

# FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

## Preliminary note

### PART I

#### STATISTICS

##### A.

(1) Numbers and percentages in each class/category

(a) Classified examinations

FHS Course 1, BA Jurisprudence

Class	Number			Percentage (%)		
	2023/24	2022/23	2021/22	2023/24	2022/23	2021/22
I	35	30	37	15.7	14.78	21.89
II.I	175	159	120	78.48	78.33	71.01
II.II	10	11	8	4.48	5.42	4.73
III	1	1		0.45	0.49	
Pass	0	1	2		0.49	1.18
Fail	2	1	2	0.9	0.49	1.18

FHS Course 2, BA Law with Law Studies in Europe

Class	Number			Percentage (%)		
	2023/24	2022/23	2021/22	2023/24	2022/23	2021/22
I	4	6	5	12.9	17.14	27.78
II.I	26	29	12	83.87	82.86	66.67
II.II	1		1	3.2		5.56
III	0					
Pass	0					
Fail	0					

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FHS Course 1 and 2 combined

Class	Number			Percentage (%)		
	2023/24	2022/23	2021/22	2023/24	2022/23	2021/22
I	39	36	42	15.35	15.19	22.34
II.I	201	188	133	79.13	79.32	70.74
II.II	11	11	9	4.33	4.64	4.79
III	1	1		0.39	0.42	
Pass	0	1	2		0.42	1.06
Fail	2		2	0.79		1.06

## (b) Unclassified Examinations

Diploma in Legal Studies

Category	Number			Percentage (%)		
	2023/24	2022/23	2021/22	2023/24	2022/23	2021/22
Distinction	11	5	10	36.7	18.52	30.30
Pass	18	22	22	60	81.48	66.67
Fail	1		1	3.3		3.03

## (2) Vivas

Vivas are no longer used in the Final Honour School. Vivas can be held for students who fail a paper on the Diploma in Legal Studies.

## (3) Marking of scripts

A rigorous system of second marking is used to ensure the accuracy of marking procedures. This second marking occurs in two stages.

The first stage takes place during the initial marking that is carried out prior to the first marks meeting. In subjects with a large number of candidates, marking teams meet shortly after the examination concerned to ensure that a similar approach is taken by all markers. Regardless of whether there is a discrepancy in the marking profiles among members of the team, a sample of scripts is sent for second marking to ensure consistency. In 2023/24, this sample comprised at least six scripts, or 20% of the scripts, whichever was larger. Further, any scripts where the first mark ended with a 9 (e.g., 69, 59, 49) or any mark below 40 were also second marked at this stage together with potential prize scripts.

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Following the first marks meeting additional scripts are sent for second marking in three situations. The first concerns scripts that are 4 marks or more below the candidate's average mark. The second is where a script has been marked at 58 and an increase to a mark of 60 would result in the award of a First. The third is where a script has been marked at 68 or 67, and an increase to a mark of 70 (either in isolation or in conjunction with other 67s and 68s in the profile) would result in the award of a First.

In 2023/24, 264 scripts were second marked following the first marks meeting.

Following the second marks meeting, additional scripts were sent for second marking (and in some instances third marking) where the Examination Board felt that further second marking (or third marking) was warranted upon reviewing candidates' marks profiles. 3 scripts were third marked.

Overall, the level of second marking was broadly similar to that in the last few years.

	Number			Percentage %		
	2023/24	2022/23	2021/22	2023/24	2022/23	2021/22
Total Scripts	2243	2322	2178			
First stage	555	654	515	24.74	28.17	23.65
Second stage	264	296	283	11.77	12.75	12.99
All second marking	819	950	798	36.29	40.91	36.64

### Jurisprudence Procedure

As the two elements of the Jurisprudence assessment (i.e. mini-option essay and examination) are marked separately, a slightly different procedure is used for second marking. During first and second marking, the standard procedure is used for the examination component (see above). Following the first marks meeting, additional second marking takes place. Some scripts are sent for second marking where one or both elements is 4% below the candidate's average. Second marking also occurs where the combined marks leave the candidate on the borderline between classifications. In 2023/24, 54 Jurisprudence exam scripts were second marked further to this procedure.

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## NEW EXAMINING METHODS AND PROCEDURES

### B.

#### 1. Format of exams

##### Coursework

Five papers (History of English Law, Feminist Perspectives in Law, Dissertation, Comparative Law and Advanced Criminal Law) were assessed by way of essays, written over the course of a working week (except the Dissertation). The assessments for Medical Law and Ethics and Comparative Law took place in both Week 0 of Trinity Term and Week 9 of Hilary Term. Feminist Perspectives in Law took place in Trinity Term, Advanced Criminal Law took place in Hilary Term and History of English Law took place in Hilary Term. Three take-home coursework papers were sat in the Long Vacation (Administrative Law, Contract and Jurisprudence). This was due to exceptional circumstances and a dispensation request from the University Education Committee.

##### Open-book examinations

Candidates sat examinations online using the Inspira platform, enabling them to write answers directly into the system and thus avoiding the need for any files to be uploaded. Candidates were allowed three hours per examination (save in the cases of two hours for the Jurisprudence examination and one and a half hours for the Jessup Moot examination). Because of the open-book nature of the examinations, no material was made available to candidates beyond case lists (which were made available via Canvas). Candidates were forewarned in the Notice to Candidates that they themselves would be expected to ensure that they had access to relevant materials.

#### 2. Operation of Exams and use of ARD Database

The examinations went smoothly and the Inspira system worked well. In the small number of instances where problems arose, these were almost all down to incorrect use of the Inspira system.

#### 3. Examination Board

*Examination Board meetings:* The ARD Database worked efficiently, and all marks were available for the first marks meeting. During the first marks meeting any second marking was identified in relation to borderline classifications. Profiles were then considered at the second marks meeting. The Examination Board approved the prize list and confirmed the final marks by correspondence and via use of a secure, private SharePoint site.

*MCEs:* In 2020, the University instituted an enhanced MCE procedure which permitted candidates to submit a student impact statement and to submit MCEs directly. The Examination Board considered 92 MCEs in total. The classification for one candidate was amended to First Class Honours, and the classification for another amended to Second Class Honours, Division One. The penalty for a rubric breach was reduced in the case of one candidate due to the submission of an MCE, while another candidate had their individual course marks amended.

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*Decisions made in respect of individual cases:* In 2023/24, 17 candidates (in 21 individual papers) were penalised by the Examination Board for poor academic practice. Penalties ranged from deductions of 2 to 10 marks (the latter being the maximum deduction the Board is permitted to impose). A script for 1 candidate was sent to the Proctors due to plagiarism concerns, and the Proctors subsequently confirmed that the paper concerned would receive a mark of 0 and would require a resit.

These numbers compared with the preceding academic year as follows. In 2022/23, 18 candidates (22 individual papers) were penalised by the Examination Board for poor academic practice. Penalties ranged from deductions of 3 to 10 marks (the latter being the maximum deduction the Board is permitted to impose). Scripts for 3 candidates (involving 5 individual papers) were sent to the Proctors due to plagiarism concerns.

#### **4. Further points for note**

*eVision Marks Management:* 2023/24 was the first year in which eVision Marks Management had been used by the University. This database worked well and feedback has been provided to the relevant teams concerning possible improvements for next year.

*Approval of alternative examination arrangements for candidates with disabilities:* The Board discussed the number of dispensation requests submitted during the current academic year. One candidate split their examinations over two terms, taking three papers as take-home coursework during the Long Vacation.

#### **5. Thanks**

The Examination Board wishes to express its sincere gratitude to the external examiners, who contributed both highly significantly and very helpfully to its work.

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## PART II

### A. GENERAL COMMENTS ON THE EXAMINATION

The proportion of Firsts awarded has increased since 2022/23, while remaining lower than in 2021/22 (nonetheless being closer to patterns seen before the pandemic). Candidates were allowed three hours per examination (save in the cases of two hours for the Jurisprudence examination and one and a half hours for the Jessup Moot examination). Withdrawals and suspensions stayed at roughly the same level as in 2022/23, with 23 withdrawals/suspensions in 2023/24 in contrast with 26 withdrawals/ suspensions in 2022/23.

### B. EQUALITY AND DIVERSITY ISSUES/ BREAKDOWN OF THE RESULTS BY GENDER

#### FHS Course 1, BA Jurisprudence

	2024				2023				2022				2021			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	%	No	%	No	No	No	%	No
I	16	12	20	23	14	11	16	20	14	13	32	24	23	31	28	23
II.I	109	80	65	76	97	79	62	78	78	73	63	47	51	68	96	51
II.II	9	7	1	1	9	7	2	2	4	4	4	3			2	
III					1	1										
Pass					1	1			2	2						
Fail	2	1			1	1			1	1	1	1	1	1	1	1
Total	136		86		123		80			93		75	75			75

#### FHS Course 2, BA Law with Law Studies in Europe

	2024				2023				2022				2021			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	%	No	%	No	No	No	%	No
I	3	15	1	9	4	19	2	15	30	3	25	2	4	57	7	4
II.I	17	85	10	91	18	81	11	85	70	7	63	5	3	43	14	3
II.II											12	1				
III																
Pass																
Total	20		11		22		13			10		8	7		21	7

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	2024				2023				2022				2021			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	No
I	19	12	21	22	18	12	18	19	16	16	26	33	27	33	35	27
II.I	126	82	75	78	115	79	73	78	77	79	52	65	54	66	110	54
II.II	9	6			9	6	2	2	3	3	2	3			2	
III					1	0.7										
Pass					1	0.7			2	2						
Fail					1	0.7							1	1	1	1
Total	154		96		145		93		98		80		82		148	82

The imbalance in the number of men and women attaining Firsts has increased since 2023. The percentage gap has increased from a 7% difference in 2023 to a 10% difference in 2024.

## C. DETAILED NUMBERS ON CANDIDATES' PERFORMANCE IN EACH PART OF THE EXAMINATION

Candidates studying on the two BA programmes take nine papers as part of the FHS examinations. These consist of seven compulsory papers and two optional papers. In 2023/24, candidates chose from a list of 24 option papers. The distribution of candidates across the option papers in recent years has been as follows:

	2024	2023	2022	2021	2020	2019	2018
Advanced Criminal Law	31	35	23	31	25	15	-
Civil Dispute Resolution	25	28	12	15	4	5	5
Commercial Law	21	17	12	20	-	11	25
Company Law	2	22	6	14	12	13	2
Comparative Law	16	1	14	14	15	17	14
Competition Law and Policy	16	3	9	24	17	15	1
Constitutional Law	5	6	3	8	5	9	6
Copyright, Patents and Allied Rights	-	-	-	-	-	9	34
Copyright, Trade Marks & Allied	3	16	16	31	16	15	18

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	2024	2023	2022	2021	2020	2019	2018
Criminal Law	5	6	3	8	5	9	6
Criminology and Criminal Justice	11	18	16	20	16	16	12
Dissertation	13	18	17	-	-	-	-
Environmental Law	15	4	12	22	12	16	3
Human Rights Law	15	7	20	20	18	17	20
Family Law	39	38	20	41	57	60	49
Feminist Perspectives in Law	19	22	-	-	-	-	-
History of English Law	8	7	14	3	5	3	2
International Trade	18	4	5	15	10	13	8
Employment Law	21	15	13	1	13	15	21
Media Law	5	30	41	23	30	28	1
Medical Law and Ethics	85	68	29	51	85	73	78
Moral and Political Philosophy	17	23	23	35	17	24	34
Personal Property	18	20	8	16	12	2	17
Public International Law	42	33	33	31	29	41	46
Public International Law (Jessup Moot)	5	4	1	5	6	3	4
Roman Law (Delict)	5	17	5	16	5	7	9
Taxation Law	34	30	19	15	27	16	22
Succession Law	16	-	-	-	-	-	-

Candidates sitting the DLS take three papers, and choose from a shortened list of FHS option papers. The distribution of DLS candidates across the core and option papers in recent years has been as follows:

	2024	2023	2022	2021	2020	2019	2018
Administrative Law	-	1	4	-	1	-	1
Advanced Criminal Law	-	-	-	1	-	-	-
Commercial Law	5	4	6	1	-	-	-



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	2024	2023	2022	2021	2020	2019	2018
Civil Dispute Resolution	1	1	1	-	-	-	-
Company Law	-	8	9	8	12	6	-
Competition Law and Policy	8	1	14	4	5	5	-
Constitutional Law	1	2	4	2	4	4	3
Contract	25	17	24	19	25	22	28
Copyright, Patents and Allied Rights	-	-	-	-	-	3	3
Copyright, Trademarks and Allied Rights	-	7	4	4	6	2	4
Criminal Law	2	2	1	-	2	-	6
Criminology and Criminal Justice	8	3	3	3	2	3	4
Environmental Law	1	2	1	3	1	4	1
European Union Law	7	6	4	3	3	4	5
Family Law	-	-	-	-	-	1	-
History of English Law	-	-	-	1	-	-	1
Human Rights Law	2	8	2	-	-	-	4
Employment Law	-	2	-	-	1	2	3
International Trade	3	-	-	-	-	-	-
Media Law	-	3	1	2	1	-	-
Medical Law and Ethics	3	1	-	-	-	4	3
Public International Law	-	-	5	6	5	9	5
Roman Law (Delict)	-	3	1	-	2	-	1
Taxation Law	2	3	2	2	-	4	-
Tort	17	16	15	23	17	23	23
Trusts	4	4	1	2	1	4	4
Succession Law	1	-	-	-	-	-	-

A blank field indicates that no candidates fell into this range.

