



CHIEF EXAMINER REPORT

JUNE 2025

LEVEL 6 UNIT 3 – CRIMINAL LAW

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the June 2025 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Section A questions are a less favourable choice for candidates, and normally done to a lesser standard than Section B questions, gaining less marks. Question 2 was done to a relatively good standard, and for the candidates who chose question 1, this was also done well. Q3 and Q4(a) and (b) were completed to a lesser standard.

Section B scenarios are always more preferred than section A. Candidates seem to grasp the concept of answering scenario questions well and are good at breaking down the question, discussing all possibilities. Question 1 was particularly popular, as most questions involving murder are, and was done to a very good standard. Questions 2 and 4(a) and (b) were less popular but were done to a good standard.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance has not been included.

Section A

Question 1	25 marks
<p>This question was generally done very well and was a popular question with candidates. Most candidates were able to describe and explain novus actus interveniens and discuss the main part of the question which required a focus on cases such as Roberts and Williams and Davis for the victims own act. Many candidates missed out on the recent case decision of Berlinah and the outcome of that case, which the question was asking for. Overall, candidates did very well on this question.</p>	
<p>Suggested Points for Response:</p> <ul style="list-style-type: none"> • Description and explanation of the law on novus actus interveniens including relevant case law throughout – important to note the recent case of Wallace (Berlinah) and the impact of the victims own act. • Discussion of the advantages and disadvantages of the law. • Description and explanation of causation, specifically legal causation, and the break in the chain of causation due to an intervening act. • Discussion of applicable case law including Roberts, Wallace (Berlinah), Williams and Davis, Pagett, Jordan • It is important that candidates can describe and explain the concept of intervening acts with specific focus on the victims own act, but also can provide an overview of intervening acts as a whole. • An explanation of possible reforms: <ul style="list-style-type: none"> • any academic/Law Commission reform proposals • A reasoned conclusion which is supported with evidence 	

Question 2	25 marks
<p>This was done to a very good standard by most candidates, and it was a very popular question. Again, candidates were able to describe and explain the defence of consent, the exceptions and applicable case law such as Barnes, Brown and Wilson. However, whilst few candidates realised the question was asking about the development of the law (R v BM), most candidates did not, and missed this part out, limiting their mark.</p>	
<p>Suggested Points for Response:</p> <ul style="list-style-type: none"> • Discussion of the law relating to consent - General rule Brown and others (1993), consent can be a defence to assault and battery, but cannot be a defence when any harm is caused. Implied consent relates to everyday touching • Situations where consent can be a defence – A-G’s Reference (No6 of 1980) (1981) test for consent is “whether there is a good reason for the Actual Bodily Harm” (ABH). Good reasons include:- <ul style="list-style-type: none"> • i) Religious and/or medical reasons • ii) Tattooing and branding • iii) Some forms of sexual activity • Situations where consent cannot be a defence <ul style="list-style-type: none"> • i) Sadomasochistic behaviour • ii) Street fighting • iii) Deceit as to the identity of the defendant or the nature and quality of the act 	

- The House of Lords in the leading case of Brown (1993) attempted to clarify the law in relation to consent and the deliberate infliction of physical harm.
- Lord Templeman in the above case concluded that sadomasochistic behaviour was not in the public interest and there should be sufficient safeguards against exploitation and corruption of others.
- Decisions since Brown (1993) have sought to develop the common law position in this area. A discussion of R v BM is crucial to show advancements in this area.
- There are still difficulties in this area drawing a line between violent acts which can be said to be in the public interest (ie contact sports) and those which are not.
- An explanation of possible reforms:
- any academic/Law Commission reform proposal

Question 3	25 marks
This was a popular question but not answered as well as the others. Candidates seemed to be able to recite basic knowledge in the area with applicable case law but stumbled on the critical assessment. Some candidates provided advantages and disadvantages but at a low standard.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Identification and description of strict liability offences • Reference to Gammon guidelines • Discussion of the statutory defence • Explanation of offences with case law to support – Sweet v Parsley, Gammon, Blake, B v DPP, R v K and developing case law. • Analysis of arguments for and against strict liability • For – public interest, health and safety and any other arguments for • Against – unfair and unjust, lack of mens rea and any other arguments again • A coherent conclusion that sums up the arguments made • An explanation of possible reforms: • any academic/Law Commission reform proposals • A reasoned conclusion which is supported with evidence 	

