

# LAW

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Paper 9084/01

Paper 1

## General comments

There has been an overall rise in standards for 9084 in recent years, but this has not continued this year. Compared to previous years, this was a very disappointing examination. The candidates often performed poorly on this paper and this can be explained by a number of reasons. The main reason was that questions were misread and misunderstood. Many candidates did not complete the whole paper and often did not seem ready to answer three questions. This suggests that candidates were not always fully prepared for the demands of a paper at this level. There was a general lack of reference to authority even in answers such as question six on precedent. Background knowledge was often superficial and basic. There was an overall lack of critical analysis. The paper was of a similar level of difficulty to that set in previous years and none of the questions were considered to be particularly difficult. The general standard of English, which has risen in recent years, also fell.

## Comments on specific questions

### **Question 1**

This question focused on the role played by the Crown Prosecution Service. It was not a popular question and those that answered it often had a very thin grasp of the role of the CPS. Many candidates answered this question on a completely separate topic, such as delegated legislation or precedent. A handful of candidates explored the tensions between police and the CPS capably, and were able to outline its structure and function.

### **Question 2**

This is always a popular question and candidates usually have no difficulty in identifying the different rules of interpretation, but here candidates rarely went beyond the three rules and these were often poorly illustrated and poorly explained. Very few referred to decided cases and there were few detailed answers on the range of tools available to the judiciary when interpreting a statute.

### **Question 3**

This question was very popular and was generally the best answer for most candidates. However, there were often answers which did not identify the different types of delegated legislation and also the parliamentary and judicial controls over such legislation. There were very few illustrations from decided cases.

### **Question 4**

This question considered the differing roles of the jury and the judge in a criminal trial. Far too many candidates did not address the issues of the question but simply discussed various aspects of the jury and did not relate them to the question set. This illustrated the real need for candidates to always focus on the question set and not to stray too far from the issues, by simply putting in various facts that do not necessarily relate to the question. There was far too little emphasis on what it is that the members of the jury bring to a criminal trial and whether it is a risk to expect lay people to adjudicate on issues of the guilt of the defendant.

**Question 5**

This was another popular question. However, too many candidates answered it in a brief and superficial way. There was very little detailed analysis of the 1966 Practice Statement, and the way the Court of Appeal is bound by precedent. There were also some significant errors in the way that this question was approached, such as the frequent assertion that the criminal division of the Court of Appeal is not bound by precedent at all.

**Question 6**

This question focused on the civil courts as a way of adjudicating civil disputes. Many answers bypassed the courts altogether and went straight into the alternatives to the courts. These were often well known and given in some detail, which was good, but there were very few conclusions to the answers and very little critical analysis of the alternative ways of adjudication civil disputes. This was disappointing.

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Paper 9084/02

Paper 2

## General comments

This paper is now well established as part of the Cambridge Assessment examination for 9084 A Level Law. Candidates have responded well to the requirements of the paper, and in particular, to the need to examine any source material included with the paper. There have been some encouraging and discouraging aspects to the paper. The use of source material was sometimes good, but the need to be specific about sections within a particular statute or judgement was not always understood. Unfortunately, there were several individual parts of both questions which were misread or misunderstood, and far too many candidates scored few or no marks at all on the final section of both questions and so severely affected their overall mark.

## Comments on specific questions

### Question 1

This question was based on extracts from the Police and Criminal Evidence Act 1984. Most of the questions set looked at different aspects of the Act.

- (a) In this part, candidates were expected to identify whether questions asked by a police officer could be used in evidence against the defendant. A significant number of candidates focused on s.76 and tended to address the issue of a confession rather than the fact that the conversation had taken place other than at an authorised place.
- (b) In this part the candidates needed to consider the right of a defendant to access legal advice. The majority of candidates identified the section correctly and understood the relevant law. Candidates showed a good understanding of the relevant sections and quoted them usefully. There were however a large number of candidates who simply copied the section out.
- (c) Many candidates answered this part correctly. Candidates needed to explain whether a confession extracted from the defendant could be used against him where oppression had been used and many were able to identify the issue and discuss its implications.
- (d) There were very few good answers to this part of the question. Candidates were expected to explore the way that PACE has helped to protect defendants in detention. Candidates were expected to now go beyond the sections quoted in the question and to introduce a much wider range of ways that defendants may be protected in custody, but far too many simply relied on these sections and restated points made earlier in the answer. Many also relied on sections from the Human Rights Act which were credited but were not specifically required.

### Question 2

This question looked at trial in the civil courts and was based on a factual scenario using the Supply of Goods and Services Act 1982.

- (a) Candidates needed to focus here on a number of different sections, in particular whether the windows supplied were of reasonable quality. Most candidates focused only on one section and failed to look at the relevance of **Sections 12** and **13** which concerned the fitting of the windows.

- (b)** The second part of the question looked at the appropriate court for trial. A good answer should have identified that the case should have been tried in the county court under the small claims procedure, but it could also have been tried in the county court under the fast track procedure. Many candidates had a very sketchy knowledge of the procedure in a civil trial and reasons for the choice of court and these answers were very disappointing. There were a considerable number of responses which discussed the role of criminal court, such as the magistrates court or the crown court.
- (c)** This part of the question required a specific reference to the statute, and those that understood the statute were able to identify the relevant part of the Act. Most were able to discuss the protection given to the claimant even where a different use had been made of the goods.
- (d)** The final part of the question explored the advantages and disadvantages of using the courts in civil cases. A large majority of candidates started their answers by stating that the case would start in the magistrates court. Some also stated that the case may be remitted to the crown court for trial with a jury. There seemed to be considerable confusion about the nature of civil trial.