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	Student Count	75-79	71-74	70	68-69	65-67	61-64	60	58-59	50-57	48-49	40-47	39 or less
Administrative Law	253	1	20	28	29	63	82	10	7	9		2	
Contract	278		12	18	27	89	71	14	7	30	1	2	1
European Union Law	260		2	25	20	80	77	13	5	56		6	
Jurisprudence	254		17	20	11	73	78	29	12	14			
Land Law	254		18	30	15	57	81	15	13	21		4	
Tort	271		13	32	22	99	62	11	12	17		2	
Trusts	258		3	16	8	44	95	29	24	29	2	7	1
Advanced Criminal Law	31		2	7	8	11	3						
Civil Dispute Resolution	26			8	5	7	5			1			
Commercial Law	26		2	3	2	8	7	3		1			
Company Law	2				1		1						
Comparative Law	16		1	3	4	5	2		1				
Competition Law and Policy	24		1	4	3	10	4			1		1	
Constitutional Law	6		1			2	3						
Copyright, Trade Marks and Allied Rights	3					1	1			1			
Criminal Law	7				2	4				1			
Criminology & Criminal Justice	19		1	3	3	11			1				
Dissertation	13		2	3	2	6							
Environmental Law	16		2			7	7						

## FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

	Student Count	75-79	71-74	70	68-69	65-67	61-64	60	58-59	50-57	48-49	40-47	39 or less
Family Law	39		1	9	5	15	8	1					
History of English Law	8		2	1	1	3	1						
Human Rights Law	17		1	3	4	4	4			1			
International Trade	21		2	4	3	9	2			1			
Employment Law	21		2	3	2	5	6	1	1				
Media Law	5			1	1		1		1	1			
Medical Law and Ethics	88		7	15	8	45	13						
Moral and Political Philosophy	17		2	3	3	5	4						
Personal Property	18		3	2	1	5	5	1		1			
Public International Law	42		5	8	4	12	9	3			1		
PIL Jessup Moot	5		5										
Roman Law (Delict)	5		1	1	2		1						
Taxation Law	36		4	5	5	13	7	1	1				
Succession Law	17		1	5	4	6	1						

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## D. COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

### ADMINISTRATIVE LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

This Administrative Law examination asked under what conditions the High Court should give permission to apply for judicial review (Qu.1(a)). It was not a trick question, but most who answered it underperformed significantly, by treating it as if it asked under what conditions a claimant has standing (standing is only one of the various conditions for permission to apply for judicial review). Those candidates attained a lower mark than they could have attained, simply because they did not answer the question. It seems that they had revised standing (an overly popular revision topic), and were determined to write about it, instead of answering the question. We mention this as a reminder that every single candidate can attain a higher mark by answering the question set.

Conversely, candidates received first-class marks when they focused on the questions, and gave a good defence of their own response to the difficulties they raise. To excel at an examination like this one (and at FHS exams in general), it is not a bad strategy to focus very deliberately on the terms of the question.

### ADVANCED CRIMINAL LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The paper continues to be popular with undergraduates, again with more than 30 candidates sitting the exam this year. There were 7 questions on the exam, done in the "submission" format. Candidates were forced to sit the five-day exam over seven days. This form of assessment, open-book with a five-day time period to complete the examination, and Turnitin review of the scripts submitted online, was designed to allow the candidates to engage more deeply with the material. By and large this hope continues to be realised, with generally solid answers submitted by candidates. There were no breaches of rubric, though any candidates who did not fulfil the terms of the question, such as by not focusing on the topic or topics requested, were not rewarded. Better answers involved considering multiple stages of the construction and application of liability, and where the law imposed its more characteristic or important requirements in each field.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

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In Part A, candidates this year were even better prepared than in previous years, with consistently strong steps to define the question's terms and deploy a coherent argument to address them. This was a question which, even more than many others, required careful consideration of the terms used. What the criminal law does "best" could be taken in different directions, and perhaps in different terms to "poorly": some candidates did reflect on the possible ranges of meaning and were rewarded. Candidates who attempted to artificially constrain the question, purportedly to achieve depth by not covering the full range of issues, did not do as well. Candidates do not have the power to narrow a question to make their answers more manageable. Similarly candidates who used the question as an opportunity to engage with only one or two parts of the course, and in particular to use the same material in Part A as they used in Part B, were not able to demonstrate what the course needed as easily as others. Part A gives the space for wide review of the whole materials available, arranged as a persuasive answer to a difficult and cross-cutting question. It will normally best be answered by reference to multiple examples from Part B topics, as well as a serious engagement with underlying issues covered in other seminars.

In Part B, questions largely tracked the key topics from the seminar and lecture pairings. The most popular were the questions on Violence against Women, Hate Crime, Terrorism and Sexual Offences. Candidates needed to present a complete picture of the issues, and too many focused only on one perspective without considering its limitations. That was particularly a problem with some answers on Violence against Women and Hate Crime. Candidates were too easily polemical, without fully addressing the question, and with only references views that they thought agreed with their argument, rather than any other positions. The question itself for Violence against Women contained the opportunity to consider how theory changes over time, and that equality has many dimensions. The Terrorism question pushed candidates to think about what "legitimate interests" were, and the theoretical literature on whether policing is simply a "zero sum game" of security against liberty. The sexual offences question also led to some good answers, but some candidates did not engage deeply with how to classify different wrongs, or the potential comparisons with other areas of law and how a ladder of offences is or could be applied there but amongst the better answers, some nice points about fair labelling were made. There were also some candidates who answered the question on criminal procedure, and that tended to generate some interested answers.

### CIVIL DISPUTE RESOLUTION

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

N/A

### COMMERCIAL LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Once again, the Commercial Law candidates did well, although (as with last year) there were few truly outstanding scripts. Many scripts ended up overall with mid-to-high Upper

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Second Class marks. A common theme across the papers was that 2 or 3 questions were answered very strongly, but 1 or 2 others were addressed less convincingly. It is not clear if this is a time management issue, or a failure on the part of the candidates to revise as many topics on the course as they should have, but it is possible that both factors have played a part. As usual, most candidates answered problem questions rather than essays. With respect to the essays, the general rule was that the more acutely the candidate addressed the specific question asked, and the more specific examples from case law they could call upon to make their points, the better they did. When it comes to the problem question answers, the higher marks were awarded to the candidates who were systematic in their approach to the material, who went step-by-step through the issues, and who trusted their instincts with respect to what the relevant rules of law to be applied were (rather than overcomplicating things).

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: No candidates answered this question.

Qu.2: Only four candidates answered this question, so it would be inappropriate to comment about what good/bad answers contained. However, it is worth stating that the examiners expected a reasonable division of words between the 'is' question and the 'ought' question. They also expected that one or two general theories of what lies behind the nemo dat exceptions (e.g. consent (whether deemed or actual) or agency/estoppel) would be identified and critically engaged with.

Qu.3: Only four candidates answered this question, so it would be inappropriate to comment about what good/bad answers contained. However, it is worth stating that the examiners expected a sharp distinction between statutory and equitable assignment to be set out, and for all three of the options: transfer, trust, and something else, to be given appropriate weight/analysis.

Qu.4: This was the most popular essay question. Good answers distinguished between ostensible authority, the sort of authority in *First Energy*, and the sort of authority in *Watteau*. Good answers identified that the common explanation of ostensible authority is that it involves estoppel and so made clear that the need for a representation by a principal might well be rightly considered central. Excellent answers said that some accounts of the law of ostensible authority, such as Krebs' account, do not involve estoppel and so – if correct – would lead to a very different response to the question. Good answers also looked at *Tettenborn's* explanation of *Watteau* (as a different type of estoppel case) and its endorsement in *Lease Management Services v Purnell*. Weaker answers merely described the law on ostensible authority and *Watteau*, offering only vague and/or irrelevant criticisms of it.

Qu.5: Only four candidates answered this question, so it would be inappropriate to comment about what good/bad answers contained. However, it is worth stating that the examiners expected to see several issues around the function of s20A to be identified. These might have included problems with the definition of 'bulk' (especially in relation to sales of generic goods contained in multiple different spaces), the passing of risk, and the reduction of the bulk including in cases of, e.g., theft, which seems – controversially – to prejudice the seller at the expense of the buyer(s).

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Qu.6: This question was very popular, but only a few candidates answered it really well. With respect to the Paternoster, most missed the significance of the ROT clause, which rendered TickTock a buyer in possession. Hardly any answers at all considered if TT's repair of the watch impacted the application of the ROT clause to the facts of the case. The ROT clause meant that the basic rule when A bought the watch was *nemo dat*. He may have had a defence under s25... but he returned the watch to TT. The question then would be whether C had a defence against the executors... not whether C had a defence against A. The Nabucco raised a fairly obvious *nemo dat* point. The Sunbeam raised, first of all, a question of void/voidable. Good candidates cited *Ingram v Little*, *Said v Butt* and cases like *Cundy/Shogun*, and said that whether or not there was a contract would be decided by evidence of/presumptions as to the seller's intentions. If there was a contract, albeit it was voidable for misrepresentation, the question would then have been if it was avoided in time (a la Caldwell). Here it seems unlikely, so there would be a s23 defence.

Qu.7: This question was also very popular, and many candidates answered it well. The highest marks went to the candidates who picked up the most nuanced points of fact and realised what legal issues they raised. The cricket bats were included to examine the candidates' understanding of *Federspiel v Twigg*. Property in the bats in the box physically picked up by Georgia would surely have passed to her, but property in the bats in the other box would not have. Property in those bats will have passed to Kelli. (K will therefore have committed conversion when she took the box from G!) The rugby balls were just specific goods (s18 r1). The tennis balls confused people, and a number of candidates suffered for seeking to work out whether property had passed by working backwards rather than forwards through the facts. Working backwards, candidates thought that Hector and Julian would both be co-owners under s20A. Working forwards, candidates determined that property in the 40 balls which existed at the time that H contracted with Fahad would probably have passed to Hector under s18, r5(3) (or, if not, at common law) as some form of ascertainment by exhaustion. That would mean that *vis-à-vis* Julian, Fahad would have to be a seller in possession (or *nemo dat* would apply) and that, when it comes to the fire, risk would have passed to Hector (s 20).

Qu.8: This was a question about actual authority and ratification. Unfortunately, many candidates thought it was about – perhaps expected it to be? – ostensible authority and *First Energy*. In future years, students would do well to recall that all forms of authority are examinable. Part 1 involved an (actually) unauthorized act and ratification. No question of ostensible authority arose. If ratification was possible then there would have been a contract for the sale of specific goods (s18 r1). The counterfactual at the end brought in a bar to ratification (the sale to a (presumably) bona fide third party). If ratification is barred, there would be no sale to W. Some students thought there was a s24 issue here. But there wouldn't be, if there was no sale to W, G would still have title to give P. In Part 2, M has no actual authority. Further, Q knows M has no actual authority. Subject to cases like *First Energy*, then, there is no possibility of apparent authority coming in: *The Ocean Frost*. Q's knowledge of the real situation is fatal to the possibility of apparent authority. The question is whether, as a result of the call to P (answered by S), M had her actual authority expanded... we must therefore wonder if S was authorised (by P(?)) to give P's consent. We must also wonder what S's comment to M meant. Here, it seems unlikely that S, as a mere secretary, would have had authority to expand the scope of M's actual authority. Indeed, it seems that that power is specifically reserved for P alone. Further, it is not clear S even tried to expand the scope of M's actual authority. As a result, it seems like there is no W-Q contract. Part 3 involved a transaction which was meant to look like that in *Watteau v Fenwick*, but, of course, *W v F* doesn't create a contract for P against TP. It merely gives TP rights against P... so TP has no cause of action against O here...

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Really, the question is whether P can ratify N's act. N was an undisclosed agent, and so ratification is impossible: *Keighley, Maxted v Durant*.

