FHS Jurisprudence and Diploma in Legal Studies
Examiners' Report 2025

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 (%)		
	2024/25	2023/24	2022/23	2024/25	2023/24	2022/23
I	37	35	30	20.8	15.7	14.78
II.I	134	175	159	75.3	78.48	78.33
II.II	7	10	11	3.9	4.48	5.42
III	0	1	1		0.45	0.49
Pass	0	0	1			0.49
Fail	0	2	1		0.9	0.49

FHS Course 2, BA Law with Law Studies in Europe

Class	Number			Percentage (%)		
	2024/25	2023/24	2022/23	2024/25	2023/24	2022/23
I	7	4	6	25.9	12.9	17.14
II.I	20	26	29	74.1	83.87	82.86
II.II	0	1			3.2	
III	0	0				
Pass	0	0				
Fail	0	0				

FHS Course 1 and 2 combined

Class	Number			Percentage (%)		
	2024/25	2023/24	2022/23	2024/25	2023/24	2022/23
I	44	39	36	21.5	15.35	15.19
II.I	154	201	188	75.1	79.13	79.32
II.II	7	11	11	3.4	4.33	4.64
III		1	1		0.39	0.42
Pass		0	1			0.42
Fail		2			0.79	

(b) Unclassified Examinations

Diploma in Legal Studies

Category	Number			Percentage (%)		
	2024/25	2023/24	2022/23	2024/25	2023/24	2022/23
Distinction	9	11	5	30	36.7	18.52
Pass	20	18	22	66.7	60	81.48
Fail	1	1		3.3	3.3	

(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 2024/25, 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.

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 2024/25, 263 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. 10 scripts were third marked.

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

	Number			Percentage %		
	2024/25	2023/24	2022/23	2024/25	2023/24	2022/23
Total Scripts	2171	2243	2322			
First stage	583	555	654	26.85	24.74	28.17
Second stage	263	264	296	12.11	11.77	12.75
All second marking	846	819	950	38.97	36.29	40.91

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 2024/25, 78 Jurisprudence exam scripts were second marked further to this procedure.

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, Feminst Perspectives, Advanced Criminal Law and Copyright Trade Marks and Allied Rights aook place in both Week 0 of Trinity Term and Week 9 of Hilary Term. Comparative Law took place in Hilary Term and History of English Law took place in Trinity Term. Eight open book, take home examination papers were sat in the Long Vacation. This was due to exceptional circumstances and a dispensation request from the University Education Committee.

In-person examinations

Candidates sat examinations in person, using the computer-based Inspera assessment platform. 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). Materials were made available to candidates in the examination room for the majority of examinations. The materials were detailed in the Notice to Candidates and case lists were made available via Canvas.

2. Operation of Exams and use of ARD Database

The examinations went smoothly and the Inspera system worked well. In the small number of instances where problems arose, these were almost all down to incorrect use of the Inspera 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. One Trusts script was lost by the Examination Schools. This candidate was given the option of resitting the paper or being classified without a mark in Trusts. They decided to take the classification and not resit the paper, and were given First Class Honours.

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 64 MCEs in total. The Board decided to disregard a paper for one candidate due to the MCE, while two other candidates had their individual course marks amended.

Decisions made in respect of individual cases: No scripts were sent to the Proctors for suspected poor academic practice/plagiarism concerns. The submissions were also reviewed, however none were referred. Three candidates' classifications were lowered to Second Class Honours, Division Two, from Second Class Honours, Division One due to penalties for lateness which had been noted and agreed by the Board.

4. Further points for note

eVision Marks Management: 2024/25 was the second year in which eVision Marks Management had been used by the University. This database worked well once again, and further feedback has been provided to the relevant teams concerning possible improvements for next year. Discussions are also taking place concerning potential use this software for other courses.

Approval of alternative examination arrangements for candidates with disabilities: The Board discussed the two dispensation requests which had been submitted during the current academic year. One candidate sat eight examinations during the Long Vacation. The format for these examinations was online, typed and over 72 hours. The Board has not yet met to confirm the classification.

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.

FHS Jurisprudence and Diploma in Legal Studies
Examiners' Report 2025

PART II

A. GENERAL COMMENTS ON THE EXAMINATION

The proportion of Firsts awarded has increased since 2023/24. Percentages have increased from 15.35% of students to 21.5% of students, while remaining slightly lower than in 2021/22. 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 2023/24, with 24 withdrawals/suspensions in 2024/25 in contrast with 23 withdrawals/ suspensions in 2023/24.