Question 4a	10 marks
This was chosen by some candidates and generally done well. Candidates were able to discuss mens rea as a concept but struggled to argue whether negligence should be the basis of the MR.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Identification and description of negligence forming the mens rea in criminal offences • Explanation of circumstances in which negligence gives rise to criminal liability • Evaluation of negligence as a basis of criminal liability with reference to gross negligence manslaughter. • Relevant case law – Elliot v C, Adomako, Robinson v CCWYP and developing case law. • An explanation of possible reforms: • any academic/Law Commission reform proposals • A reasoned conclusion which is supported with evidence 	

Question 4b	15 marks
The analytical element of the question was attempted but more is needed for higher grades. Some candidates were able to provide advantages and disadvantages of this area of law.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Identification and description of the concept of transferred malice • Explanation of circumstances in which transferred malice can form the mens rea of a crime • Differentiation between transferred malice between people and property. • Evaluation of transferred malice and whether it should form the mens rea of a crime • Relevant case law – Latimer, Pembliton, Gnango and developing case law. • An explanation of possible reforms • any academic/Law Commission reform proposals 	

Section B

Question 1	25 marks
<p>QB1 was popular with candidates, as murder questions normally are. Candidates were able to describe and explain the law on murder with applicable case law, along with the defences of diminished responsibility and intoxication, both of which were done well. An area of improvement in this question is delving deeper into the AR/MR of murder, as a lot of candidates brushed past this. Each crime/defence and their elements need sufficient discussion.</p>	
Suggested Points for Response:	
<p><u>Soren</u></p> <ul style="list-style-type: none">• Identification and discussion of murder• Explanation of the actus reus of murder• Explanation of the mens rea of murder• Application of scenario - actus reus is satisfied - possible intervening act by Heather but candidates should argue that her action is not the 'more than minimal' cause of death.• Candidates may discuss self-defence with regards to the 'unlawful' element, but this should be discounted - mens rea is satisfied - 'intending to kill him'.• Identification and discussion of partial defence of diminished responsibility• Explanation of the test - abnormality of mental functioning, recognised medical condition, substantial impairment and provides an excuse for the conduct.• Application to scenario - discussion of the recognised medical condition (BPD) should be made and the correlation between the RMC and voluntary intoxication.• Key discussion of voluntary intoxication needed in relation to specific intent.• Possible discussion of defence of insanity should be credited alongside a discussion of diminished responsibility.• A reasoned conclusion suggesting the best option available	

Question 2	25 marks
<p>QB2 was another popular question and done well by most candidates. Burglary was done to a good standard by most but needed more attention from some candidates, however, a lot of candidates missed out the discussion of theft which limited their grade. A lot of candidates identified s47 ABH rather than s18/20 GBH, and some candidates missed out Lauren's depression. Self-defence was done well overall.</p>	
<p>Suggested Points for Response:</p>	
<p><u>Petra</u></p> <ul style="list-style-type: none"> • Identification and discussion of burglary under section 9 Theft Act 1968 • Explanation of the elements of burglary - entry, building, trespasser, intention element and difference between s9(1)(a) and s9(1)(b) • Application to scenario - discussion of s9(1)(a) due to the intent being formed before the entry, entry ('enter the building'), building ('pub'), trespasser (pub was closed and Petra did not have prior authorisation). Discussion of 9(1)(b). • Identification and discussion of s1 Theft s2-6 with applicable case law. • Identification and discussion of s47 ABH OAPA 1861 • Explanation and application of the elements of s47 actus reus satisfied – mens rea satisfied – Petra was reckless – discussion of psychiatric harm needed in regard to Lauren • Applicable case law – Chan Fook (1994), Miller (1954) <p><u>Alfie</u></p> <ul style="list-style-type: none"> • Identification and discussion of s20 GBH OAPA 1861 • Explanation and application of the elements of s20 – actus reus satisfied (Eisenhower, DPP v Smith, use of a weapon) mens rea satisfied – Alfie could foresee harm (Savage) • Possible discussion of s18 GBH due to MR. • Identification and discussion of defence of self – defence under s76 CJA 2008. • Explanation and application of the elements of self-defence with a specific focus on self-defence of property. • Application to scenario – likely self – defence will be successful due to Martin (2002) and householder cases. 	