Qu.9: Charge over tool making equipment is called a fixed charge, but a huge measure of control lies with the chargor. Insofar as the parties deliberately call it a fixed charge, it's a sham. Ultimately, it's a floating charge. Charge over stock in trade is not a sham (in the above terms), but it will still be characterised as a floating charge because of the 'pre-consent' clause. The strongest candidates used this bit of the question as a chance to show off their knowledge of the law in this area, and to bring up, then dismiss, the *Avanti* case). Floating charge in favour of U: the question here is, as per *Automatic Bottlemakers*, whether the creation of a floating charge over a sub-class of receivables already subject to a general floating charge is within the ordinary course of business of the chargor. We don't really know, so the candidates had to set out both options. Considerable credit was given to those candidates who went into good detail here. The dealings with *Hepax* were trying to raise seller in possession, as it applies to 'any sale, pledge, or other disposition'. If thought of as an attempted charge, there could be trouble here because, of course, there is no 'delivery' of the charged assets here. If there isn't such delivery, it would be *nemo dat*. Of course, the delivery of the key might be so-called symbolic delivery, or it could have given constructive possession for the purposes of a pledge. The strongest candidates spotted the issue and went through the options.

Qu.10: The 1st ROT clause: the question is whether this clause covers products. The use of agency language is designed to give the candidates reason to say yes... as per *Romalpa*. The introduction of the idea that a declaration is necessary, and the use of the word 'secure', is designed to give them reasons to say no... as there seems to be a grant of an interest under a trust for the purposes of security... and faces re-characterisation. Credit went to candidates who looked in detail at the actual wording used. The second ROT clause: The first sentence here is obviously meaningless. But the second might well be sufficient to cause legal title to remain in the seller. The third is clearly going to be read as an attempt to make an equitable charge. Again, credit went to candidates who looked in detail at the actual wording used. *HW's* three late transactions: The dye: *nemo dat*. The dealings with the receivables: The idea here is that lawyers should spot that the notice of the equitable assignment given before the statutory assignment for value means that the equitable assignee gets priority: *Compaq Computers*. However, the statutory assignment for value of contractual rights held on trust \*will\*, assuming the assignee is in good faith, be sufficient to give the statutory assignee priority.

### COMPARATIVE LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The Part A questions were, in sequences for HT and TT, about the necessary (?) role of legal history in comparative law and the limits of comparative law can teach us. Each was designed to cover themes that ran through the course, as well as the special topics which had interspersed the core topics that made up the material examined in Part B. Some of the best answers engaged with (a) what "necessary" might mean, and what legal history



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was, as well as what comparative law was and could be; and (b) what the limits of law were, as much as what the limits of comparative law within that were. Candidates did best when they surveyed the whole course and found the best examples from the material covered, and built on that evidence base to make balanced arguments.

The Part B questions across HT and TT spanned the core parts of the course, tort, property, contract, and unjust enrichment, asking a range of questions about parts of the course, where answers were expected from at least two legal systems. Classic formulations are about finding differences and similarities and explaining them (e.g., TT, Qu.5, in respect of contract law) and probing how lawyers think about the law, and why (e.g., HT, Qu.2). In all cases candidates did best when they were able to analyse the question and display a clear approach in the answer, describe concisely, explain with nuance, and engage with as little contamination as possible from one's own system on the content of other legal systems. Overall the contract law questions were particularly popular, but there were very interesting answers on unjust enrichment and on nuisance/servitudes.

### COMPETITION LAW AND POLICY

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The paper comprised eight questions of which four were essay questions and four problem questions. Candidates were asked to answer three questions, including at least one problem question.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The first essay question considered the goals of competition law. The second essay question explored the distinction between "by-object" and "by-effect" restrictions of competition. The third essay question considered the use of the 'as-efficient-competitor' principle in Article 102 TFEU. The fourth essay question addressed competition in digital markets.

Problem questions focused on the application of Article 101 TFEU, Article 102 TFEU, the European Merger Regulation, and the enforcement of competition law, with significant crossover in all four of the questions. Question five contained a multitude of issues including the extraterritorial application of the law, potential restrictions under Article 102 TFEU, as well substantive and procedural matters under the EUMR. Question six similarly cut across several areas of law touching on extraterritoriality, potential violations under the EUMR, abuses of dominance, potential collusive behaviour, and the lawfulness of inspection carried out by the European Commission. Question seven probed candidates' ability to assess vertical restrictions under Article 101 TFEU, as well as potential abuses under Article 102 TFEU, in dynamic online markets. Question eight mainly touched upon potentially problematic coordination and other horizontal restraints under Article 101 TFEU between competitors in a tight oligopolistic market. Candidates were also tested on their ability to properly assess joint ventures (i.e. full functionality under the EUMR, or

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cooperative agreement under Article 101 TFEU), as well as to assess the potential application of leniency under EU law.

Twenty-four candidates took the examination. Overall, the scripts showed good command of the subject and good analytical skills. The average mark was 65.7% with five candidates (20%) achieving First Class Honours. As in previous years, candidates generally chose both essay and problem questions, although there was again a clear preference for the latter (ie two, sometimes even three problem questions). First Class answers displayed an excellent grasp of the underlying material, evidenced by references to case law and commentary, combined with robust analytical engagement and creative reasoning. Weaker answers tended to miss important substantive issues, engage in perfunctory analysis or misrepresent the relevant case law.

### CONSTITUTIONAL LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

### CONTRACT LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The paper was generally well done, with a good number of excellent scripts and just a few weak ones. The main reason for low marks was, again, that candidates failed to answer the required number of questions or only completed some questions in note form.

Amongst the essays, questions 2, 3 and 6 were particularly popular, while question 4 attracted very few answers (which was surprising).

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1 (objective interpretation of contracts) required a discussion of the notion of agreement in an objective and subjective sense. Most answers confined themselves to an analysis of 'offer and acceptance mistakes', while stronger answers also examined the question if subjective intentions can, after *Arnold v Britten*, ever override objective agreement.

Qu.2 (implied terms) was designed to provoke a discussion of *Barton v Morris*, but a significant minority of those answering it seemed to be wholly unaware of that case. This indicates over-reliance on contract textbooks (which would not yet have been updated to include a discussion of such a recent case).

Qu.3 (binding effect of promises) invited the discussion of a quote by Denning J (as he then was) in the *High Trees* case. Unfortunately, many candidates saw the name of the

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case and jumped to the conclusion that the question was exclusively about estoppel. It would have been better to 'dissect' the quote and ask to what extent it was of universal applicability, thus enabling the answer to address more foundational questions relating to the interests protected by the law of contract, and the reasons why promises are enforced in the first place.

Qu.4 (mistake and misrepresentation) was admittedly very long in that it set out a provision of the UNIDROIT Principles of International Commercial Contracts 2016 and invited candidates to critically compare this with the current English law on mistake. The length of the question may have put many candidates off, but in fact it was an advantage, providing candidates with a ready-made structure for their answers. The very few candidates that attempted it accordingly tended to do well.

Qu.5 (unfair bargains in a consumer and non-consumer context) was also quite unpopular. It invited a discussion of the extent to which freedom of contract is and should be circumscribed in the two different contexts. Answers tended to be quite superficial, examining the Unfair Contract Terms Act 1977 and comparing and contrasting it with the (more comprehensive) protection afforded by the Consumer Rights Act 2015. Very few engaged with the question if and to what extent considerations of fairness or justice should ever have a role to play in enforcing contractual agreements.

Qu.6 (consideration in contract variation) was a standard *Williams v Roffey* question. There were many good answers, but on the whole, these were somewhat pedestrian. Only a minority asked what the role of consideration, both generally and in the context of variation, is or should be.

Qu.7 (reliance and expectation damages) could have been answered by discussing foundational questions relating to the purposes of contract law; however, most candidates confined themselves to discussing the standard cases on the expectation and reliance interest. Key to the question was an appreciation that reliance damages are subject to an expectation 'ceiling', and candidates who failed to realise this tended to do poorly.

Amongst the problems, none of the questions was notably more or less popular than the others. The best answers set out their advice to the named parties very clearly and systematically, starting by setting out the parties' goals and potential causes of action, justifying each step of the analysis with appropriate authorities which were well discussed to explain their direct or analogical application, and drawing attention to any points on which the answer was arguable rather than clear.

Regrettably, many answers neglected to address remedies at all or in sufficient detail, and it was somewhat concerning that the word 'rescission' was more often misspelled than spelled correctly!

Qu.8 (on offer and acceptance and unilateral mistake) was generally well done. The best answers carefully analysed and interpreted the parties' communications with each other and highlighted their significance for the contractual analysis. In part (a) of the question, the majority of candidates immediately jumped to the conclusion that this was a *Raffles* case and that it was impossible to find the 'correct' interpretation of the contract, thus rendering it void, failing to discuss the position should a court decide to interpret the contract to relate to the 'Pink Shrimp' stamp. In part (b), the best answers considered the different interpretations of the words '... we might have a deal' rather than simply concluding that this constituted a renewed invitation to treat, and then analysing the implications for the messaging app communications that followed. In part (c), a significant

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minority of candidates found it hard to deal with an identity mistake in a transaction that was both face-to-face and in writing, while a concerning proportion of answers failed to see that, whatever the effect of the mistake, the contract would have been voidable for misrepresentation and probably rescinded in good time if the case of *Car and Universal Finance v Caldwell* were followed.

Qu.9 (on undue influence, improvident bargains and consideration) was a popular question. Most candidates simply assumed that there was a 'relationship' between Don and Emilia and analysed it with a view to establishing whether it was one of 'trust and confidence', without engaging with issues relating to online 'influencers' and their fan base. Weaker answers did not see that the bank would only be affected by any undue influence (or improvident bargain) if it had (constructive) notice of this. Only very few candidates raised the possibility that the promise to support the podcast for two years might have been unsupported by consideration – most simply referenced Nestle and argued that, of however little value, a baseball cap and thermos flask were 'sufficient' consideration (when nothing in the question suggested that Don made the promise in order to acquire these objects).

Qu.10 (consumer rights, performance interest/specific performance, lawful act duress) required analysis of disparate areas of the syllabus and it was pleasing that it found many takers notwithstanding this. It required careful application of Parts 1 and 2 of the Consumer Rights Act 2015. Better answers discussed the type of contract (supply of goods, services, mixed contract) involved, the implied terms breached and Icare's potential remedies, as well as the correct construction and potential unfairness (s. 62 CRA) of the price variation clause. Only very few candidates considered Icare's possible remedies for Sunbeam's failure to plant any trees (which raised interesting questions relating to the performance interest, as well as specific performance). Very few candidates appreciated that the pressure put on Sunbeam by Helios might be the result of just the sort of 'manoeuvre' referred to in the majority opinion in *Times Travel*.

Qu.11 (interpretation, implication of terms, misrepresentation) was generally answered well, although it was a shame that most candidates, in analysing any claims by George against Egon, focused almost exclusively on misrepresentation rather than contractual interpretation. Those that did consider potential breach of contract claims tended to ask whether Egon's representations had been incorporated rather than discussing the (more plausible) argument that there was an implied term that Egon would be ordering enough batteries to make the investment worthwhile. Most candidates then went on to summarily dismiss any suggestion of an implied term that Anton would be given the chance to earn commission, citing the recent decision in *Barton v Morris*, without even raising the possibility that there might in fact be a breach of an implied term that George would, in dealing with Jeff, act in good faith vis-à-vis Anton (which is also expressly entertained in *Barton* but found not to have been breached on the facts of that case).

Qu.12 (frustration) was generally answered well, though only a minority of candidates appreciated that, if the withdrawal of the permit did not frustrate the contract, Warren's action for the price and potential damages claims might still be impacted by the fact that the contract would ultimately have been frustrated by the flooding of the parkland. Most candidates did a good job applying the provisions of the Law Reform (Frustrated Contracts) Act 1943 in working out the consequences of frustration.

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## COPYRIGHT, TRADE MARKS AND ALLIED RIGHTS

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

N/A

## CRIMINAL LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The FHS Criminal Law paper was sat by seven candidates. The paper consisted of seven essays in Part A, of which candidates had to do at least one, and four problem question in Part B, of which candidates had to do at least two, but in total to do four questions (unless DLS candidates).

Answers were generally of a good standard, addressing the question posed, drawing from appropriate authority and making reasonable argument. Higher marks were awarded for answers that were detailed and comprehensive in their treatment of the question. Better essays were those rich in case law, statute and commentary. Better problem questions were those that were fluent in the pertinent law, correctly identified all the issues arising and appreciated the need to delve more deeply into nuances, as they arose.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The most popular essay question was qu.6 - relating to the mens rea requirement in Sexual Offences. These answers tended to be well written and persuasive. They demonstrated an understanding of the previous law, the changes brought about by the 2003 Act, and cognate debates on this area.

