LAW MODERATIONS – HILARY TERM 2026

MODERATORS' REPORT

Part I

A. STATISTICS

Number of candidates in each class

	2026	2025	2024	2023	2022
Distinction	37	41	28	40	42
Pass	162	167	180	174	185
Incomplete	5	3	4	5	
Fail	1	1	0	1	1
Total	205	211	212	220	228

Percentage of candidates in each class

	2026	2025	2024	2023	2022
Distinction	18.5	19.43	13.21	18.18	18.42
Pass (without Distinction)	81	79.15	84.91	79.10	81.14
Fail	0.5	0.47	0	0.45	0.44

Number of vivas held

Vivas were not held in these examinations.

Number of scripts second marked

Scripts in this examination are not automatically double marked. Instead, scripts are double marked during the first marking process to decide prize winners, and when a fail mark has been awarded. Further double marking takes place during the first marking process if the marking profiles of those marking a particular paper appear misaligned, or if a profile contains an unusually large number of very high or very low grades.

Once first marks are returned, the following classes of script are second marked:

- Where a candidate has an average below 60
- Where a candidate is borderline in terms of getting a distinction: where a candidate has 2 marks at or above 68 but does not yet have 2 marks at or above 70, scripts with marks at 68 and 69 will be remarked.
- Where a script is 4 or more marks below the candidate's average.

B. EXAMINATION METHODS AND PROCEDURES

In person online examinations

Law Moderations took place in 9th week of Hilary Term. The examinations were closed book and held at the Examination Schools. Materials were provided in the examination room, and candidates were given 3 hours to complete their answers.

Word limits and rubrics

As the exams were sat in person, there was no word limit.

Mitigating circumstances

At the Board's final meeting, the Moderators assessed the severity of each MCE application and then used those assessments to determine whether to adjust the results of each candidate.

Late penalties

The possibility of late submission was eliminated in 2021/22.

Examination conventions

The Notice to Candidates was uploaded to the BA Jurisprudence Mods Courses Canvas page on 03/02/2026 and the Examination Conventions were uploaded to Canvas on 08/12/2025.

Part II

A. GENERAL COMMENTS ON THE EXAMINATION

The examinations took place in Exam Schools, on Google ChromeBook laptops. All examinations were closed book and pre-agreed materials (such as case lists) were provided in the exam room.

Plagiarism

All of the exam scripts were analysed using plagiarism software. No plagiarism was identified.

B. EQUALITY AND DIVERSITY

Breakdown of results by gender for Course 1 and Course 2 combined.

	2026		2025		2024		2023		2022	
Result	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**	**No**	**Gender**
Distinction	18	F	21	F	15	F	24	F	23	F
	19	M	20	M	13	M	16	M	19	M
Pass	110	F	103	F	114	F	101	F	114	F
	52	M	64	M	67	M	73	M	72	M
Fail	0	F	0	F	0	F	1	M		
	0	M	0	M	0	M			1	M
Partial Pass	1	M	1	M	1	F				
Incomplete	2	M	2	F	2	M				
	4	F	1	M	1	F				

The percentage of male students obtaining Distinctions increased from 2025, however with the percentage of female students obtaining Distinctions decreased from 2025. 25% of male students obtained Distinctions in 2026, compared to 23% in 2025. 15% of female students obtained Distinctions in 2026, compared to 17% in 2025.

Appendix A of this report contains a gender breakdown by paper

C. COMMENTS ON PAPERS AND INDIVIDUAL QUESTIONS

A Roman Introduction to Private Law

The examiners were again impressed by the overall standard of scripts, many of which were good enough to merit the award of a Distinction. There were several scripts of the highest quality, gaining marks of 72 or above. These scripts were marked out not only by comprehensive knowledge of the topics studied and a clear writing style, but also by the ability to identify, with clarity, the issues raised by problems and essay questions and to tailor answers to fit the question, rather than delivering 'off the peg' material. Candidates at the lower end, with marks below 60, were often let down by poor exam technique, and in particular the failure to complete 4 questions or to follow the clearly-stated rubric.

In Part A (Q1), the most popular gobbets were (c), (e) and (f). As always, the best-rewarded candidates were those who focused their commentary on the specific wording and thrust of the given text. The largesse was more restricted for those who treated the text as a convenient but uninspiring, point of embarkation for a commentary on a wider topic (for example, candidates who responded to gobbet (a) with a roadmap to the law of persons and things, without focus on the particular pathway signified by the second sentence on the concept of 'patrimony', to gobbet (e) without considering the problem created by a bargain, of sale-purchase or letting-hiring, without fixed remuneration, or to gobbet (f) with a general account of the delict of *iniuria)*.