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

FHS Course 1, BA Jurisprudence

	2025				2024				2023				2022			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	%	No	%	No	No	%	No	No
I	16	17	21	25	16	12	20	23	14	11	16	20	14	13	32	24
II.I	76	81	58	69	109	80	65	76	97	79	62	78	78	73	63	47
II.II	2	2	5	6	9	7	1	1	9	7	2	2	4	4	4	3
III									1	1						
Pass									1	1			2	2		
Fail					2	1			1	1			1	1	1	1
Total	94		84		136		86		123		80			93		75

FHS Course 2, BA Law with Law Studies in Europe

	2025				2024				2023				2022			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	%	No	%	No	No	%	No	No
I	4	22	3	33	3	15	1	9	4	19	2	15	30	3	25	2
II.I	14	78	6	67	17	85	10	91	18	81	11	85	70	7	63	5
II.II															12	1
III																
Pass																
Total	18		9		20		11		22		13			10		8

FHS Course 1 and 2 combined

	2025				2024				2023				2022			
	Female		Male		Female		Male		Female		Male		Female		Male	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	No
I	20	18	24	26	19	12	21	22	18	12	18	19	16	16	26	33
II.I	90	80	64	69	126	82	75	78	115	79	73	78	77	79	52	65
II.II	2	2	5	5	9	6			9	6	2	2	3	3	2	3
III									1	0.7						
Pass									1	0.7			2	2		
Fail									1	0.7						
Total	112		93		154		96		145		93		98		80	

The imbalance in the number of men and women attaining Firsts has decreased since 2024. The percentage gap has decreased from 10% to 8% since 2024. However, the gap in percentages between men and women getting Firsts is still larger than 2023, where there was a 7% difference.

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 2024/25, candidates chose from a list of 24 option papers. The distribution of candidates across the option papers in recent years has been as follows:

	2025	2024	2023	2022	2021	2020	2019
Advanced Criminal Law	23	31	35	23	31	25	15
Civil Dispute Resolution	8	25	28	12	15	4	5
Commercial Law	15	21	17	12	20	-	11
Company Law	16	2	22	6	14	12	13
Comparative Law	9	16	1	14	14	15	17
Competition Law and Policy	17	16	3	9	24	17	15
Constitutional Law	6	5	6	3	8	5	9

	2025	2024	2023	2022	2021	2020	2019
Copyright, Patents and Allied Rights	-	-	-	-	-	-	9
Copyright, Trade Marks & Allied	25	3	16	16	31	16	15
Criminal Law	6	5	6	3	8	5	9
Criminology and Criminal Justice	12	11	18	16	20	16	16
Dissertation	12	13	18	17	-	-	-
Environmental Law	7	15	4	12	22	12	16
Human Rights Law	1	15	7	20	20	18	17
Family Law	28	39	38	20	41	57	60
Feminist Perspectives in Law	23	19	22	-	-	-	-
History of English Law	14	8	7	14	3	5	3
International Trade	9	18	4	5	15	10	13
Employment Law	10	21	15	13	1	13	15
Media Law	17	5	30	41	23	30	28
Medical Law and Ethics	74	85	68	29	51	85	73
Moral and Political Philosophy	2	17	23	23	35	17	24
Personal Property	15	18	20	8	16	12	2
Public International Law	33	42	33	33	31	29	41
Public International Law (Jessup Moot)	4	5	4	1	5	6	3
Roman Law (Delict)	9	5	17	5	16	5	7
Taxation Law	18	34	30	19	15	27	16
Succession Law	9	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:

	2025	2024	2023	2022	2021	2020	2019
Administrative Law	-	-	1	4	-	1	-

	2025	2024	2023	2022	2021	2020	2019
Advanced Criminal Law	-	-	-	-	1	-	-
Commercial Law	-	5	4	6	1	-	-
Civil Dispute Resolution	2	1	1	1	-	-	-
Company Law	10	-	8	9	8	12	6
Competition Law and Policy	10	8	1	14	4	5	5
Constitutional Law	2	1	2	4	2	4	4
Contract	18	25	17	24	19	25	22
Copyright, Patents and Allied Rights	-	-	-	-	-	-	3
Copyright, Trademarks and Allied Rights	2	-	7	4	4	6	2
Criminal Law	-	2	2	1	-	2	-
Criminology and Criminal Justice	3	8	3	3	3	2	3
Environmental Law	1	1	2	1	3	1	4
European Union Law	3	7	6	4	3	3	4
Family Law	-	-	-	-	-	-	1
Feminist Perspectives in Law	5	-	-	-	-	-	-
History of English Law	-	-	-	-	1	-	-
Human Rights Law	1	2	8	2	-	-	-
Jurisprudence (Exam)	1	-	-	-	-	-	-
Employment Law	-	-	2	-	-	1	2
International Trade	-	3	-	-	-	-	-
Land Law	1	-	-	-	-	-	-
Media Law	-	-	3	1	2	1	-
Medical Law and Ethics	4	3	1	-	-	-	4
Public International Law	-	-	-	5	6	5	9
Roman Law (Delict)	5	-	3	1	-	2	-
Taxation Law	3	2	3	2	2	-	4
Tort	12	17	16	15	23	17	23
Trusts	2	4	4	1	2	1	4
Succession Law	2	1	-	-	-	-	-

A blank field indicates that no candidates fell into the range concerned.