Problem Questions:

The most popular problem questions were qu.8 and qu.9. Qu.8 required a consideration of conspiracy, ABH, Omissions, Murder and Loss of Control. Candidates should be aware of when and if Woollin discussion appropriately arises. Qu.9 required consideration of SOA and OAPA offences with particular attention to the issues of intoxication and Consent. Candidates who took the effort to work through these knotty issues were rewarded.

## CRIMINOLOGY AND CRIMINAL JUSTICE

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

18 candidates sat the exam for the Criminology and Criminal Justice option in 2024. A third of the exam papers were double marked including a good range of marks as well as

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borderline papers. The agreed marks ranged from 64% to 71%. Overall, the papers were of very good quality, demonstrating independent thinking as well as good engagement with the course material. Four candidates achieved First Class grades, and the vast majority of candidates achieved grades above 65%. It should be noted that these results are somewhat worse than last year's in which nine candidates achieved First Class grades. While there was a good distribution of the questions that candidates chose, the questions on policing (abolishing stop and search powers), immigration detention and on southern and indigenous criminology were particularly popular.

The examiners were impressed by the detailed engagement with the literature, cases and policies that many essays mastered (presumably this also owes to the fact that essays were written at home). We felt, however, that the accumulation of points and examples sometimes came at the expense of pursuing a more original and coherent line of argumentation. We are looking for thoughtful rather than lengthy essays and would encourage students to avoid the temptation of writing as much as possible.

Attendance at seminars was good this year and we hope this will be the same next year as the seminars are important occasions for developing and exchanging ideas and arguments.

Overall, this was a very engaged cohort, and we congratulate students on their excellent results.

### EMPLOYMENT LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

On the whole, this paper was answered to a high standard with most candidates displaying a sound knowledge of the legal rules and policy arguments. Some candidates were, however, let down by poor exam technique. While everyone managed to write the appropriate number of answers in the time allowed, there was a tendency among some candidates to write down everything they knew about a topic rather than focusing on the question set. This was particularly apparent in relation to qu.2 (worker), qu.7 (equal pay) and qu.9 (strike notices). These attracted some generic answers about employment status, discrimination law and industrial action law more generally. Some candidates also mistimed their answers by providing a lot of background information and context before turning to the question itself, another problem with several answers to qu.2.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

All the questions attracted at least one answer. We offer some specific comments on the more popular questions.

Qu.2: This question asked candidates to consider the 'worker' definition in Uber and IWGB ('Deliveroo'). All answers gave a good account of the Uber decision and commentary, but only the very best were able to give a clear explanation of the different contexts for the two

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decisions (Uber on the domestic 'limb b' worker definition, and IWGB on the ECHR concept of employment relationship).

Qu.4: A very popular question. Some candidates chose to focus on the intersections between working time and the NMW, which was legitimate, but not essential – broader answers were acceptable too.

Qu.8: All candidates showed a good knowledge of the ASLEF decision itself, and the underlying principles of freedom of association, but the best answers were able to offer a detailed critique of the statutory provisions on trade union membership which were the focus of the question.

### ENVIRONMENTAL LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

Candidates were offered a choice of ten questions, including nine essay questions and one problem question. The paper covered the full breadth of the course. All questions were answered. The most popular questions answered were question 1 concerning environmental principles, and question 5 concerning Aarhus. The least popular question was question 8 on air quality.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The overall quality of responses was good. Answers that achieved an Upper Second displayed a confident grasp of the material, directly answered the question and engaged with the relevant case law and legislation in sufficient depth. Excellent responses (i.e. First Class answers) demonstrated originality of thought, an ability to critically evaluate the relevant legal material and drew on themes from across the course to respond to the question asked. Less strong answers tended to describe a particular regime, or set out a generic explanation of a particular topic rather than answer the specific question asked.

Candidates are encouraged to draw on illustrative examples to build their points and to pay attention to the question. While tutorial essays can be useful as revision aids, they should not be replicated in response to exam questions. Candidates were demonstrably more comfortable discussing and critiquing legal reasoning in case law than legislation, and where they did evaluate legislative provisions the focus was usually on how it would be applied by courts rather than, say, the impacts it might have in policy formation for example.

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### EU LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

As in previous years, the exam covered all topics, as students have come to expect from past papers. Unlike last year, there was less evidence of 'cut and paste' answers, although there continue to be scripts that either disregard the question set or if attention is paid to the question, students write a predominantly descriptive answer.

As always, the most successful candidates engaged directly with the question set and used the introduction to set out their interpretation of it, their argument and evidence (case law and scholarship) to support it, and a summary of the conclusion.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

#### Question 1

This question was not the most popular but was nonetheless chosen by a good number of students. Answers were generally well written and structured, balancing arguments for and against a catalogue of competence. It was pleasing to see that some candidates took the opportunity to make concrete suggestions for improvement.

#### Question 2

This was one of the more popular questions and evoked strongly opinionated essays. It was interesting to note that those who did answer it took very different positions on the question. Some offered original analyses demonstrating an ability for mature and independent thought. Some discussions focused more on supremacy than integration but most discussed both aspects.

#### Question 3

This was one the most popular questions on the paper. Students are drawn to the topic of direct effect. Some answers were superficial and predominantly descriptive but on the whole these were good answers; students identified the key issues and were able to make a persuasive argument, either agreeing or disagreeing with the proposition in the question.

#### Question 4

This question was popular but answers were not always well considered. Some were primarily descriptive and lacking both argument and analysis. However other candidates engaged fully with the question, and seemed to enjoy the opportunity to decide for themselves the key purpose of Art 51(1) and identify material to use to conclude whether it is fit for purpose. It seems that students who tackled this question enjoyed the ability to craft the contours of their own argument.

#### Question 5

Preliminary rulings remain an essential part of the EU law, retaining its important role in bringing cases to the CJEU. Students enjoyed reflecting on and engaging with the procedural aspects of Art 267. It is a popular topic and while not amongst the most popular



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questions, it attracted a good number of students. Not all fully took up the challenge of the specific angle in the question - what it means for a justice system to be accessible – but simply ran through the standard case law.

### Question 6

Along with Questions 3 & 7, this was one of the most popular questions on the paper. Direct access to the CJEU is an area that was reformed by the Lisbon Treaty but it is slowly becoming clear that the reform did not go far enough. Students appreciate the problems of direct access for individual applicants and for the EU legal system as a whole: many reflected on the implications of the obstacles to access to justice as undermining democratic legitimacy. Some candidates took the opportunity to be imaginative in their answers and suggest alternatives.

### Question 7

A popular question that tended to be well answered. As a popular topic some answers simply rehearsed the standard case law in a traditional 3-part essay structure. However, some students took the opportunity to develop a nuanced argument and it was pleasing to see that there were a few outstanding essays which approached this question with a sophisticated analysis.

### Question 8

This was the least popular question on the paper, and the least well done. Students struggled to recognise that the question was asking them to consider the way in which economically active and economically inactive migrants are treated under EU law. Nonetheless a few answers to this question were focused, detailed and well evidenced.

### Question 9

Of the two problem questions, more students chose this one on free movement of goods than free movement of persons. It was generally well answered, with most demonstrating an understanding of the key principles, although some answers overlooked important aspects, such as the difference between an QR and MEQR. Good answers took the time to carefully consider each element and any relevant justification as well as proportionality.

### Question 10

The question on free movement of persons was less popular. Those who answered it demonstrated a good technical understanding but were not always able to apply the rules to the facts. Some key issues in the scenarios were overlooked in some answers eg. eg the derogations, Art 27 CD

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### FAMILY LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The Family Law paper was generally answered well. Most candidates gave answers that were careful to respond to the precise question, and there appeared to be fewer pre-prepared answers than in recent years. Many scripts demonstrated strong, detailed knowledge of the case law and thoughtful reflection on the academic literature. Some weaker answers were less secure in the detail of the law, particularly the law on parenthood.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1 (domestic abuse): This was a popular question and was generally done well. Most answers demonstrated good knowledge of the Domestic Abuse Act 2021, the relevant academic literature and the political debates that surrounded the definition of domestic abuse. Almost all candidates addressed the question of whether the gender-neutral definition was workable. Candidates also considered other facets of the question, including the recognition of child victims in section 3 of the Act, and difficulties of proof.

Qu.2 (divorce law): Answers to this question tended to give good accounts of both the substantive and procedural changes to the law on divorce. Most candidates reflected on the background to the reforms, including the decision in *Owens v Owens*, with many querying the extent to which the previous law could be seen as a form of moral judgment. The best answers situated this reform within wider changes in the regulation of adult relationships and questioned whether morality had any legitimate place within this area of law.

Qu.3 (family justice system): This was a broad question that offered candidates scope to develop their own views on the goals of the family justice system. Relatively few candidates chose to answer this question but those that did were generally very strong. The nature of the question meant that the answers were very diverse, but all took care to reflect on the operation of the 'family justice system' rather than simply confining the answer to the black letter law.

Qu.4 (welfare/section 8 Children Act 1989): This was a popular question. Good answers considered what was required to 'sufficiently prioritise children's welfare' before turning to the extent to which this was achieved in practice. Many candidates chose to focus on child arrangements orders in the context of domestic abuse allegations or parental alienation. Many of these answers displayed very detailed knowledge and this knowledge was often used effectively to reflect on the question asked. Some weaker answers simply discussed the case law on child arrangements orders, with little express consideration of the precise question.

Qu.5 (form/function-based regulation): Good answers to this question gave close analysis to the meaning of 'function-based' regulation and the extent to which it could form the primary, or sole, means of regulating intimate adult relationships. Candidates generally had good knowledge of the literature and of proposals for change, including the report of the House of Commons' Women and Equalities Committee.

Qu.6 (financial provision): This was a topical and moderately popular question. Most answers were based on a good knowledge of the current law and the critical literature. The majority of candidates concluded that the current law failed to provide fair and sufficiently

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certain outcomes. The best answers considered how 'fairness' and 'sufficient certainty' should be assessed, and whether the two aims were in tension with one another. Weaker answers gave a general account of the law on financial provision, with little careful attention to the terms of the question.

Qu.7 (child protection): This question was closely focused on the threshold criteria and the complex case law concerning its interpretation and application. There were some very good answers that combined detailed analysis of that case law, with discussion of the role of the threshold. The strongest answers considered the place of s31 Children Act 1989 within the wider context of children's public law and used this to assess whether the 'obstacle' was warranted.

Qu.8 (Gillick): This question received relatively few answers but those that it did receive were generally very good. Strong answers paid close attention to the claims made by Lord Scarman, giving detailed analysis of the claim that parental rights are necessarily founded on parental duty and of the limitations of those rights. These answers were well-versed in the academic debates and included illuminating discussion of cases such as *Gard*, *Raqeeb* and *Re D (A Child)*. There were a small number of weaker answers that gave a general discussion of the nature of parenthood, without assessing the specific claims in the question.

Qu.9 (parenthood/parental responsibility): The answers to this question were rather mixed. There were some good answers, which were based on a solid understanding of the legal concepts of parenthood and parental responsibility with thoughtful consideration of their functions. Some of the weaker answers seemed unsure of the consequences of legal parenthood. These answers often equated genetic parenthood with legal parenthood, without reflecting the diversity of routes to legal parenthood.

### FEMINIST PERSPECTIVES

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The candidates acquitted themselves well in Feminist Perspectives, with many achieving First Class results.

Qu.1: The question was not very popular.

Qu.2: This was a relatively popular question. The best answers used examples from the law analytically rather than descriptively, tying them closely to theoretical points made.

Qu.3: This was a popular question. The best answers used examples from the law analytically rather than descriptively, tying them closely to theoretical points made.

Qu.4: This was generally well answered, with candidates offering a range of approaches that delved into the nuances of the question. The best answers drew out different aspects of reproduction and considered the question of gender specifically in relation to those areas, enabling them to offer comparative discussion and detailed exploration of the issues.

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Qu.5: This was not a very popular question so general conclusions cannot be drawn.

Qu.6: This was not a very popular question.

Qu.7: There were not many takers for this question. The better answers showed a very good grasp of relevant doctrine (in UK and EU law), but also commented on challenges of enforcement.

Qu.8: The best answers showed good understanding of what 'due diligence' means and the relevant body of law, but also incorporated general theoretical writings on intersectionality and even proposed what the incorporation of it might look like.

Qu.9: The best answers showed good understanding of the cases and doctrine of international refugee law, but also incorporated analysis of what the term 'racialised and gendered body' means, using general theoretical writings.

Qu.10: Not a very popular question.

Qu.11: Candidates submitted thoughtful and thought-provoking answers. The best work drew on the theoretical and conceptual parts of the course, integrating these with legal analysis in the context of public space.