All three problem questions in Part B were popular, and many candidates elected to answer three questions of this type, although some may have encountered timing difficulties in the attempt. The problem questions were generally well-answered and candidates were generally able to focus on the particular issues raised by the "Advise" prompts, avoiding unnecessary descriptive material. Weaker answers omitted key parts of the analysis, such as (in Q2) whether there was a contractual remedy for a latent defect in the cowhide, (in Q3) the extent to which any of the occupants of the land fulfilled the requirements to acquire ownership through a period of uninterrupted possession (in Justinian's time, *longi temporis praescriptio*) so as to be entitled to protection by praetorian actions and the legal consequences of characterising a person as a "good faith" or "bad faith" possessor, and (in Q4) the basis for concluding a person who encourages a slave to free may (or may not) be held liable as a thief or accomplice and possible alternatives to liability through an *actio furti*. The analysis of remedies was quite frequently somewhat sparse. In all cases, the examiners recognised the possibility of reaching sensible conclusions by different routes (such as by a delictual rather than a contractual action).

The most popular essays were Q5 (on ownership), Q6 (on contract law) and Q7 (on theft). Q9 and Q10, on the other hand, were chosen by very few candidates. For this type of question, it is not true that "all routes lead to Rome". Only those who have a clear understanding of where the city lies on the map, and the resources available for navigation, will enjoy a successful and profitable journey, allowing for a pleasing variety in itinerary. Those who set off in the haphazard belief that it will be good enough to land the reader somewhere in Italy will likely be disappointed with their Trip Advisor ratings. A question that refers to "a unitary and pure conception of ownership" and whether law-makers were able to "loosen this fetter" is only partially answered by a pre-packed account of the impact of the 'bonitary owner' on the 'absolute' character of ownership. A tale, however interesting, tracing the development of *stipulatio* or the contracts *re* does not respond effectively to a question that refers to "the Roman law of contract (or contracts)". A question that demands reference to "the Institutes of Gaius and Justinian" cannot sensibly be answered without explicit engagement with those works. And so on …

Criminal Law

The quality of the scripts was generally quite good, although there were few truly outstanding papers. The essays were solid, and some displayed a strong engagement with the law and the academic literature. Weaker essays tended to stray from the set question, or to have a limited knowledge of the literature on the topic. A common limitation in most essays was a failure to consider the distinctive role of criminal law in censuring and punishing defendants, and how (if at all) this role should be reflected in particular doctrines. The problem question answers tended to be well-structured, and set out the elements of the offences and defences in a systematic manner. Weaker problem question answers were less well structured, or tended not to sufficiently cite and use appropriate authorities (whether case-law or statutory).

Q1. This essay invited a discussion of the 'subjectivity' of recklessness. Weaker answers simply provided an overview of the development of recklessness in criminal law. Stronger answers engaged with the reasonableness dimension of current law, and the arguments in favour of some more objective conceptions of recklessness.

Q2. This essay, on *novus actus interveniens*, attracted a fair number of weaker answers that simply gave an overview of the existing law. Better answers picked out particular legal doctrines (e.g. on medical treatment) and discussed their adequacy.

Q3. This essay invited candidates to consider whether constructive manslaughter and gross negligence manslaughter were compatible with underlying principles of criminal liability. Better answers looked at each form of manslaughter in turn, and evaluated them (inter alia) in terms of subjective fault, the correspondence principle, and fair labelling.

Q4. The essay on s.74 of the Sexual Offences Act required candidates to discuss whether it was 'unclear' and/or 'unsatisfactory'. Many answers pointed out the problems with the current state of the law on consent, particular regarding deceptions. Stronger answers considered, in addition, the general context of consent (including ss.75 and 76), as well as issues of capacity (e.g. *Bree*) and vulnerable victims (e.g. *Kirk*, *Ali*).

Q5. The essay invited candidates to consider *Pace & Rogers*. Most recognised the conflict between *Pace* and *Khan*, and the arguments in favour of the latter. Many candidates endorsed an analysis of attempt in terms of 'conditional intent', arguing that this could embrace both *Pace* and *Khan*. On the other hand, few candidates provided a careful analysis of what constitutes 'conditional' intent, or considered the evidentiary problems it might raise.

Q6. The essay asked candidates to compare the adequacy of *Jogee* as compared to the previous law on complicity. Weaker answers neglected to discuss the previous law. Stronger answers explained how *Jogee* had changed the law, before pointing out the difficulties created by the concept of 'conditional intent', and whether in practice liability for accessories still turned on foresight of the principal's possible offending.

Q7(a). The question on unreasonable mistakes attracted few answers, perhaps because it required a more far-ranging analysis of criminal liability than other questions.

