

MARK SCHEME for the October/November 2006 question paper

9084 LAW

9084/02 Paper 2, maximum raw mark 25

This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began.

All Examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes must be read in conjunction with the question papers and the report on the examination.

The grade thresholds for various grades are published in the report on the examination for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level syllabuses.

- CIE will not enter into discussions or correspondence in connection with these mark schemes.

CIE is publishing the mark schemes for the October/November 2006 question papers for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level syllabuses and some Ordinary Level syllabuses.

Page 2	Mark Scheme	Syllabus Paper
	GCE A/AS LEVEL - OCT/NOV 2006	9084

- 1 (a) Candidates should use the source material to help them identify the repairs which the landlord is responsible for. That can be found in s. 11 (1) (a) (b). Therefore Mike would be responsible for the boiler which affects the central heating etc. but NOT the leaking washing machine.

MAX 3: Section + washing machine and no mention of boiler.

MAX 5: section 1 (a) and (b) /+ washing machine in right context.

MAX 4: in wrong context.

- (b) Jenna could look to s. (1) (a) and rely on the literal rule in relation to redecorating the bedroom wall and the blocked toilet and the broken glass door. However Mike could rely on s. (2) (a) and (b) and say that Jenna did not use the premises in a tenant-like manner.

MAX 2: with no statutory interpretation.

MAX 5: must include 3 rules of statutory interpretation → and good application.

- (c) Candidates are expected to name any of the presumptions that aid interpretation e.g. a presumption that there has been no change to the common law; a presumption that *mens rea* is required in criminal cases; a presumption that legislation does not apply retrospectively; that the Crown is not bound by any statute unless the statute expressly says so.

MAX 3: for mentioning any presumption and some discussion of what this means.

MAX 5: three or more.

- (d) Candidates should give an outline of the traditional court and tribunal system; the courts and tribunals, appeals, adversarial as opposed to inquisitorial system. The role of the advocate. Proof of facts relied on. The outcome of a civil trial – there being a winner and a loser. The role of the judge. Defects of the system – cost, delay, availability of legal aid and advice. Complex law. The parties' perception of the process and what they want from the system. Are their purposes best served? ADR – definition and examples including Arbitration, Mediation, Conciliation; the uses of each and their advantages and disadvantages. Advantages and disadvantages of the alternatives to litigation. Quicker and cheaper than court action. Decision of arbitrator can be enforced by court. Conducted in private. Decision is not subject to publicity. Lack of precedent – decision reaching on facts of case. Costs met by parties.

MAX 3: some attempt at discussion.

MAX 10: Court compared to ADR. Any examples of ADR would be enough (including tribunals) but must have at least two examples.

MAX 8: Court compared to ADR and only one example.

Page 3	Mark Scheme	Syllabus	Paper
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- 2 (a)** Candidates should consider the underlying principles of sentencing and what effect the judges wish to have. Principles of sentencing are divided into two main groups – retribution and utilitarian.
 Consider the views of society and public denunciation with examples.
 Aims include deterrence. Consider whether it works or not.
 Protection of society.
 Rehabilitation. Sentencing aims should be illustrated with appropriate examples.

MAX 5: for concentrating on a single issue/aim. Could be punishment / protection of society.

MAX 5: for simple list and no discussion.

MAX 8: with list with good points.

MAX 10: for list with examples.

- (b)** In Source 2.1 the Act states that third burglary warrants a minimum of three years custody. The Act also goes on to say that the court doesn't have to impose this if there are good reasons not to. These reasons could be: Devon has strong family ties, e.g. lives with girlfriend and his family who live locally. He did plead guilty thus saving court time and expense and the victim from giving evidence. Consider anything that's positive about the offence or the offender.

MAX 5: must include some material however a candidate who consciously ignores some material may still reach MAX marks.

MAX 3: for answer that progresses from CUSTODIAL to CPO → to lower level of sentence.

- (c)** Consider sentencing options, e.g. CPO, CRO, CPRO. Not applicable to Ben and he's under 16. Consider DTO. Is he suitable? No. Because he's 14 years old and defendants must be 15 and over. However DTO can be given to a defendant who is 14 but only if he is a persistent offender. Is Ben a persistent offender? No. No previous convictions or cautions.

Consider sentences available e.g. Supervision Order, Attendance Centre Order, Curfew. Less punitive sentences include Reparation Order, Action Plan Order, Fine, Discharges. Also consider Referral Order. But not appropriate here as Ben didn't plead guilty. Better candidates might also consider parental orders.

MAX 7: if do not discuss persistent offender but gives extensive detail of sentencing options.

MAX 7: for discussion of persistent offender and limited number of sentencing options.

MAX 10: must include discussion of what constitutes a persistent offender.

The mark bands and descriptors applicable to all questions on the paper are as follows. Maximum mark allocations are indicated in the table at the foot of the page.

Indicative content for each of the questions follows overleaf.

Band 1:

The answer contains no relevant material.

Band 2:

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge

OR

The candidate attempts to introduce an explanation and/or analysis but it is so fundamentally undermined by error and confusion that it remains substantially incoherent.

Band 3:

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4:

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5:

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Maximum Mark Allocations:

Question	1	1	1	1	2	2	2	2	
	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)	
Band 1	0	0	0	0	0	0	0	0	0
Band 2	1-2	1	1	1-2	1-2	1	1	1	5
Band 3	3	2	2	3-4	3-4	2	2	2	10
Band 4	4	3-4	3-4	5-7	5-7	3-4	3-4	3-4	19
Band 5	5	5	5	8-10	8-10	5	5	5	25