	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	211	2	16	39	20	52	61	10	1	7	0	3	0
Contract	231	0	13	29	13	67	67	9	14	16	1	0	2
European Union Law	212	0	9	18	19	58	69	11	4	21	0	1	2
Jurisprudence	211	0	15	13	41	70	54	5	7	5	0	0	1
Land Law	212	0	4	23	13	38	58	12	13	40	0	10	1
Tort	223	1	13	35	21	53	71	16	5	7	0	1	0
Trusts	211	0	5	33	15	53	58	13	14	15	1	3	1
Advanced Criminal Law	23	0	1	7	7	6	2	0	0	0	0	0	0
Civil Dispute Resolution	10	0	1	3	2	2	2	0	0	0	0	0	0
Commercial Law	15	0	1	2	0	5	3	3	0	1	0	0	0
Company Law	26	0	1	2	5	7	6	4	0	1	0	0	0
Comparative Law	9	0	1	4	4	0	0	0	0	0	0	0	0
Competition Law and Policy	27	0	2	1	2	10	10	0	0	0	0	2	0
Constitutional Law	8	0	2	1	0	1	3	0	1	0	0	0	0
Copyright, Trade Marks and Allied Rights	27	1	4	4	2	7	7	0	2	0	0	0	0
Criminal Law	6	0	0	2	0	1	3	0	0	0	0	0	0
Criminology & Criminal Justice	15	0	3	3	1	7	1	0	0	0	0	0	0
Dissertation	13	0	3	4	1	5	0	0	0	0	0	0	0
Environmental Law	8	0	1	1	0	1	3	1	1	0	0	0	0

	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	28	0	4	3	2	14	5	0	0	0	0	0	0
Feminist Perspectives in Law	28	0	4	10	7	6	1	0	0	0	0	0	0
History of English Law	14	1	0	2	3	4	3	0	0	1	0	0	0
Human Rights Law	2	0	0	0	0	0	1	0	0	1	0	0	0
International Trade	9	0	1	2	1	1	3	0	0	1	0	0	0
Employment Law	10	0	2	0	1	1	5	1	0	0	0	0	0
Media Law	17	0	4	1	1	7	3	1	0	0	0	0	0
Medical Law and Ethics	78	0	8	8	13	33	12	1	2	1	0	0	0
Moral and Political Philosophy	2	0	0	0	0	0	1	0	0	1	0	0	0
Personal Property	15	0	4	2	2	2	3	1	0	1	0	0	0
Public International Law	33	0	5	5	5	6	8	2	2	0	0	0	0
PIL Jessup Moot	4	0	3	0	1	0	0	0	0	0	0	0	0
Roman Law (Delict)	14	1	2	2	1	6	2	0	0	0	0	0	0
Taxation Law	21	0	4	2	2	7	3	1	0	2	0	0	0
Succession Law	11	0	2	1	4	4	0	0	0	0	0	0	0

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).

Scripts were generally of a high quality, with the vast majority of candidates being awarded Upper Second Class marks. To achieve a low Upper Second mark, a knowledge of the starred cases on the reading list, plus some reference to secondary literature was sufficient. However, those who gained higher marks interrogated the quotation in the context of the decision that it originally appeared in and set it in the wider context of the law on standing. This usually also involved consideration of the broader purpose of the law on standing.

Overall, answers provided were of a high quality. There was obviously a difference from the previous year, as the method of examination returned to closed book. Before writing, candidates are strongly advised to spend the first part of the allotted time planning their answers and repeatedly re-reading the question set. This will help avoid the creation of answers that come across as a general, unfocussed presentation of tutorial knowledge on the topic.

Overall, candidates received first-class marks when they focused closely on the question asked. Doing so requires the consideration of a range of arguments and counter arguments in respect of both the question, and also the candidate's own position on the law. A deep knowledge of relevant legal doctrine, as opposed to a superficial recounting of the starred cases on the reading list, was also highly rewarded. To excel at an examination like this one (and at FHS exams in general), answering the question asked, as opposed to giving a broad overview of the topic in which it falls, is the best strategy.

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 four, concerning standing, was the most popular.