### HISTORY OF ENGLISH LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The submitted essays were, generally, of a high standard. The best answers were carefully constructed and contained rigorous and cogent arguments which were supported by a wide range of primary and secondary sources. Due to the small number of candidates, it is not possible to make any further comments on the content of the scripts. The most popular questions related to trespass on the case, misfeasance and non-feasance in assumpsit, consideration and the Statute of Uses but the examiners were pleased to see that students' interests ranged across all topics on the course: indeed, all but one of the eight questions attracted answers.

### HUMAN RIGHTS LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

17 candidates sat the FHS Human Rights Law paper, of whom 2 were taking the DLS. 4 received First Class marks overall; 12 Upper Second Class marks overall; and 1 Lower Second Class marks overall. The level of performance was on the whole strong. Candidates generally demonstrated a firm understanding of the relevant case law, particularly that of the European Court of Human Rights and domestic courts, as well the wider theoretical issues concerning particular substantive rights, and domestic and regional systems of rights enforcement. The best scripts combined doctrinal detail with judicious use of the secondary literature and a keen eye on the specific wording of the

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question. Less successful scripts were not as detailed or accurate, or did not focus squarely on the question set. In the latter cases, it sometimes appeared that candidates were redeploying, with minimal amendment, prepared analyses on topics that were adjacent to but nevertheless distinct from those they were asked to discuss. Those who were careful to analyse the question as worded fared considerably better.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: This question required candidates to consider whether the Human Rights Act 1998 had limited or stimulated developments in common law human rights protections. Unfortunately, most candidates did not focus on this, instead writing on related but different questions such as the relationship between domestic courts and Strasbourg in the interpretation of Convention rights.

Qu.2: This question produced able and well-informed answers on the extra-territorial application of human rights law. The best answers used recent examples and scholarship to discuss specific issues pertaining to military and security operations, while less strong answers were directed to the more general question of extra-territoriality.

Qu.3: Candidates answered well on proportionality, integrating cases from across the course along with scrutiny of theorists sceptical of the test. The strongest scripts considered and distinguished 'structure' and 'objectivity'.

Qu.4: There were a number of excellent answers to this question on the margin of appreciation, which showed a strong understanding of the Strasbourg Court's case law as well as a willingness to critique it. Some less successful scripts considered the approach to the margin in general, rather than in the context of determining its breadth, and some only briefly discussed the second part of the question, which concerned whether the court's approach was defensible.

Qu.5: Answers to this question, which concerned the putative tendency to treat qualified rights as absolute in practice, were mixed. Most were grounded solidly in relevant authorities. The best interrogated the distinction between this tendency being 'understandable' and 'justifiable' by both giving an explanation for the practice and subjecting it to normative critique.

Qu.6: Answers to this question were also mixed. Almost all answers showed a strong grip of the European Court of Human Rights' privacy jurisprudence, and most also demonstrated an awareness of theoretical frameworks articulating different conceptions of privacy. Not all answers, however, succeeded fully in using the theoretical frameworks to shed light on the Court's case law.

Qu.7: This produced interesting and creative answers, some of which were exceptional, articulating different possible understandings of dignity and showing how these understandings had or had not been given effect in the European Court of Human Rights' Article 9 jurisprudence. Weaker answers paid little attention to dignity as a critical lens on this case law.

Qu.8: Several candidates produced well-informed and persuasive critiques of the Strasbourg court's freedom of expression jurisprudence but not all paid close attention to the question. This required candidates to assess whether an overly limited view of

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freedom of expression could be explained by the qualifications set out in Article 10 ECHR itself. Stronger scripts considered this possible explanation against others in accounting for developments in the jurisprudence.

Qu.9: The quotation from *Thlimmenos* gave candidates a degree of freedom to discuss what was important about the case and the propositions articulated in the question. Some candidates produced less focused discussions which considered indirect discrimination quite broadly. The strongest answers explained the decision in *Thlimmenos* precisely, situated it as part of a conceptual shift in discrimination law, and assessed how the idea of indirect discrimination had developed in other cases.

Qu.10: This question was not answered by any candidate.

### INTERNATIONAL TRADE

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

There were 21 candidates for the paper in International Trade. The breakdown in marks awarded was: (i) 70+, 5 candidates (23.8% of scripts); (ii) 60-69, 15 (71.4%); (iii) 50-59, 1 (4.76%). The average mark was around 67. The overall standard was high, in what was a slightly larger cohort than is usual for this paper.

As is often the case, most candidates preferred to answer more than the obligatory two problem questions. There were no attempts at the essay on incorporation (qu.4), nor qu.8, a problem question which was in two parts but was predominantly concerned with questions of title and the passing of property.

Of the remaining questions, answers were fairly widely spread, but the essay on repudiatory breach in the context of the contract of carriage (qu.1) was marginally the most popular, as was problem question no.9 which was mainly concerned with claims under the contract of carriage and the effect of statements in the bills of lading.

In addition to the five marks of 70+, there was a high number of marks in the high 60s. What tended to differentiate the former from the latter, was a wider perspective in the essays attempted, and an ability to identify some of the less 'obvious' issues in the problem questions. The following are no more than examples: (i) the essay on repudiatory breach (qu.1) was set in the context of the contract of carriage generally, but some answers focused either solely, or predominantly on deviation; even if done well, they did not attract the same very high marks as answers which were both well written, but also went beyond deviation; (ii) some answers to qu.5 (essay on risk and the scope of the decision in *Volcafe*) failed to address the decision in *The Lady M* and its relationship with the *Volcafe* case; (iii) in qu.6, the best of the answers saw the possibility of running a seaworthiness/cargoworthiness argument, based on cases like *Stanton v Richardson* and *Kish v Taylor* argument; (iv) and in qu.10, the strongest answers queried whether the certificate of quality was a 'shipping document', given that it was not referred to in the contract.

The main weakness in answers which attracted lower marks was, as ever, largely the result of not paying sufficiently close attention to the question set. In the answers to the problems this occasionally led to entire issues being overlooked altogether. This was not,

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however, a widespread problem and the overall standard was, as stated, highly competent.

### JURISPRUDENCE

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

There were ten questions of which candidates were required to answer two. Questions 3, 4, 5, 6, 7 were amongst the most popular questions. Few candidates attempted questions 1, 8, 9, 10. There were some excellent scripts that showed nuance, careful attention to pertinent arguments in the literature, and acute attention to the question set. Overall the standard of scripts was reasonable.

If there was a general problem, it was a lack of attention to the particular terms of the question. For instance, despite the popularity of the question (qu.4), surprisingly few candidates spent time explaining what it might mean for the legal system to 'claim to represent legitimate authority'. In some cases, the answer addressed a different question: 'does the pervasive use of coercion undermine a legal system's legitimate authority'? Even then it was not entirely clear what it would mean for a legal system to have 'legitimate authority'. Candidates who spotted and examined these conceptual distinctions, drawing on the literature, were rewarded.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: This was not a popular question. It raised a question of jurisprudential methodology. Better answers contained discussion of arguments given in the literature on the relevance of moral, and evaluative considerations more generally, in giving an account of the nature of law.

Qu.2: There was a tendency for answers to this question to veer into a general discussion about the nature of adjudication, hard cases, and whether there are any gaps in the law, without tying that to the specific question, or not doing so in a plausible way. Not many candidates considered exactly what a 'precedent' and how, if at all, it binds later courts, nor did many consider the point that judicial decisions, in so far as they create law at all, do so precisely through the doctrine of precedent.

Qu.3: A very popular question. Better answers dwelt on whether it followed from the alleged compatibility of the rule of law with profound injustice that it did not guarantee 'any merit' in the legal system, with distinctions between different kinds of 'merit'.

Qu.4: Please see the general section above on this question.

Qu.5: This quotation asserted the claim that, necessarily, legal validity does not depend upon the 'desirability' of a norm. Not many answers were able to articulate clearly the motivations for this claim – for instance, Raz's detailed argument that a legal system's claim to authority implies this claim about legal validity. There was a tendency, in answers which

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rejected the claim, to focus mainly on establishing the truth of some version of 'inclusive' positivism, without considering why anyone would believe the claim in the first place.

Qu.6: A question about the permissible uses of law. The question focused on using the law to 'influence' people's conduct, and so it was useful to distinguish between different means by which the law can influence: e.g. by imposing duties, by making people liable to coercive intervention etc., and whether these different forms of influence should be subject to the same limits. Again, better answers did not simply assess Mill's or Raz's harm principle, but tied their analysis to the specific question.

Qu.7: This question asked whether the 'example that behaviour sets for others' can create an obligation to obey the law. Candidates tended to focus on fair play in this connection and whether others' compliance with the law could generate an obligation upon others to obey; some considered the different question of whether fair play generates a general obligation to obey the law. Not many candidates considered the more obvious idea referred to in the question: that one's own conduct in failing to obey a legal rule may cause or contribute towards others behaving in this way, and that this generates an obligation to obey.

Qu.8: This question required an analysis of what difference, if any, it might make to the permissibility of civil disobedience that one is living in a democracy, rather than the permissibility of civil disobedience in general.

### LAND LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The Land Law scripts were pleasing, with some excellent work. Strong answers demonstrated that they had thought about key issues in Land Law e.g., the role of equity in licences, the nature of the land registration system and the plausibility of the doctrine of proprietary estoppel. Confident arguments, evidenced by analysis of Land Law case law, statute and scholarly analyses, were rewarded.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: Candidates were rewarded for taking a position. Essays needed to consider the concept of ownership, which could include an analysis of numerous points, as well as a range of cases and scholars from across the syllabus. For instance, strong answers also considered the cases and scholarship on the nature of a freehold, a lease, or a right to exclusive possession, including concrete examples from cases as well as scholarly analysis. Some good answers also considered the nature of equity e.g., in relation to licences and what this might tell us about ownership.

Qu.2: This was a relatively narrow question on a complex topic. Candidates were not required to consider a large array of cases in order to do well. Strong answers took a position on this debate, analysing what this statement means for the statutory guarantee of title and whether Schedule 4 risks undermining the integrity of the register. Candidates considered the structure of the LRA 2002 re alteration and rectification (including particularly Schedule 4 – possibly with the implications in Schedule 8). Key cases for



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analysis included *Swift 1st Ltd v Chief Land Registrar*, *Nasrullah v Rashid*, *NRAM Ltd v Evans*, *Antoine v Barclays Bank* (under the current syllabus) and strong candidates made good use of scholarly analysis, for example from *Goymour* and *Cooper & Lees*.

Qu.3: Candidates who did well took a view on the question set and considered what, if any, alternative there might be for these types of cases (for instance in contract or in constructive trusts). Answers needed to consider the case law on proprietary estoppel in some depth including the relevance of context and the nature of the assurance, reliance and remedies. Good essays considered some, though not necessarily all, the tensions in the law on proprietary estoppel, including the nature of the required assurance, the effect of s.2 LP(MP)A 1989, the extent of the requirement for reliance as well as remedies and any effects on third parties. Some answers prioritised discussing how a proprietary estoppel equity is satisfied, and providing an extended analysis of *Guest v Guest*, over answering the question set; these did not do well.

Qu.4: Candidates who did well took a view on this question, rather than merely describing or summarizing the law. The question invited discussion of the distinction between public and private landlords with a critical assessment of the freeholder and leaseholder rights. Strong answers engaged with the caselaw carefully, particularly *Pinnock*, *Powell*, *McDonald* and *FJM* as well as considering scholarly analysis. Some strong answers also considered the A1P1 point in relation to *Simms*. Weaker answers relied too heavily on the lecture notes.

Qu.5: Again, strong answers took a view on the question, particularly the “in today’s world” aspect. Good answers drew both on knowledge of relevant scholarly contributions, and on familiarity with case law, including analysis of key cases such as *Powell v McFarlane*, *Moran*, *Pye v Graham* and *Zarb v Parry*. Strong answers noted the differences introduced by the LRA 2002, particularly the focus on boundary disputes if a counter-notice is served. To do well candidates needed to reflect on the difference in purpose(s) in unregistered and registered land (both under the LPA 1925 and LRA 2002). Analytical rather than descriptive answers scored most highly. Some good answers also considered the relevance of criminality e.g., *Best*, as well as *Nasrullah*, and/or the relevance of human rights (including A1P1 and *Pye v UK*).

Qu.6: Strong answers again took a normative approach to their analysis, considering cases on licences (including some but not necessarily all of, *Winter Garden Theatre*, *Twickenham Garden Developments*, *Verrall* and/or *King v David Allen*). Strong answers considered the complexities introduced in *Errington*, *Binions v Evans* and/or *Re Sharpe* before the (attempted) resolution in *Ashburn Anstalt v Arnold*, the reluctance demonstrated in *IDC v Clark* and the more modern approach taken in *Chaudhary v Yavuz*. Some good scripts also considered the rights of a licensee against trespassers and the relevance of the licensee being in and out of possession (e.g., *Manchester Airport v Dutton*) as well as scholarly analysis of that situation (e.g., *Swadling*).

