or cause serious harm - both direct and oblique intention. Support may come from discussion of virtual certainty test: Woollin; Nedrick
- Self defence and defence of another at common law; prevention of crime: Criminal Law Act 1967, s.3 – according to Cousins, there is no difference between the requirements of the two defences.
- Self defence has been codified in s.76 of the Criminal Justice and Immigration Act 2008, but the section does not purport to change the common law, but only to provide clarity as to its application (especially where householders attack burglars).
- Self defence is a complete defence leading to acquittal.
- The defendant must honestly believe that the force was necessary: Palmer. The force used must be reasonable in the circumstances – an objective test to be decided by the jury. In assessing whether the force was reasonable, the jury “should not use jewellers’ scales” (Read v Wastie). In Palmer, it was said that if D had only done what he honestly and instinctively thought was necessary this would be the most potent evidence that the force was reasonable.
- There is no duty to retreat: this is merely a factor to be considered when deciding whether the force used was reasonable (amendment to s.76 by LPSO 2012).
- Force cannot be reasonable if it is not necessary: Palmer, Clegg.
- If self defence fails, Robert may put forward the partial defence of loss of control: sections 54 and 55 of the Coroners and Justice Act 2009 – reduces murder to

manslaughter. Qualifying trigger – fear of serious violence from V towards D or another (s.55(3)); things said or done which constituted circumstances of an extremely grave character and caused D to have a justifiable sense of being seriously wronged. A person of D’s sex and age and in the circumstance of D: s.54(1)(c) would be likely to act in the same way.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of the legal rules and principles relating to self defence and loss of control.
3	11-15	<ul style="list-style-type: none"> Good knowledge and understanding of the legal rules and principles relating to self defence and loss of control.
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of the legal rules and principles relating to self defence and loss of control.
1	1-5	<ul style="list-style-type: none"> Basic knowledge and understanding of the legal rules and principles relating to self defence and loss of control.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> Excellent, detailed application of legal rules and principles to Robert’s situation. Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to self defence and loss of control.
4	19-24	<ul style="list-style-type: none"> Very good application of legal rules and principles to Robert’s situation. Very good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to self defence and loss of control.
3	13-18	<ul style="list-style-type: none"> Good application of legal rules and principles to Robert’s situation. Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to self defence and loss of control.
2	7-12	<ul style="list-style-type: none"> Satisfactory application of legal rules and principles to Robert’s situation. Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to relating to self defence and loss of control.
1	1-6	<ul style="list-style-type: none"> Basic application of legal rules and principles to Robert’s situation. Basic presentation of a legal argument, using minimal legal terminology, self defence and loss of control.
	0	Response not creditworthy or not attempted.

Roxy told her husband James that she intended to leave him, as she had met someone else. James flew into a rage and started to hit Roxy, shouting that he intended to scar her so badly that no other man would ever look at her. Roxy collapsed unconscious on the floor, and James was unable to wake her up. Convinced that he had killed her, James dragged Roxy into her own car, and then drove to an isolated spot near the top of a mountain, intending to set fire to Roxy's car with Roxy's body inside and tell everyone that she had gone away of her own accord. It was dark and James realised that he would need petrol to start the fire. While James was extracting petrol from the tank, Roxy recovered consciousness and crawled out of the car. In the dark, James did not see her go. Having soaked the car with petrol, he set it alight and then made his way home. Roxy was found by a walker and his dog, and driven to the nearest hospital in the walker's car. By the time she arrived at the accident and emergency unit, Roxy was experiencing severe breathing problems. The doctor on duty, Joel, failed to realise that Roxy's breathing problems were due to Roxy suffering a severe allergic reaction to the walker's dog, with the result that Roxy died.

In light of reported case law and other sources of law, consider whether James may be criminally liable for Roxy's death. [50]

Indicative content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising James candidates are expected to demonstrate knowledge and understanding of legal rules and principles relevant to homicide. Candidates are expected to apply the full range of legal rules and principles to James's situation, including murder and manslaughter and relevant case law, in order to present a legal argument.

The response might consider issues such as:

- Applying the actus reus of murder to James's case: that the defendant must cause the death of a human being. Causation – both factual and legal causation can be explained. Further advice in this area can include factual causation – 'but for' test, e.g. White Dalloway and legal causation, operating and substantial cause
- Applying mens rea of murder to James's case: the intention to kill or cause grievous bodily harm to Roxy. Advice should include reference to both direct and oblique intention. Support may come from discussion of virtual certainty test: Woollin; Nedrick
- Is there coincidence of actus reus and mens rea in James's case (i.e. the application of the 'same transaction' principle)? Reference to Thabo Meli, Church, Le Brun
- Applying Novus actus interveniens to James's case: consideration of circumstances which would be sufficient to break the chain of causation – act of a third party which is "free, deliberate and informed" (Pagett)
- Chain of causation: whether broken by medical negligence: Smith, Jordan, Cheshire
- Partial defence of loss of control- Coroners and Justice Act 2009
- Involuntary manslaughter: unlawful act manslaughter: Franklin, Lamb
- Gross negligence manslaughter: Adomako.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	16-20	<ul style="list-style-type: none"> Excellent, detailed knowledge and understanding of the legal rules and principles relating to homicide
3	11-16	<ul style="list-style-type: none"> Good knowledge and understanding of the legal rules and principles relating to homicide
2	6-10	<ul style="list-style-type: none"> Satisfactory knowledge and understanding of the legal rules and principles relating to homicide
1	1-5	<ul style="list-style-type: none"> Basic knowledge and understanding of the legal rules and principles relating to homicide.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
5	25-30	<ul style="list-style-type: none"> Excellent, detailed application of legal rules and principles to James's situation. Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to homicide.
4	19-24	<ul style="list-style-type: none"> Very good application of legal rules and principles to James's situation. Very good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to homicide.
3	13-18	<ul style="list-style-type: none"> Good application of legal rules and principles to James's situation. Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to relating to homicide.
2	7-12	<ul style="list-style-type: none"> Satisfactory application of legal rules and principles to James's situation. Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to homicide.
1	1-6	<ul style="list-style-type: none"> Basic application of legal rules and principles to James's situation Basic presentation of a legal argument, using minimal legal terminology, relating to homicide.
	0	Response not creditworthy or not attempted.