Question 5 on legitimate expectations, was also popular. We accepted a range of answers on whether a coherent justification for legitimate expectations was required. Highly successful candidates made a nuanced argument, as opposed to merely trotting out the well-known cases and superficially engaging with secondary literature.

Question 6, on rationality and proportionality was popular, but few candidates took the opportunity to draw insights from European Union Law. Those who did were highly rewarded.

Question 7 on ouster clauses invited a detailed discussion of the case law, especially that post-*Privacy International*. Candidates who did this were few and far between. Merely focusing on abstract constitutional principles (such as the rule of law and parliamentary sovereignty) attracted lower marks.

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 20 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 focussing on the topic or topics requested, did not do as well as those who did what the question required. Better answers consider the range of material that could be used to answer the question, produced a strong argument, with clear progression of ideas and solid authority for claims of law made. Particularly strong answers avoided lines of argument in one part which contradicted lines of argument in other parts. Due to the limited exam periods in the Faculty, the course had two exam periods, so two different exams were set, for the end of Hilary Term, and for the beginning of Trinity Term.
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).
In Part A, candidates this year did well, but there was space for improvement. In HT the question "When should the criminal law give way to another area of law? Why?" required students to think through what "giving way" meant, i.e., not just that the criminal law was inappropriate for that area, but that it could choose not to go where it might otherwise go, and why it might so refrain. In TT, the question "What values underpin the modern criminal law? Should they be changed?" was answered well, but again there was space to consider how the breadth and depth of the possible values, and what change might mean. Candidates who argued that there were in fact no values underpinning the criminal law would have needed to do a lot of explaining about English law to show what there was, or thought to be, underneath it. 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. For example, on sexual offences, in HT, "the best" form of regulation was

considered and not enough students considered what a non-criminal form of regulation would look like. How criminalisation and terrorism offences was the theme for that area of law, while predictability and discretion were probed in the enforcement area of law. In the hate crime field, the questions picked up the Law Commission's work on defining harm in hate, and understanding the ways the law can respond to non-traditionally criminal conduct. In violence against women, the HT question picked up a quote on role of women as defendants as well as victims, and the offences that are involved and/or fail to do the work they need to, to promote gender equality. The Tort/crime questions picked up the principles reasons for the distinction (if any) and the role of the victim, but they were not popular.

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).

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).
The Commercial paper, as every year, consisted of ten questions, five of which were problems. There was a marked preference to answer problem rather than essay questions, with several candidates eschewing essays altogether. Most candidates demonstrated foundational knowledge of Commercial Law rules and principles, but some struggled to apply their knowledge effectively to the questions asked or failed to apply statutory provisions precisely or to identify crucial distinctions between the problem scenarios and the case law. Many would have benefited from greater clarity in their written arguments.
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).
Questions 1, 4 and 5 were not attempted by any candidates at all, while questions 2 and 3 were answered by just four or five candidates respectively. **Question 2** This question focused on s. 13 of the Sale of Goods Act 1979. The courts have relied on a reading of the section that focuses on descriptive terms that go to the identity of the goods, but only one candidate explored this. Candidates would have benefited from knowledge of the drafting history and the former relationship of s. 13 and s. 14. **Question 3**

There were some very good answers to this question, though generally there was a tendency simply to regurgitate the material on this point on the reading list. There was a general failure to express clearly that in agency all authority must ultimately be traced back to the principal, and that privity is brought about because the third party knows that it will end up in a contract with the principal. The main exceptions to this are undisclosed agency and the English approach to ratification, but the better answers appreciated this and criticised the doctrine appropriately.

Question 6

This was the second most popular problem question. It explored the passing of property and risk and the extent to which this controls the seller's ability to sue for the price. (a) There was a general failure to understand the concept of ascertainment of exhaustion, with many candidates thinking that this only applies where s. 20A SGA applies. It was notable that many answers of this part of the question overcomplicated matters somewhat. (b) The case of *Sterns v Vickers* seemed to be unknown to the majority of candidates, and this made reaching the correct answer impossible. (c) The main focus should have been on "deliverable state" and the relationship of that concept to s. 14(2), but this was largely missed, with candidates focusing either on the one or the other.

Question 7

This was the most popular problem. It focuses on the application of the *nemo dat quod non habet* rule in s. 21(1) and its exceptions. A common problem was that candidates sought to apply the *nemo dat* exceptions without considering whether they were even needed (where goods are sold on retention of title terms a licence to sell is usually implied – would this cover barter?). The significance of this being a barter transaction was overstated by some and totally ignored by others. The issues surrounding the diamond necklace were concerned with relativity of title. Some spotted the relevance of *Mutual Employers' v Jones* but then thought they could simply stop, never discussing the priorities between the remaining parties. Most found the final part of the question challenging.