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Paper 9084/03

Paper 3

## General comments

At A Level, knowledge of the law, however perfect, does not suffice. This paper and its companion, 9084/04, aim to test whether or not candidates appreciate the aims of the rules set out in case law and statute law, and whether or not they can analyse or evaluate the rules, comment on them and criticise them constructively. Candidates will not perform well on either paper unless they can demonstrate these skills when responding to questions set.

Far too many candidates continue to present themselves for examination without the preparation required to do themselves and their knowledge justice.

## Comments on specific questions

### **Section A**

#### **Question 1**

This was a popular question, but one which elicited almost universally poor responses which lacked evidence of any real selection of appropriate material. Far too many candidates simply chose to write all they could remember about the rules regarding the elements of valid contracts in the hope that at least something might be deemed relevant by the marker. Blanket responses never attract significant marks and candidates are advised that this is not a wise strategy. Those candidates who decided to be more selective, to focus on the case in question and to examine why Denning made this comment and his reasoning in doing so, clearly fared much better.

#### **Question 2**

This question should have been a gift to the wise candidate. The question hinged purely on damages as a remedy for breach of contract, and the extent to which its aim appears to be achieved. Why then, did the majority of candidates waste time talking about equitable remedies? Those scoring highly successfully analysed a number of decided cases in the light of principles of causation, remoteness and mitigation and also went on to consider how expectation and reliance losses are dealt with. Candidates must be encouraged to read the examination questions thoroughly and to focus on the key words used in them.

#### **Question 3**

This was a popular question which was well answered by the majority of candidates. The origins of promissory estoppel and many of the conditions which need to prevail before it is applicable were generally well learnt and understood. The better candidates were able to trace its development and limitations through the analysis of case law; but weaker candidates could not.

## **Section B**

### **Question 4**

Questions apparently about the agreement in contract are always popular, but seldom well answered. Lack of ability to select and apply the most appropriate principles and rules is a universal problem for the majority of candidates. A brief introduction to the need for the communication of firm offers and unqualified acceptances was necessary, but often confused chapter and verse regarding invitations to treat, unilateral and bilateral offers, and counter offers too. The focus of answers to this question really called for an examination of the posting rule of acceptance, whether the faxed response was in the required format and whether the posting rule applied to it. Those candidates who did recognise the key issues, and remained focused, generally produced more than acceptable responses.

### **Question 5**

This question attracted a wide variety of responses. Some thought it was about terms of contract, many did not even consider the basis for grievance other than in very general, non-specific terms, some even chose to talk about acts of God and quantum meruit. The issue of remoteness of damage was spotted by very few of those attempting this question, but those that did, usually managed an informed discussion of the relevant case law and drew sensible, informed conclusions.

### **Question 6**

This question was generally answered well. The majority of candidates who attempted this question seemed to have grasped the interrelationship between unilateral mistake and fraudulent misrepresentation in these situations, and to have understood the contrasting effects of void and voidable contracts on the passing of title to goods. However, too many candidates continued to try to cram in every detail they could remember rather than being selective and supplying the crisp, concise and very relevant responses that characterised the scripts of the better candidates.

# LAW

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Paper 9084/04

Paper 4

## General comments

Centres and their candidates continue to fail to appreciate that, at A Level, knowledge of the law, however perfect, does not suffice. This paper and its companion, 9084/03, aim to test whether or not candidates appreciate the aims of the rules set out in case law and statute law and whether or not they can analyse or evaluate the rules, comment on them and criticise them constructively. Candidates will not perform well on either paper unless they can demonstrate these skills when responding to questions set.

Far too many candidates continue to present themselves for examination without the preparation required to do themselves and their knowledge justice.

## Comments on specific questions

### **Section A**

#### **Question 1**

Candidates were generally well prepared for this topic in terms of their factual knowledge. However, lack of ability to select and focus was the main issue for many. Far too many candidates supplied blanket responses, having failed to register that the question simply addressed bystanders and only asked about rights as secondary victims.

#### **Question 2**

Only a very small number of candidates actually read the question and answered as required. Candidates did need to show that they knew the sort of basis on which tortfeasors are found liable in private nuisance, but the question was about more than that; it required consideration of how legal rules have to be balanced to meet societal need. It was pleasing, however to see some quite exceptional responses to the issues raised.

#### **Question 3**

This was a popular question, but was seldom answered well. Why did so many candidates introduce trespass to land in a question clearly asking about trespass to the person? The principles relating to assault, battery and false imprisonment were known with varying degrees of accuracy and for far too many, that was the sole focus of the response: to define and explain. The question called for critical analysis and comment and few managed it.

### **Section B**

#### **Question 4**

This was one of the popular questions and one that elicited many pleasing responses. In many instances, however, the failing was to generalise without reference to legal principle. The liability of the employer was generally well dealt with and, independently, the hospital's liability was reasonably addressed. However, comparatively few candidates tied the two together well in terms of the chain of causation, whether or not a break was caused between initial accident and its cause, and the ultimate death.

### **Question 5**

Thankfully, this was not a popular question as it elicited ill-supported responses. It was expected that a straightforward negligence question with the defence of consent would be dealt with far more satisfactorily than proved to be the case. Candidates largely failed to identify key issues and certainly did not recognise relevant case law.

### **Question 6**

This question was perhaps the most straightforward one in this section of the paper. The statutory liability of the occupier of premises towards visitors to premises imposed by the Occupiers Liability Act 1957 was well known by a large number of candidates. However, far too many candidates still chose to answer it with little or no reference to legal principle, preferring to apply the 'common sense approach'. In addition, few candidates recognised that the 1984 Act would also have been relevant in this case.