Qu.7: This problem question on mortgages required some knowledge of the acquisition of a beneficial interest under a trust. Candidates needed to address the issue of equitable ownership relatively briefly given the strong indications of X’s beneficial interest. Some candidates were aware that in *Hudson v Hathway* the Court of Appeal confirmed that an email can, in some circumstances, serve as the signed writing required under s.53 of the LPA 1925.

Good answers explained that X’s equitable interest could be overriding in relation to *Worst Bank’s* charge (*Boland*, Sched 3, para 2) if accompanied by actual occupation, and

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discussed whether such occupation was present on the facts (noting e.g., *Link Lending Ltd v Bustard* re a home). However, an answer was clearly deficient if it discussed only X's beneficial interest, and its possible effect on a third party, without examining the mortgage issues.

On mortgages, strong answers showed good knowledge of the relevant law on possession and sale, including discussion of cases such as *Downsview* and/or *Silven* in relation to the relevance of Zander's hope that the house value would rise; and s.36 AJA 1970, s.8 AJA 1973, *Cheltenham & Gloucester BS v Norgan*, *Quennell v Maltby* and/or *Cheltenham & Gloucester BS v Krausz* in relation to resisting possession. Some strong answers also indicated rules and/or guidance which would apply to the mortgagees.

Qu.8: An extremely popular question, which was generally well done. Good answers demonstrated candidates' understanding of the key provisions on formalities and registration (s.2 of the LP(MP) Act 1989, ss.52, 54(2) LPA 1925 and ss.27, 29 and Sched 3 paras 1 and 2 LRA 2002). While many candidates noted that the arrangement between A&B would not comply with s.27(1), and thus considered the basis on which an equitable lease might arise, and Belinda's possible use of Sched 3, para 2, the remaining scenarios were rather more contingent and so credit was given whenever a sensible approach was taken. A number of candidates failed to identify that the agreement between A&C was not in writing and being for more than 3 years was void under s.2 of the LP(MP) Act 1989, the consequence of which was that no equitable lease could arise.

Candidates generally showed understanding of the concept of exclusive possession (though not all realised that the cleaner constituted the provision of services (*Street v Mountford*)) and the key cases of *Aslan v Murphy*, *Antoniades & AG Securities v Vaughan*, *Mikeover v Brady*, were cited regularly. In relation to G and H, the length of the arrangements were such that they would in any case have lapsed before 2024, but candidates were nonetheless given credit for their discussions of whether G and H had (either separately or jointly) a lease under those arrangements.

In relation to certainty of term for F, most candidates considered the key cases of *Prudential Assurance Co Ltd v London Residuary Body* and *Berrisford v Mexfield Housing Co-operative Ltd*; some were also able to discuss *Southward Housing Co-operative Ltd v Walker*, with the strongest answers taking a nuanced approach to its relationship with the UKSC case of *Berrisford*. Scholarly analysis on certainty of term (e.g. by Bright) could be used well; the strongest answers also showed awareness of the implications for registration and formalities should a 90-year term be found.

Qu.9: Another very popular question. There were three possible easements: (i) to use the East Estate playground; (ii) to park on the Good Estate; (iii) to use a right of way across the West Estate to the shops; though other analyses, if sensible, were not penalised. The easements could either be considered in turn (the approach taken by most candidates) or each element (characteristics, acquisition, registration) could be considered collectively.

In relation to the playground easement, good answers considered *Re Ellenborough Park* and *Regency Villas Ltd v Diamond Resorts Ltd* (including, sometimes, Lord Carnwath's dissent). They also discussed accommodation (*Hill v Tupper*, *Moody v Steggles* and/or *Polo Woods Foundation v Shelton-Agar* as well as *Re Ellenborough Park* and *Regency Villas Ltd v Diamond Resorts Ltd*). Stronger answers analysed the possibility of "step in" rights, noting the positive nature of electricity for the zip wire (considering *Rance v Elvin*). Occasionally candidates considered ouster here, though the easement was generally

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analysed in relation to parking.

On acquisition, strong answers saw the existence of the deed, noting formalities (s.52 LPA 1925) so that if the estate is sold to R, then M would need to have registered the easement (s.27(2)(d) LRA 2002). Some candidates made thoughtful points about whether this document was purporting to grant an easement or imposing a purely personal obligation on N.

In relation to the parking, almost all candidates considered whether parking is capable of being an easement, considering *Batchelor v Marlow*, *Moncrieff v Jamieson* and/or *Polo Woods Foundation v Shelton-Agar*. Strong answers considered the issue of ouster (e.g., *Miller v Emcer Products*) as well as the nature of the site. Few answers noted the subtle distinctions between Lord Scott and Lord Neuberger's approach in *Moncrieff*, nor the Law Commission's points re ouster.

Almost all candidates considered the effect of s.62 LPA in relation to acquisition and whether the parking was a right covered by the section. Although the lease does not mention a right to park, it was not explicitly excluded. Candidates generally noted the effect of the upgrade – citing *Wright v Macadam*. Some candidates were able to use academic criticism to assess potential arguments as to the application of s.62 on these facts.

The examiners were pleased that many candidates noted that M failed to reserve the claimed right of way and correctly distinguished the tests for implied reservation from the wider tests applying to implied grant.

Qu.10: This was not a particularly popular problem question, though it was generally well answered by those candidates that attempted it. Strong answers noted that as F&G are joint owners, *Rosset* is inapplicable at this stage, though *Stack v Dowden* and *Jones v Kernott* would be. On the facts, there was no mention of an express trust (*Goodman v Gallant*) or TR1 form. Some candidates thought that the language of 'beneficial joint tenants' indicated an express trust. This would depend on the facts, which were limited here.

Strong answers discussed severance (despite the limited discussion on this point in *Stack and Jones*). Given the time constraints, candidates generally identified some of the key severance cases. Some candidates discussed the possibility that the "all hers" statement and/or move to Australia was a severance by acting on one's own share or, alternatively, the possibility that the joint tenancy in equity was not severed so that survivorship left the equitable ownership entirely with G after F's death.

While it would seem that I might be able to acquire an interest under a common intention constructive trust by paying the mortgage – even on the more restrictive test in *Lloyds Bank v Rosset* – and possibly by building the loft extension (obiter in *Stack v Dowden*), good answers noted the difficulty raised by the fact that this conduct occurred after F's death: could it nonetheless be grounds for inferring a common intention which existed between I and F whilst F was alive? Some strong answers concluded that there can be no constructive trust on such facts and moved straight to equitable accounting. Other approaches, also taken in good answers, focused on quantification including the probable irrelevance of childcare (despite *Barnes v Phillips*) drawing on *Jones v Kernott*.

Strong answers also discussed ToLATA 1996 to resolve the dispute between G&I, esp ss.

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14 and 15, including *White v White* and/or *Bagum v Hafiz*.

To do well, candidates needed to discuss the occupation rent/equitable accounting point - ToLATA 1996 ss. 12, 13, *Stack v Dowden*, *Davis v Jackson* and *Ali v Khatib* (especially on G's leaving for Australia).

Qu.11: This was an extremely popular problem question with four possible covenants, one in relation to each of the four properties.

Strong answers considered whether, as L sold three of the houses, there was a possible building scheme as land laid out in defined plots before sale (*Elliston v Reacher*, *Re Dolphin's Conveyance* and/or *Emile Elias v Pine Groves*). Candidates also needed to note, however, that the houses were sold in different years, and subject to varying covenants, so that it is not clear that the parties purchased the properties on the basis that the restrictions would be mutually enforceable.

Good answers noted the possibility of original covenantees bringing claims, but also focused on the position of the specific parties with complaints, as set out in the question.

In relation to non-residential use of No 2, strong answers questioned not only whether the burden passes to P but also whether the benefit passed to O (particularly since the covenant was made "for the benefit of Lorna, her successors and assigns"). If candidates concluded that there is a building scheme, most then noted that this could be a means of allowing O the benefit of the restrictive covenant. Some weaker answers also wrongly assumed that a building scheme could also allow the burden of the positive covenant in relation to the boundary wall to bind P. Otherwise, however, the boundary wall issue was dealt with well, with discussion of the limits to the benefit/burden argument (*Thamesmead Town Ltd v Allotey*).

In relation to pets at No 3, good answers considered whether M could enforce, noting that when L made the covenant with O, M already owned No. 1, appreciating the effect of the Contracts (Rights of third Parties) Act 1999 s.1(1) and/or s.56 of the LPA 1925 (and the cases on this).

Some, but by no means all, candidates noted that, in relation to No 4, the fact that Q takes under a lease does not change the fact that the relevant obligation is contained in a freehold covenant, entered into between L&O.

Most good answers noted the lack of any mention of the entry of notices on the register in relation to restrictive covenants and the possible consequences of this for enforcement against third parties.

### MEDIA LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

N/A

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting

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and learning from (including suggested actions).

## MEDICAL LAW AND ETHICS

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The scripts for this year in Medical Law and Ethics were generally strong. The recent change in the form of questions (away from specifically asking candidates to address two topics) to give candidates discretion to decide how many topics to use worked well. Candidates used their answers to show a wide knowledge of the course material, without being shackled to a particular number of topics.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The strongest answers showed an excellent understanding of both the theoretical material and the legal material, with the strongest exploring the connections between the two in an insightful way. Quite a number of candidates were in the high Upper Second range. These scripts showed a good knowledge of the material, but did not use it with sufficient precision to address the question. Common errors were to talk generally around the subject area of the question, rather than to focus on the specific question asked or to write about the question, but not really get to the stage of making an argument which answered the question. It was pleasing to see there were only a few weak scripts. These tended to talk too vaguely about the law and ethics, and failed to show a careful attention to the readings or detailed appreciation of the arguments used by academics in making their claims. To obtain higher marks it is not enough just to summarize the view of a commentator: the candidate also needs to explain what arguments were used to justify their claim.

## MORAL AND POLITICAL PHILOSOPHY

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The work in this year's examination was generally of a high standard, including a few excellent scripts. As usual, the paper was divided into Part A (moral philosophy, 8 questions) and Part B (political philosophy, 4 questions). Candidates had to answer at least one question from each part, and this year all candidates chose two questions from Part A. Answers were spread over all of the questions, though amorality (qu.2), plural values (qu.6), and moral responsibility (qu.7) were less popular than the others. As previous reports have emphasised, the stronger answers were those that focused on the specific question set, and argued over its merits. The best essays were focused on the key issues, took a view on the question, and critically engaged with arguments for and against the candidates' preferred view. Weaker answers either provided a general exposition of the topic in issue, with only limited attention on the question, or provided a one-sided account of the arguments in the literature that failed to engage with the counter-arguments.

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## PERSONAL PROPERTY

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The paper comprised ten questions, including two problem questions. Candidates were required to answer four. The following questions were fairly popular: question 2 (on relativity of title), question 3 (on conversion), question 4 (on chattel leases), and question 8 (on 'nemo dat').

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

The answers were generally of a good standard, though not as high as in many previous years. Some candidates appeared to lack a good understanding of the basic principles of Land Law and Trusts, without which it is difficult to do well in this course. Another common problem was a failure to engage in sufficient depth with the primary sources (and, in particular, the cases). The strongest answers not only avoided these pitfalls, but also paid acute attention to the particular question and provided rigorous, detailed, and forceful arguments.

## PUBLIC INTERNATIONAL LAW & JESSUP MOOT

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The overall performance by candidates in the Public International Law and Jessup paper was excellent, with almost all candidates being marked at an Upper Second or First Class level (31% were awarded firsts). Only one candidate was awarded a mark below 60. In general, the scripts reflected a high degree of conceptual clarity and understanding. Even the weaker scripts reflected understanding of core concepts, with the weaknesses deriving from limited engagement with the specific issues raised by the question, lack of structure and flow to the argument, lack of narrative development, and scanty use of case law, state practice and academic authority.

As in previous years, the paper contained a mixture of problem questions (qu.3) and essay questions (qu.6). Although not required to do so, almost all the candidates who sat the exam elected to answer at least one problem question, many choosing two or more. All questions in the paper were attempted at least once.

The use of force problem question, as in previous years, proved among most popular, and elicited some excellent answers from the candidates, with the best among them drawing on a range of state practice, raising and applying all the relevant rules, and citing the full range of cases. Also popular were the problem questions on treaties and dispute settlement, and essay questions on sources, custom, and state responsibility. Less popular were the questions on jurisdiction, immunity, and especially the relationship between international law and domestic law. The best responses to the custom question went beyond illustrating the difficulties in identifying and applying custom, and discussed the value and limits of dynamism and flexibility in law-making. It was heartening to see keen interest in and engagement with alternate approaches to international law, including

## FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

third world and feminist approaches. Introduced relatively recently in the syllabus, these approaches were referenced by candidates across different essay questions.