Question 8

The third most popular problem, with eleven answers. It focused on agency principles and undisclosed agency in particular, as well as contractual aspects of contracts of sale.

Agency: We told students during the course that a common mistake in previous years had been a misguided insistence to apply *Watteau v Fenwick* even where it was not relevant at all. This might have led many candidates to think that *Watteau* could not possibly be relevant. Unfortunately, it was. The main issue, which few candidates saw, was that, under *Watteau,* the principal can be sued but not sue, which put Paul in an unenviable position.

Sales: Most candidates dealt well with issues under s. 13 and 14(2). The problem was that, focusing almost entirely on whether the buyer can reject, candidates lost sight of other remedies buyers may want to seek, in particular, where they themselves are the targets of law suits that will almost certainly be successful, an indemnity in respect of this.

Question 9

This was attempted by nine candidates and generally answered well. Most candidates heeded our advice to organise their answers by asset rather than party or transaction. Some candidates could have scored better had they used their common sense, failing to realise that upgrading chips on a motherboard would most likely count as maintenance rather than substitution of an entire asset. It was also disappointing that several candidates simply assumed the reader would know why characterisation mattered. When it came to the purported fixed charge over receivables, a worryingly large minority of candidates focussed entirely on the blocked nature of the account, ignoring the 'workaround' using the overdraft facility entirely. Most spotted the circularity problem and dealt with it competently, with some subjecting it to an impressive and nuanced analysis which went beyond a mere choice between *Woodroffes* and *Portbase.*

Question 10

This was attempted by only one candidate so that a discussion of their performance would be inappropriate.

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).

The paper was made up of 8 questions, one compulsory question in Part A, and a choice among 7 questions in part B. Candidates had to do one question from each of Part A and Part B. Candidates were rewarded for providing sources.

As a general statement, the examination was completed very well, with some rich and interesting answers covering multiple legal systems and making valuable comparisons across them. Eight candidates took the exam, and the marks reflected what the examiners believe was hard work during the year and a careful attention to what the exam was asking for.

The examination was conducted by submission format. There were no breaches of rubric, though any candidates who did not fulfil the terms of the question, such as by not focussing on the topic or topics requested, were not rewarded. That was, thankfully, a rare event.

The results were strong and based on the students' engagement in the seminars, this would seem to be because we had a small group who had self-selected for a genuine interest in the enterprise of comparative law.

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 single part A question was about methodology in comparative law, which is a constant preoccupation in the discipline and which, because of its cross-cutting nature, appeared in directly or indirectly in the teaching of all topics. The question asked about how methods can 'both help and hinder the aims of comparative lawyers'. This obviously opened space for discussion of both positive and negative aspects of methodology, but it also called for discussion of the multiple aims of comparative law. 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 that addressed multiple methodological possibilities.

The Part B questions addressed the topics that were covered in the seminars that were delivered on different substantive legal fields in tort, contract, and property. The questions demanded that candidates show a range of knowledge across systems, sometimes implicitly (QQ 2, 3), sometimes by explicitly referring to multiple legal systems by name (QQ 4, 6), and sometimes by requiring discussion of more than one legal system, while leaving the candidates with choice in that respect (QQ 5, 7).

In all cases candidates did best when they were able to analyse the question and to respond in a well-organized and clear way to the precise question. Strong candidates were able to describe legal rules and principles concisely; explain those rules and principles with nuance; and show an ability to maintain an open mind rather than being overly affected by presuppositions from one's 'home' system (in this case, the law of EW).

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. All twenty six candidates, FHS and DLS, were asked to answer three questions, including at least one problem question, in four hours.

Essay questions probed the student's ability to reflect on recurring themes of competition law as well as on topical issues

Twenty-six students submitted answers for the exam. Overall, the scripts showed a good command of the subject and good analytical skills. The average mark was 64.6%. Three students achieved Fist Class Honours classifications: approximately 11% of the class. As in previous years, candidates generally chose to spread their answers across 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 generally displayed excellent grasp of the underlying material, evidenced by sustained references to case law and commentary, combined with critical, creative reasoning. Weaker answers tended to miss important substantive issues, engage in perfunctory analysis and/or misrepresent the relevant case law.

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 asked students to reflect on the exclusionary effects that Article 102 TFEU targets and the relevant case law.

The second essay question included an excerpt from a judgment inviting students to reflect on the distinction between "by-object" and "by-effect" restrictions of competition. Given that this question is a staple of the course, it was the most popular among of all essay questions.

The third essay question invited students to discuss the competing objectives of the European Merger Regulation, the need for effective ex ante review of concentrations as well as legal certainty.

The fourth and final essay question gave students the opportunity to reflect on a topical issue: the capacity of competitive law to address the anticompetitive concerns in digital markets.