Q7(b). The question on necessity was not very popular. It required some discussion of necessity and duress of circumstances, and the distinction between 'best interests' and 'lesser evils' necessity. A discussion of the relevant theoretical literature was also important.

Q8. This essay asked candidates to consider removing 'dishonesty' from the definition of property offences. Weaker answers tended to restrict themselves to a discussion of theft, whereas stronger answers considered fraud (and touched on making off without payment and handling stolen goods). Stronger answers considered the role of dishonesty in culpability, and many argued in favour of its reformulation rather than its removal.

Q9. This problem question raised issues of liability for homicide and offences against the person. Most candidates overlooked the (apparent) requirement in *Woollin* that the outcome *be* virtually certain (as well as *foreseen* as virtually certain by D). Other candidates did not consider the relevance of transferred malice to M's death. The causation questions raised by N's treatment and the ambulance delay (re M's death and L's death) were generally not well handled.

Q10. This problem question focussed largely on sexual assault. It was generally handled well, particularly the question of T's capacity, and whether U's consent was vitiated by deception. Weaker answers on U's consent provided only a superficial understanding of *Assange* and *Lawrance*. In the case of the scenario involving P, there were two recurrent problems: (a) an overly hasty discussion of the meaning of 'sexual' in s.78 (and *H*); and (b) a view that there is consent in sexual offences if the victim *would have* consented to the defendant's actions, irrespective of whether they *did* consent in the circumstances.

Q11. The focus of this problem was on property offences. Common limitations included: (a) not considering both theft and fraud (e.g. regarding the book); (b) assuming that if D made a false representation it was necessarily dishonest; (c) an insufficient analysis of s.6 of the Theft Act and *Lloyd* on the intention to permanently deprive; (d) a superficial consideration of *A-G's Ref (1 of 2023)* in the context of criminal damage.

Q12. This problem raised questions of non-sexual offences against the person and defences. Some common flaws: (a) in the context of Z's attempt—an inadequate grasp of the elements of s.18, especially regarding wounding; (b) a weak grasp of s.76 CJIA on self-defence; (c) a failure to ask if W was acting in self-defence when W stabbed Z; and (d) overlooking the trigger of fear of serious violence for the partial defence of loss of control.

Q13. The focus here was on complicity combined with property offences and offences against the person. Some standard problems: (a) a weak grasp of the elements needed for complicity under *Jogee* (as interpreted by *Anwar*), especially 'conditional intent'; (b) when considering the injury to the guard, an inaccurate account of the *mens rea* for s.20, and overlooking the fact that s.47 does not require *mens rea* for the ABH element; (c) a superficial understanding of the case-law on withdrawal from being an accessory.

Constitutional Law

The standard of the scripts submitted for the Constitution Law paper this year was generally good. The large majority of papers were in the 2:1 range, with only a few scoring in the 2:2 range or below. There were a good number of Firsts but few that manged to break into the higher ranges of first-class marks. The answers were fairly evenly distributed among the various questions except for Question 10, which had significantly fewer answers than the others. The best answers combined solid knowledge of cases, legislation, and constitutional conventions, with a practiced capacity to engage with scholars and commentators in closely reasoned (not superficial) manner. As has often been the case in the past, a number of candidates failed to tailor essays to the specific terms of the question set. Those who paid close attention to the question and answered with fresh insight and balanced arguments, grounded in detailed knowledge, were rewarded accordingly.

Question 1
Weaker answers to this question focussed only on codification of constitutional conventions as a way of giving specified textual form to conventions, as in the Ministerial Code or Sewel Convention, and the issues that arise such as clarity and predictability. Stronger answers added analysis of codification as making conventions legally enforceable and considered what such a possibility would entail, given that constitutional conventions have been mainly a matter for political decision-making in the UK tradition. Another theme of strong answers was exploring what exactly the role of constitutional conventions is in the UK constitution is, while giving specific examples.

Question 2
The answers to this question tended to display a good understanding of parliamentary sovereignty and the debates surrounding it, though several seemed to reproduce a standard, prepared essay on the general topic. Better answers connected the general topic to points particularly touched on in the quotation from Lord Sumption: the absence of a written constitution, the connection between parliamentary sovereignty and democracy, and what it means for something to be a 'higher source of law'.

Question 3

This question had two subparts on the Human Rights Act. Subpart (a) on HRA section (3) was one of the most popular questions in exam. While answers were generally adequate to good, there were not many outstanding essays. Many confined the discussion to a small handful of often discussed cases and made little attempt to go beyond standard textbook analysis. Subpart (b) was addressed to the question of remedies under section (4). It had fewer takers than (a), but the answers were on the whole better and more interesting. Stronger answers considered various ways in which Parliament's response to a declaration of incompatibility might (or might not) be understood as a remedy, while also noting the significance of the lack of a direct, individual remedy. Another theme of strong answers was to connect the question of remedies to the overall structure and purpose of the HRA; some drew illuminating contrasts between section 3 and section 4.