More generally, as in previous years, the weaker answers provided a general description of the topic or topics covered by the question without focusing on the specific issues raised. Some scripts even sloppily regurgitated from tutorial essays. We would strongly discourage this practice as such text is likely to detract from the flow of the narrative in direct response to the question. The best answers to both essay and problem questions directly answered the question, and made thoughtful use of case law and academic authority, thereby providing insightful analysis that demonstrably went beyond the basic textbook material.

### ROMAN LAW (DELICT)

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

This year, there were only undergraduates as candidates, no M.Jur. or D.L.S. students. There had been four candidates enrolled this year, with five in the exam.

Uptake was spread evenly across all questions. Candidates are asked to take (at least) two out of four exegetical questions from the set texts. Quite a few candidates took more than the two mandatory Qs from this subset.

Most candidates showed a good to very good understanding of the substantive Roman law of delict and the procedural law accompanying it. The better answers embedded each quote in its immediate context within the Digest and cross-referred to related passages further afield. Ideally, this would set the framework for a discussion of controversial questions. The best answers enriched this discussion with opinions gleaned from modern scholarship and even commented on the question of interpolations.

In view of the small number of candidates, it appears inopportune to try to draw any general lessons from their answers to individual questions. The overall result was in line with the long-term average, if not a wee bit better. Four scripts were either a First or missed a First by a small margin.

### TAXATION LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

As in previous years, there were 8 questions (6 essays and 2 problems), providing students with significant choice. Qu.4 (essay on tax avoidance) was the most popular, answered by nearly every candidate. The problem questions (qu.7 and qu.8) also proved very popular, despite there being no obligation to answer a problem. Qu.6 (analysing the tax treatment of capital receipts and the deductibility of fines and penalties) was the least popular question.

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**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1 asked candidates to discuss the characteristics of a 'good tax' with reference to specific taxes studied on the course (other than IHT). The best answers considered the objectives of taxation and engaged with a wide range of literature on evaluating taxes beyond Adam Smith including Stewart, Christians, Murphy & Nagel, and the Mirrlees Review. The weakest answers relied on vague and unsubstantiated assertions about good tax design generally.

Qu.2 raised the question of whether IHT should be abolished or reformed. The best answers focused on the high rate of IHT, nil rate bands, and reliefs including for potentially-exempt transfers as directed by the question, along with other reliefs. They also showed a high degree of comfort with the statutory material and considered more far-reaching reforms including levying CGT on death and wealth taxes. Weaker answers failed to engage with the literature, including reports by the Office of Tax Simplification and academic writing by Lee, Chamberlain and others.

Qu.3 asked candidates to consider how satisfactory the judicial approach to tax avoidance in the UK was operating. This was a very popular question, and overall students handled this question well. Weaker answers made the mistake of providing a generic run through of the cases on the Ramsay Approach. Better answers focused on the more recent cases applying the Ramsay Approach, and also considered to some degree the relationship between the judicial approach and non-judicial approaches, eg the GAAR.

Qu.4, on the capital tax treatment of trusts, invited students to apply their knowledge of the quite technical legislation to the question of whether these rules discourage trusts and are in need of reform. The best answers did so effectively, engaging with the literature including the Mirrlees Review, Chamberlain and Tiley, and showing a strong understanding of the CGT and IHT statutory regimes. Less good answers were descriptive, light on detail, and offered little analysis of the system.

Qu.5 focused on the case law tests for identifying an 'employee' for tax purposes and whether the tests as developed by the courts are fit for purpose. Better answers examined a wide range of cases in appropriate depth, considered why courts had sometimes found the test difficult to apply and what, if anything, Parliament should do about it. Students generally did well with the case law. Stronger answers also considered the IR35 regime, which relies on the general case law tests.

Qu.6, asking candidates to analyse the tax treatment of capital receipts and the deductibility of fines and penalties, required candidates to demonstrate efficiently their understanding of the case law in these two areas. The examiners were looking for a broad and deep dive into the cases. Answers that focused on only a few cases were not well rewarded.

Qu.7 was primarily concerned with testing candidates on their understanding of the dividing line between trading and capital investment in the context of a taxpayer buying and restoring multiple properties over a relatively short period of time. The best answers considered a range of cases on the 'badges of trade', including *Marson v Morton*, and explained clearly the consequences for the taxpayer if he was trading and if he was not trading. If the taxpayer was merely earning a capital return, this raised the related question of whether he would qualify for principal residence relief on some of the properties at least.



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This required candidates to apply the cases on the meaning of 'residence' for this purpose. Better answers also considered, if capital, whether the expenditure incurred satisfied the tests in TCGA 1992 s.38, or, if trading, if the expenditure – including the purchase of the properties – was wholly & exclusively for the purposes of the taxpayer's trade in properties under ITTOIA 2005, s.34.

Qu.8 concerned a mix of issues on employment taxation. The main issue was whether the payment from the shareholder to the nurse was income 'from' employment (taxable under ITEPA 2003 s.62) or, in the alternative, taxable under the benefits code (s.201, which applies to cash as well as non-cash benefits) as 'by reason of employment'. Answers that examined the cases in some depth including Shilton and the third-party gift cases, and also demonstrated an understanding of the relationship between s.62 and the benefits code, were well rewarded. The question raised quite a number of discrete issues as well. These included potentially taxable benefits such as cafeteria meals and parking and the possibility of statutory exemptions for these. The question also required candidates to consider the deductibility of lunches, dry cleaning uniforms, and travel. Many students were quick to cite *Mallalieu v Drummond*, but made only passing references to it, rather than examining the case in detail.

### TORT

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The exam consisted, as now usual, of 13 questions, with FHS candidates required to answer at least two problem questions.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: A very unpopular question. It invited discussion of, for instance, the availability of punitive damages. Injunctions were also within the scope of the question.

Qu.2: An almost equally unpopular question, though it was not especially difficult. It invited assessment of the rationales of different defences in tort, and whether their justification was the claimant's sole responsibility for their loss. Plausible candidates for analysis included contributory negligence, volenti, illegality, exclusion of liability and self-defence. Some of the better answers explored the distinction between defences which prevent liability from arising and rules (like contributory) which merely affect remedies, or between defences and denials.

Qu.3: Better answers were able to give a nuanced and reasonably fine-grained account of how the requirements for establishing a cause of action in defamation either allowed or did not allow liability to be established 'too readily', such as the extent to which tort can be established without proof of fault. Defences were also within the scope of the question. Better candidates showed familiarity the relevant case law and academic literature, and could go significantly beyond the bare provisions of the Defamation Act 2013.

Qu.4: A popular question which invited comparison, with respect to the clarity of the rules, of the law on material contribution to damage and material contribution to risk. Better

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answers were able to explain the differences between the doctrines clearly and pinpoint and explain, rather than merely advert to, areas of uncertainty. Better scripts showed familiarity with the recent authorities on material contribution to damage, including *Holmes v Poeton*.

Qu.5. A question about vicarious liability. Non-delegable duties were also within its scope. Again, the better scripts had a good level of familiarity with recent appellate developments here and were able to give specific examples of potential remaining uncertainty, rather than vague generalities or a purely abstract discussion about the basis of vicarious liability. Some candidates misread the question as one about strict liability in general.

Qu.6: This question invited analysis of the case law (and, indirectly, the academic literature) on the concept of an 'assumption of responsibility'. Plausible topics for discussion included the role of reliance and what kind of assurance or representation generates a duty (see the discussion in Michael). The question also invited analysis of what reasons there might be for conditioning a duty on a voluntary undertaking.

Qu.7: A question about the 'breach' element of the tort of negligence and potentially the standard employed in the defence of contributory negligence. Better answers were able to give an analysis of what it means for the standard to be objective or 'wholly' objective, and of examples in the case law or statute which might support or challenge that. The strongest answers were able to engage competently with the relevant academic literature.

Qu.8: This question involved issues of private nuisance, *Rylands v Fletcher*, and – it merited at least brief consideration in relation to the final part of the problem – public nuisance. Weaker answers failed to consider the impact of *Fearn* on the structure of the analysis for establishing a claim in private nuisance, tended to leave the issue of remedies unaddressed and failed to distinguish between damage to land and damage to chattels.

Qu.9: This question raised, for instance, issues of duties of care in negligence for pure economic loss and psychiatric injury, and liability under the Defective Premises Act 1972. Not very many candidates were able successfully to analyse the position in negligence in relation to pure economic loss between G and H, and between G and I. Both turned on whether the relevant persons could be said to have assumed responsibility to G. The decision in *Robinson v PE Jones Ltd* was not often cited. The question also required careful handling of the law of contributory negligence and intervening causation.

Qu.10: A question mainly about Occupiers' Liability. Better scripts at least considered whether merely planning the theft took O outside the scope his licence to be there. Some also reasonably considered whether the illegality defence would preclude a claim. Occasionally it was incorrectly thought that because P did not pay for entry that she could not rely upon the Consumer Rights Act 2015 in relation to the sign. The best scripts considered *Ferguson v Welsh* in the final part.

Qu.11: A question concerning liability under the Consumer Protection Act 1987 and at common law in negligence. Not all candidates drew attention to the definition of "personal injury" under s 45 of the CPA nor considered its implications on the facts.

Qu.12: A question examining different aspects of the economic torts including inducing breach of contract, causing loss by unlawful means, lawful means conspiracy, deceit.

Qu.13: This problem raised a variety of issues for consideration including false imprisonment, harassment, *Wilkinson v Downton/Rhodes*, battery, trespass to land,

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negligence and self-defence.

### TRUSTS

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The quality of the trusts scripts this year was mixed. Stronger candidates answered the very questions asked, supporting their arguments with excellent use of case law. Weaker answers tended to engage less with the questions asked, and indeed the cases themselves, sometimes over-relying on commentary.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Qu.1: This question was moderately popular but tended to attract weaker answers than others. The question directed candidates to consider how the content of a trustee's obligations might bear on the nature of a trust beneficiary's rights. Many candidates ignored this wording, and simply wrote essays on the nature of a beneficiary's interest in relation to the trust assets, viz. whether their rights are merely personal, proprietary, or 'rights against rights'. In future years, students hoping for an Upper Second or higher in essays on this topic should be sure to answer the specific question asked.

Qu.2: Another question which attracted weaker answers. The question directed candidates to consider "what principles of causation, if any, govern an express trustee's liability for breach of trust and breach of fiduciary duty" (emphases added). Weaker candidates ignored the words 'what' and 'fiduciary duty', and focused exclusively on whether Target Holdings and AIB were rightly decided.

Qu.3: A question that attracted strong answers. Good answers properly discussed the different ways in which the beneficiaries of a trust of a voluntary obligation might be able to enforce it, and critically examined why none were said to be available in *Re Cook*, using a wide range of commentary.

Qu.4: A moderately popular question that was generally well answered. Good candidates properly examined the different ways in which equity today might perfect an imperfect gift, discussing the reasoning in the cases, and engaging too with the normative question of when (if ever) it ought to do so.

Qu.5: A moderately popular question that attracted mixed answers. Weaker candidates either (i) set out the elements of knowing receipt and dishonest assistance and simply compared and contrasted them, with no or little reference to the quote or *Byers* itself, or (ii) discussed the treatment of knowing receipt in *Byers* without considering dishonest assistance. Stronger candidates examined the claims in the quote, contextualising them both within *Byers* itself, and the wider case law.

Qu.6: Another moderately popular question that was generally well answered. Strong candidates parsed the quote, explaining how it related to *Rochefoucauld* itself; used cases like *Bannister* to critically assess the claim that there could be no constructive trust; and

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considered the significance of the characterisation with reference to cases involving third parties.

Qu.7: A popular question that was generally well answered. Better candidates focused squarely on the question of 'intention', relying on case law on express trusts concerning what intention is required to declare a trust, and critically assessed whether such intention is present in the Quistclose cases. Weaker answers treated the question as an invitation per se to examine the proper taxonomical categorisation of a Quistclose trust.

Qu.8: A question that attracted very few answers.

Qu.9: A very popular question that was generally not as well answered as others. Examiners were particularly concerned about this given that the question was very predictable. In future, candidates answering on this topic should be careful not only to rely on commentary and dicta in a few well-known cases.

Qu.10: A question that attracted few answers. Good answers properly examined the quote in light of the dominant theories of property holding by unincorporated associations: asking whether 'contract holding theory' does involve a trust using the conflicting judgments on point.