Problem questions focused on the application of Article 101 TFEU, Article 102 TFEU, the EU Merger Regulation and the enforcement of competition law, with significant crossover in all four of the questions on offer.

Question five contained a multitude of issues including potential restrictions under Articles 101 and 102 TFEU, as well issues of enforcement under Regulation 1/2003.

Question six similarly cut across several areas of the course touching on jurisdiction to review a concentration and gun-jumping under the EU Merger Regulation and abuses of dominance under Article 102 TFEU.

Question seven probed candidates' ability to assess vertical restrictions under Article 101 TFEU in a retail market, as well as a potentially harmful horizontal agreement under Article 101 TFEU.

Question eight mainly touched upon potential abuses of dominance under Article 102 TFEU in a retail market as well as potentially restrictive horizontal agreements under Article 101 TFEU. This was the most popular question of the exam, with a total of 17 students attempting it.

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).

The overall standard was good, with some strong scripts, although some candidates did offer overly general and descriptive answers, which failed to engage sufficiently with the particular question that had been posed. Questions touching on parliamentary sovereignty and the rule of law were particularly popular, with relatively fewer candidates answering questions about human rights law. Some questions clearly required candidates to explore the place of some particular law or practice or judgment in the constitution as a whole, questions which unsurprisingly was answered more effectively by those with a grasp of the constitution's complexity.

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).

Q1. This was a popular question. Some candidates discussed parliamentary sovereignty in very general terms, but the best answers attended closely to the nature of the doctrine and the relationship between judges and its foundation and capacity for change, if any.

Q2. This question was answered by only a few candidates. The best answers engaged with particular contexts in which the rule of law might be thought to be, or has been claimed to be, judicially enforceable and were able to consider claims to this effect intelligently and effectively.

Q3. This question was answered by several candidates. Some wrongly took it to be a general invitation to reflect on devolution, but the better answers were able to reflect on the importance of the Scotland Act and the extent to which it formed a constitutional statute.

Q4. This was a reasonably popular question. The better answers focused effectively on the convention and its relationship to other important features of the constitution. Some candidates questioned the continuing force of the convention, often making use of recent examples, which was sometimes effective but sometimes resulted in a distorted analysis of constitutional practice.

Q5. This was a popular question, although only some candidates seemed aware of the context in which the claim was made and its significance. The better answers were able to combine analysis of the devolution legislation with wider claims about the rule of law's constitutional standing.

Q6. This question was not answered by any candidates.

Q7. This was a popular question, although not all candidates were fully acquainted with the context of the claim and were thus able to engage with it effectively and fully. The better answers were able to evaluate the claim fully and to explore its implications for the constitution more generally.

Q8. This question was answered by a few candidates, with some scripts developing an intelligent reflection on the distinction between the idea of the political and legal constitution. The best answers engaged fully with the precise question about how, or whether, the distinction illuminated or obscured understanding of the UK's constitution.

Q9. This question was answered by several candidates, some of whom went wrong in simply reflecting in general terms on the Human Rights Act without attending to the distinction drawn in the question itself. The better answers were fully on top of the critical developments in case law in recent years, with weaker answers not engaging with this case law much if at all.

Q10. This was not a popular question. To be answered well it required candidates to understand the context of the claim in question and to relate it to the case law and structure of the Human Rights Act more generally.

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 2025 paper adopted the usual format of 12 questions; seven essays and five problems, with candidates required to answer at least two problems. The standard of answers across the board was broadly in line with previous years, but the return to a

closed book format and the three hour time limit meant that most scripts were shorter than has been the case recently. The better answers met the quite demanding task of expressing concisely a combination of insight, accuracy and comprehensiveness.

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).

Among the essays, questions five (consideration) and six (privity) proved to be most popular, as is usually the case when these topics are set as an essay. The better answers to question five adopted the broader perspective needed to address any 're-examination' of the decision in *Foakes v Beer*, including developments in estoppel (eg. the decision in *Collier v Wright*), and made good use of commentary; weaker answers tended to provide not much more than a narrative of some or all of *Foakes, Williams v Roffey* and *MWB v Rock*. The better answers to question five focussed closely on whether the 1999 Act was 'necessary' and made good use of commentary to the effect that a reform of the law of remedies to address the recovery of third party 'loss' may have been more beneficial.

The next most popular essay was question one (primarily remoteness, but with scope to discuss the law of damages more generally). There were some sophisticated analyses of Lord Hoffmann's idea on whether the 1999 Act was 'necessary' and made good use of commentary to the effect that a reform of the law of remedies to address the recovery of third party 'loss' may have been more beneficial.