Question 3	25 marks
<p>QB3 was probably the least popular question, as questions involving fraud or other similar crimes are. Candidates who did choose this question did well when discussing s18 with Wayne but struggled with Billy. More focus on fraud/conspiracy etc might be needed in classrooms as there seems to be a lack of knowledge and confidence with this question.</p>	
Suggested Points for Response:	
<p><u>Billy</u></p> <ul style="list-style-type: none"> • Identification and discussion of fraud under the Fraud Act 2006 • Explanation of the actus reus of fraud by false representation – making a false representation, and the mens rea of fraud by false representation – dishonesty, intention to make a gain or cause a loss to somebody else and knowledge that the misrepresentation is or might be untrue or misleading. • Application to the scenario – a false representation has been made dishonestly with intention to make a gain/cause a loss with knowledge. • Likely to be found guilty of fraud. • No defences available <p><u>Wayne</u></p> <ul style="list-style-type: none"> • Identification and discussion of s18 GBH OAPA 1861 • Explanation and application of the elements of s18 – actus reus satisfied (Eisenhower, DPP v Smith) mens rea satisfied – oblique intention • No defences available • Candidates may discuss the partial defence of loss of control but there are to be no marks awarded here as there is no murder committed. 	

Question 4a	15 marks
Most candidates were able to identify s1 CDA 1971, however, most did not discuss the possible aggravated offence under s1(2). A number of candidates discussed Victoria's age and the case of G & R (2003) but some missed this out, limiting their grade.	
Suggested Points for Response:	
<u>Victoria</u> <ul style="list-style-type: none"> • Identification and discussion of criminal damage and aggravated criminal damage under s1/s1(2) Criminal Damage Act 1971 • Explanation of the actus reus of criminal damage – destroy/damage, property, belonging to another • Explanation of the mens rea of criminal damage – intention or recklessness to the act • Explanation of aggravated criminal damage as the actions may have endangered life. • Application to the scenario – Victoria has destroyed/damaged the small tree/garden which is property that belongs to Gino's family. Victoria had the intention to do the act and was reckless with her actions. • Key discussion needed of her age – 15 – and a discussion of the subjective test in R v G and another (2003) • Application to the scenario - likely to be guilty of s1 criminal damage • Application to the scenario – unlikely to be found guilty of aggravated criminal damage due to her age. 	

Question 4b	10 marks
This question was done to an adequate standard by most candidates, however, many missed out the key issue of intention and murder, and most candidates only discussed gross negligence manslaughter. This was done well but was needed alongside a discussion of murder. Some candidates discussed the relevant area of omissions but some did not, limiting their grade.	
Suggested Points for Response:	
<u>Lina</u> <ul style="list-style-type: none"> • Identification and discussion of murder • Explanation of the actus reus and mens rea of murder - a key discussion of omissions is needed here along with possible intent to kill/cause GBH. Voluntary assumption of duty of care is also relevant. • Application of scenario - actus reus is satisfied – unlawful killing of a human being under Kings peace (refuses to call ambulance satisfies this – mens rea is satisfied – intent to kill or cause GBH (Saira 'does not like Mohammed' and the jury could assume she had intent to kill or cause GBH. A discussion of gross negligence manslaughter can also be credited. • Likely to be found guilty of murder due to the judgment in Stone v Dobinson. • Candidates may discuss gross negligence manslaughter, but this should be alongside a discussion of murder. 	