Qu.11: A very popular question on the three certainties which attracted good answers. Most candidates recognised the certainty of subject matter issues in (i) and (ii), though many took for granted that a trust of a business must be a trust over shares in (ii), so considered *Hunter v Moss*, but not *Wilkinson v North*. Most candidates correctly characterised the disposition in (iii) and recognised that it would not fail for uncertainty or administrative unworkability. Most candidates in part (iv) did discuss whether the trust was a purpose trust or not, and whether it had certain objects. Very good candidates considered too the significance of the informal agreement between A and E with reference to *Pugachev*.

Qu.12: A problem question on mistaken payment and tracing with which candidates seemed to struggle. Many candidates recognised the question of whether the mistaken payment gave rise to a trust, discussing both *Chase Manhattan* and *Westdeutsche*. However, many missed the question of whether it was possible to backwards trace into the car and did not properly consider too whether F's innocence meant that 'cherry picking' was unavailable. Many candidates also missed the question of whether it was possible to trace into the improvements in the house by reference to *Re Diplock* and *Foskett v McKeown*.

Qu.13: A problem question s 53(1)(c) which candidates seemed to struggle with. Part (i) required candidates to consider whether a release of an equitable interest amounts to a disposition—as it did in the most recent Court of Appeal decisions on s 53(1)(c), *LA Micro* and *Hathway v Hudson*, though many missed the point. On (ii) most candidates recognised that the contract would not be specifically enforceable, but fewer properly discussed whether K's declaration of sub-trust might take effect over K's contractual rights. On (iii) most candidates did not discuss the potential relevance of *Re Gardner* (no 2).

Qu.14: A question on trustee duties which generally attracted very strong answers. Good candidates carefully considered the trustee's duties in relation to each kind of trust; the

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scope of his powers to invest and delegate; the extent of his liability for breach; and whether he might have a defence due to delegation or a valid exclusion clause.

### SUCCESSION LAW

**General comments:** Please comment on the overall quality of the scripts, the distribution of marks and anything else worth noting and learning from (including suggested actions).

The paper consisted of ten questions, three of which were problem questions. Candidates had a free choice as to questions, although almost all candidates answered at least one problem question, with some answering all three. The paper attracted a range of answers, with most candidates demonstrating a good knowledge of the technical aspects of the subject, as well as being able to make normative arguments about testamentary freedom and distribution of wealth on death.

**Comments on individual questions:** Please comment on the overall quality of answers, notable weaknesses in the answers (and/or question) and anything else worth reporting and learning from (including suggested actions).

Specific points are as follows:

Qu.3 (formal invalidity): This attracted some good answers which examined the rules in detail, and were able to explain the difficulties that would attend informal wills. However, few candidates who answered this question considered why doctrines that might 'cure' invalidity with lifetime transactions, such as proprietary estoppel, are not applicable to defective testamentary dispositions.

Qu.4 (undue influence and incapacity): Answers tended to focus on the test for undue influence and avoided the larger debate about whether the classic test in *Banks v Goodfellow* ought to be replaced with the Mental Capacity Act, while those that did consider this often failed to illustrate the difference between the tests through cases such as *Simon v Byford*.

Qu.8 (difference between executors and trustees' duties): This was not popular, but those who did the question generally did well. One issue not picked up on was the role of debts, and how an executor can inherit a testator's debts, whereas it is difficult to conceive of holding debts on trust.

More generally, candidates tended to avoid questions regarding construction and rectification of wills. This meant that there were few answers to qu.9 (a problem question where a beneficiary's name had to be substituted for the word 'sister') and there were no answers to the essay question (qu.6).

# FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

## EXTERNAL EXAMINER REPORT 2024

### EXTERNAL EXAMINER REPORT FORM 2024

<b>External examiner name:</b>	Emmanuel Voyiakis		
<b>External examiner home institution:</b>	LSE		
<b>Course(s) examined:</b>	DJUR: FHS Jurisprudence (Course I Yr3)		
<b>Level:</b> (please delete as appropriate)	<b>Undergraduate</b>	Postgraduate	
<b>Year of term of office:</b> (please delete as appropriate)	First year	Last year	<b>Other year</b>

**Please complete both Parts A and B.**

<b>Part A</b>					
		<i>Please (✓) as applicable*</i>	<b>Yes</b>	<b>No</b>	<b>N/A / Other</b>
A1.	Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience? <i>[Please refer to paragraph 6 of the Guidelines for External Examiner Reports].</i>		X		
A2.	Do the threshold standards for the programme appropriately reflect:  (i) the frameworks for higher education qualifications, and  (ii) any applicable subject benchmark statement? <i>[Please refer to paragraph 7 of the Guidelines for External Examiner Reports].</i>		X		
A3.	Does the assessment process measure student achievement rigorously and fairly against the intended outcomes of the programme(s)?		X		
A4.	Is the assessment process conducted in line with the University's policies and regulations?		X		
A5.	Did you receive sufficient information and evidence in a timely manner to be able to carry out the role of External Examiner effectively?		X		
A6.	Did you receive a written response to your previous report? **		X		
A7.	Are you satisfied that comments in your previous report have been properly considered, and where applicable, acted upon? **		X		

# FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

**\* If you answer "No" to any question, you should provide further comments when you complete Part B.**

**\*\* A6. and A7. If you are in your first year of term of office you should enter select N/A / Other.**

## Part B

### B1. Academic standards

- a. ***How do academic standards achieved by the students compare with those achieved by students at other higher education institutions of which you have experience?***

Overall, the standard is very high, and compares favourably to every higher education institution I have experience of.

- b. ***Please comment on student performance and achievement across the relevant programmes or parts of programmes and with reference to academic standards and student performance of other higher education institutions of which you have experience (those examining in joint schools are particularly asked to comment on their subject in relation to the whole award).***

I reckon this is essentially the same question, so see above!

### B2. Rigour and conduct of the assessment process

***Please comment on the rigour and conduct of the assessment process, including whether it ensures equity of treatment for students, and whether it has been conducted fairly and within the University's regulations and guidance.***

I stand by my statement from last year that the rigour of the exam paper scrutiny and the final exam board are unparalleled in my experience. The processes are thorough and fair.

### B3. Issues

***Are there any issues which you feel should be brought to the attention of supervising committees in the faculty/department, division or wider University?***

No.

### B4. Good practice and enhancement opportunities

***Please comment/provide recommendations on any good practice and innovation relating to learning, teaching and assessment, and any opportunities to enhance the quality of the learning opportunities provided to students that should be noted and disseminated more widely as appropriate.***

All the practices I observed struck me as thought-through and sensible. Big cheers on discontinuing take-home assessments from next year!

### B5. Any other comments

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*Please provide any other comments you may have about any aspect of the examination process. Please also use this space to address any issues specifically required by any applicable professional body. If your term of office is now concluded, please provide an overview here.*

<b>Signed:</b>	Emmanuel Voyiakis
<b>Date:</b>	Sep 08, 2024.

Please ensure you have completed parts A & B, and email your completed form to: [external-examiners@admin.ox.ac.uk](mailto:external-examiners@admin.ox.ac.uk) AND copy it to the applicable divisional contact set out in the guidelines.



# FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

## EXTERNAL EXAMINER REPORT FORM 2024

<b>External examiner name:</b>	Claire Fenton-Glynn
<b>External examiner home institution:</b>	Monash University
<b>Course(s) examined:</b>	BA (Jurisprudence)
<b>Level:</b> (please <i>delete as appropriate</i> )	Undergraduate
<b>Year of term of office:</b> (please <i>delete as appropriate</i> )	Other year (second)

**Please complete both Parts A and B.**

<b>Part A</b>					
		<i>Please (✓) as applicable*</i>	<b>Yes</b>	<b>No</b>	<b>N/A / Other</b>
A1.	Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience? <i>[Please refer to paragraph 6 of the Guidelines for External Examiner Reports].</i>		✓		
A2.	Do the threshold standards for the programme appropriately reflect:  (i) the frameworks for higher education qualifications, and  (ii) any applicable subject benchmark statement? <i>[Please refer to paragraph 7 of the Guidelines for External Examiner Reports].</i>		✓		
A3.	Does the assessment process measure student achievement rigorously and fairly against the intended outcomes of the programme(s)?		✓		
A4.	Is the assessment process conducted in line with the University's policies and regulations?		✓		
A5.	Did you receive sufficient information and evidence in a timely manner to be able to carry out the role of External Examiner effectively?		✓		
A6.	Did you receive a written response to your previous report? **		✓		
A7.	Are you satisfied that comments in your previous report have been properly considered, and where applicable, acted upon? **		✓		
* <b>If you answer "No" to any question, you should provide further comments when you complete Part B.</b>					

# FHS Jurisprudence and Diploma in Legal Studies

## Examiners' Report 2024

**\*\* A6. and A7. If you are in your first year of term of office you should enter select N/A / Other.**

### Part B

#### B1. Academic standards

- a. *How do academic standards achieved by the students compare with those achieved by students at other higher education institutions of which you have experience?*

Having examined at the University of Cambridge for many years, I find the academic standards achieved by the students at Oxford comparable with those I have seen.

- b. *Please comment on student performance and achievement across the relevant programmes or parts of programmes and with reference to academic standards and student performance of other higher education institutions of which you have experience (those examining in joint schools are particularly asked to comment on their subject in relation to the whole award).*

Student performance and achievement in this programme was very high, as would be expected of an institution of the calibre and reputation of Oxford. While the academic standards were high, the performance of the students was consistently good across all courses.

#### B2. Rigour and conduct of the assessment process

I was again very impressed with the rigour of the assessment process. The depth of analysis given to each and every case of special circumstances was very impressive, and was by far the most rigorous consideration I have seen given in any institution I have worked at. The fact that each case went through multiple layers of consideration, and length of debate amongst the Board of Examiners on every single case, demonstrated the seriousness with which equity and fairness were integrated into the structure of the assessment process, within the guidelines and regulations given by the University.

#### B3. Issues

*Are there any issues which you feel should be brought to the attention of supervising committees in the faculty/department, division or wider University?*

There appeared to be a need for consistent guidelines in how to deal with rubric breaches by candidates (which was recognised by the Board of Examiners during their meeting)

I think there also needs to be greater clarity as to how minor issues of plagiarism are recorded. For those who are not referred to the Proctors (ie who are given a mark penalty by examiners, but not escalated further), is this recorded anywhere? Are the colleges of the students informed? If the case *is* escalated to the Proctors, is a record/register kept of this?

# FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024

**My concern is on two levels: First, that support needs to be given to students who are deemed to have committed academic misconduct, for which colleges may be the most appropriate forum (both academically and pastorally). Second, that the faculty/university/college needs to have a record so they can know if this has occurred more than once/consistently, as this might indicate a larger issue that needs to be addressed (and also that multiple small infractions that do not warrant Proctor intervention individually, might warrant escalation)**

This is especially important for law students on a professional level. For example, to qualify as a solicitor, an applicant must disclose if they have committed a “deliberate assessment offence which amounts to plagiarism or cheating”. It is therefore necessary for students to know whether the academic misconduct (even the minor misconduct that does not reach the Proctors) is of this category. If something does have to be disclosed, then the Solicitors Regulation Authority will ask for “Credible references, where possible written in the knowledge of the matters reported. Credible references will generally be written in the knowledge of the matters reported by an independent person who knows you and your work well, such as a current or former employer or an academic tutor.” This relates to my recommendation that information is shared with colleges so that they are aware of what has happened.

## **B4. Good practice and enhancement opportunities**

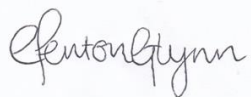
***Please comment/provide recommendations on any good practice and innovation relating to learning, teaching and assessment, and any opportunities to enhance the quality of the learning opportunities provided to students that should be noted and disseminated more widely as appropriate.***

I have no comments in this regard.

## **B5. Any other comments**

***Please provide any other comments you may have about any aspect of the examination process. Please also use this space to address any issues specifically required by any applicable professional body. If your term of office is now concluded, please provide an overview here.***

I note again the issue of plagiarism, discussed in B3 above, as it relates to professional qualification as a lawyer.

<b>Signed:</b>	
<b>Date:</b>	9 September 2024

Please ensure you have completed parts A & B, and email your completed form to: [external-examiners@admin.ox.ac.uk](mailto:external-examiners@admin.ox.ac.uk) AND copy it to the applicable divisional contact set out in the guidelines.

# **FHS Jurisprudence and Diploma in Legal Studies Examiners' Report 2024**

## **E. NAMES OF MEMBERS OF THE BOARD OF EXAMINERS**

Mr. N.C. Bamforth (Chair)

Professor A. Nair

Dr. C. Kennefick

Dr. D. Leczykiewicz

Dr. S. Douglas

Professor N. Bui

Professor A. Layard

Professor E. Voyiakis (External Examiner)

Professor C. Fenton-Glynn (External Examiner)