The next most popular essay was question one (primarily remoteness, but with scope to discuss the law of damages more generally). There were some sophisticated analyses of Lord Hoffmann's idea of intention-based recovery of damages, but rather more relatively unambitious summaries of the development of the law from *Hadley v Baxendale* to *The Achilleas.* There were only a relatively few answers to the remaining essays (question two (Consumer Rights Act 1925); question three (frustration, common mistake and the 'implied term theory'); question four (undue influence); and question seven (rectification and interpretation). Some of the answers to question seven were impressive, but they were equally matched by some fairly modest narratives of the law. It is surprising how little familiarity there seems to be with commentary on the conceptual basis of undue influence.

The subject matter of the problem questions was broadly as follows: question eight (exclusion clauses, penalties); question nine (consideration, privity, damages for third party loss, offer & acceptance, unilateral mistake); question 10 (misrepresentation); question 11 (frustration, action for the price, damages); question twelve (consideration, duress, estoppel, termination, damages).

A number of answers to question eight failed to discuss the possibility of claims for breach of the implied terms under the Sale of Goods Act 1979 (and the relevance of such claims to determination of the relevant provisions of UCTA 1977) and, as is often the case, the question of incorporation was discussed at length to the detriment of analysis, if any, of the interpretation of the exclusion clause and its enforceability under the 1977 Act. Only the best of the answers saw that there was a question of interpretation with clause (ii), i.e. that it only applied on 'cancellation' and the contract may have been terminated for breach.

Question nine was the most popular problem question and was, on the whole, done quite well. It was particularly pleasing to see that many candidates saw the possible relevance

of s.2 of the 1999 Act so far as the binding effect of any variation was concerned, if the contract was enforced by a third party. The best of the answers were those that dealt well with the possibility of mistaken identity in the second part of the question, drawing on the comments made in the recent *Longley* decision for the requirement of actual knowledge of the mistaken party's mistake.

As ever, the better answers to question 10 spent some time on the important question of remedies and whether a claim for breach of contract, if any, might be more or less advantageous than a claim for misrepresentation. The question also provided an opportunity to discuss the application of the decision of the Supreme Court in *Hayward v Zurich* on 'reliance', which was not taken by all candidates; and rescission was sometimes assumed as a potential remedy without asking whether it might be barred by the need to make counter-restitution where the nature of the farm purchased had been changed.

Question 11 was primarily concerned with frustration, but the better answers also dealt in equal measure with the analysis if the contracts in question were not frustrated, including the remedies available by way of damages or an action for the price (especially in part (b)). Most candidates engaged in some discussion of the 1943 Act but some of those who did failed to see the possible application of s.1(3) and the need to engage with the decision in *BP v Hunt* on the assessment of a 'valuable benefit' in part (c).

Question 12 was not as popular as may have been expected, given that the first part dealt with consideration, duress and estoppel, which tend to be popular. That may be because the second part dealt with termination for breach and the effect of a term being treated as a 'condition'. This part was not handled confidently by some who dealt well with the first part, and only the best of the answers saw the potential in the second part for any discussion of *The Golden Victory* and its relevance for any recovery of damages.

COPYRIGHT, TRADE MARKS AND ALLIED RIGHTS

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 was the first year with a new exam format, consisting of two assessed essays, one on a copyright topic and the other on trade marks, to be completed over a week. The new format worked well, with several candidates demonstrating their capacity for conducting independent research as well as developing original analytical perspectives. Given this exam format, descriptive answers summarising familiar materials fared less well.

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).

Hilary Term

<u>Copyright</u>

Q1 related to the permissibility of reusing quotations from protected works, with an emphasis on musical sampling as a form of quotation. The question implied that the

'blame' for the excessive scope of copyright protection can be attributed to an overly broad infringement test, as opposed to a narrowly defined quotation defence. Better answers took the infringement dimension seriously. They engaged more closely with the 'substantial part' variant of copyright infringement and its internal limits. They explored differences between the UK and EU approaches to this test and distinguished between the approaches to infringement for authorial as opposed to entrepreneurial works. The best answers acknowledged the interaction between infringement provisions and defences. These candidates queried whether the quotation defence was fit for purpose, *even if* the infringement test was read down, while answers which focused mainly on the scope of the quotation defence performed relatively less well.

Q2 introduced a topical debate, relating to whether copyright should recognise AI-generated works. It asked whether a bespoke UK provision (s 9(2) CDPA) recognising computer-generated works ought to be repealed. Given that the UK Intellectual Property Office has recently consulted on this issue, there was a great deal of material for candidates to draw on while exercising their own discretion. It proved the most popular copyright question in HT. The best answers explored the provision as a confused hybrid between authorial and neighbouring rights, demonstrated why the one case referring to it (*Nova*) didn't need to rely on it and explored the normative as well as practical basis for recognising 'purely' AI-generated works.