Question 4
This was a popular question and the answers were generally good and well informed about the nature and processes of the House of Lords and the ways its role has changed over the years. There were strong scripts on different sides of the question, with many defending a role for unelected experts in revising legislation and others questioning the legitimacy of an unelected body. A number of scripts had thoughtful, calibrated suggestions on reform of the Lords.

Question 5
Almost all candidates discussed the issue of whether 'constitutional statutes' are subject to implied repeal, though with varying degrees of detail and attention to the underlying rationale in the relevant cases. Better answers went beyond this issue to consider the implications of the HS2 case and whether any special rules of interpretation apply.

Question 6
A number of candidates showed a good ability to discuss the mechanics of devolution and to analyse the different kinds of powers that have been devolved and what has been withheld at Westminster. Weaker answers were vague about the aims of devolution, while some of the stronger answers were able to sustain a detailed discussion of whether there were different aims—and hence different criteria of success—for Scotland, Wales, and Northern Ireland.

Question 7
This was a popular question. The quality of the answers was generally neither weak nor excellent but somewhat middling. The stronger responses answered by providing detailed discuss of specific case examples, while some of the weaker ones analysed the nature of the rule of law without doing enough to consider the shape of direct enforcement of the rule of law in adjudication.

Question 8
Both subparts of this question were about equal in popularity and in quality of the answers provided, which on the whole were at a good standard. Several answers to subpart (a) were able to look at the question of whether parliament is a genuine lawmaker from different angles and give a nuanced answer. A number of answers to subpart (b) showed a good knowledge not only of Miller 1 and 2 but other relevant cases, while also considering the effectiveness of political checks on the prerogative power.

Question 9
Several answers to this question were surprisingly weak. A common pattern was to provide a general theoretical account of the separation of powers but to neglect either the aspect of the question that asks for discussion of specific, historical changes or that which asks whether any reforms are needed. Strong answers gave detailed responses on both aspects. The question is implicitly open to a sceptical

response that doubts whether the separation of powers is—or has been—an important principle in the UK constitution or an explanation for historic changes. Some answers pursued such a line of argument in an illuminating way.

Question 10
This question on the role of political parties in the UK constitution cuts across several topics on the reading list and required wholistic thinking. It was the least popular question on the exam, but the candidates who attempted it performed very well on the whole.

Board of Examiners

Hayley J. Hooper (Chair)

Joshua Geltzer

Grant Lamond

Appendix A

Breakdown of results by individual paper and by gender

Criminal Law	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
	Number												
Criminal Law - All	202	0	7	37	15	79	46	10	7	1	0	0	0
Female	130	0	3	25	9	53	30	7	3	0	0	0	0
Male	72	0	4	12	6	26	16	3	4	1	0	0	0
	Percentages												
Criminal Law - All	202	0	3.47	18.32	7.43	39.11	22.77	4.95	3.47	0.5	0	0	0
Female	130	0	2.31	19.23	2.97	40.77	23.08	3.47	2.31	0	0	0	0
Male	72	0	5.56	16.67	8.33	36.11	22.22	4.17	5.56	1.39	0	0	0

A Roman Introduction to Private Law	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
	Number												
Roman Law - All	202	0	23	22	20	69	47	10	3	5	1	2	0
Female	129	0	11	11	14	45	33	8	2	2	1	2	0
Male	73	0	12	11	6	24	14	2	1	3	0	0	0
	Percentages												
Roman Law - All	202	0	11.39	10.89	9.9	34.16	23.27	4.95	1.49	2.48	0.5	0.99	0
Female	129	0	8.53	8.53	10.85	34.88	25.58	6.2	1.55	1.55	0.78	1.55	0
Male	73	0	16.44	15.07	8.22	32.88	19.18	2.74	1.37	4.11	0	0	0

Constitutional Law	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
	Number												
Constitutional Law - All	201	0	14	29	13	68	48	14	8	5	0	1	1
Female	129	0	4	17	6	50	34	10	6	2	0	0	0
Male	72	0	10	12	7	18	14	4	2	3	0	1	1
	Percentages												
Constitutional Law - All	201	0	6.97	14.43	6.47	33.83	23.88	6.97	3.98	2.49	0	0.5	0.5
Female	129	0	3.1	13.18	4.65	38.76	26.36	7.75	4.65	1.55	0	0	0
Male	72	0	13.89	16.67	9.72	25	19.44	5.56	2.78	4.17	0	1.39	1.39