Q3 invited candidates to engage in a comparison between the pastiche defence in the UK/EU and the US 'fair use' defence, in the specific context of the *Andy Warhol Foundation* dispute. No candidates attempted this question.

Q4 focused on moral rights. It invited candidates to challenge the view that they stifle creativity and advocated for their expansion, providing authors with greater protection. This question, implicitly focusing on the right of integrity, proved the second most popular in the Hilary term tranche, with candidates debating their role as a tool of censorship, how to reform the test for prejudice to one's honour (including whether it extends to the destruction of works), the extent to which a power imbalance between authors and institutional intermediaries like publishers or platforms should be taken into account and whether cross-cutting aspects like preventing their waiver would need to be concurrently reformed. The highest-scoring answer (75) engaged innovatively with their potential to counteract authorial works being harvested by generative AI.

Trade Marks

Q5 asked candidates to analyse whether the UKSC decision in *SkyKick* (2024), enhancing bad faith, was a suitable response to the problem of cluttered trade mark registers. It was the most popular trade mark question for Hilary. However many candidates stayed within a largely descriptive space and didn't engage deeply with the doctrinal innovations of this landmark decision. The best responses did explore the implications of using objective circumstances to infer subjective (bad faith) intention and how shifting the burden of proof in relation to presumed good faith can be achieved. They also explored the limits of bad faith as a response to clutter and the extent to which other reform options should be considered in addition to bad faith.

Q6 asked whether merely making a mental link between two signs should constitute infringement via blurring, regardless of whether any harm is caused. It required candidates to engage with the turn to brand image protection in trade mark law and the extent to which empirical (consumer survey) evidence or insights from psychology can provide a compelling account of harm flowing from mental associations and whether these harms

are an inevitable consequence of any such association. More thoughtful responses argued that the boundary between blurring and free riding was dissolving, while some of the best answers indicated where checks and accountability mechanisms might be introduced into the current legal test.

Q7 was attempted by only two candidates but ably so. Both candidates innovatively analysed the implications of AI recommendation systems assisting with or entirely substituting for human decision making in a retail context. Trade mark law is anchored around the consumer as it's subject and an AI-enhanced consumer has implications for several areas of trade mark doctrine. Both candidates sensibly confined their analysis to specific doctrinal implications, with one convincingly challenging the premises in the question.

Q8 invited reflection on the judicially-developed doctrine of post-sale confusion. This was also attempted by two candidates and both scored very highly, by focusing on relevant harm (or its absence) as well as its application in very recent (2025) UK case law.

Trinity Term

Copyright

Q1 invited candidates to assess whether the originality test for copyright subsistence in the EU and UK is too low. Five candidates attempted this question. Weaker answers elaborated on the differences between the UK test (labour, skill, judgment) and EU test, or whether one had replaced the other. More compelling responses explored whether and how the standard might be raised, without introducing a qualitative evaluation into copyright law.

Q2 provocatively asked whether copyright should extend beyond human creativity to recognise and encompass AI creativity. Those who engaged rigorously and creatively with the question were suitably rewarded. This included thematic analysis of the normative basis for copyright protection, differentiating between purely AI-generated works and those where AI was used by humans as a tool, or else exploring the potential for sui generis regimes like Computer Generated Works (s 9(3)). Some answers extended – unwisely – to whether training AI models and the outputs they produce can infringe i.e. an infringement and defences focus beyond the remit of the question.

Q3 on sampling did not attract any answers.

Q4 was attempted by one candidate. This focused on whether a 'best seller' provision should be introduced into UK law, seeking to redress underlying power imbalances in copyright contracts.

Trade Marks

Q5 concerned the rise of deepfakes and whether a new property right in one's image would help affected individuals to redress this. The more critically attuned responses analysed the unaddressed harms within the present legal framework, the potential for extending existing IP rights and whether rights that responded to dignitary harms might be better than a new proprietary right. Candidates who engaged in greater depth with the contours of a proposed new right – who would benefit from it, what might constitute infringement and what defences would be necessary – were rewarded.

Q6 invited responses to the concern that statutory policy exclusions directed at non-traditional trade marks are being bypassed with relative ease. This was generally answered well by those who attempted it, although a few candidates ended up relying too heavily on the secondary literature and tracking the established arguments. Descriptive consolidations of existing issues were penalised.

Q7 on whether due cause had the potential to accommodate expressive interests was attempted by only one candidate. However they responded admirably, addressing the underlying concern of whether past judicial constraints on its interpretation, as a grudging acknowledgement of defendant's interests in narrowly defined circumstances, could be overcome and identifying the most promising interpretative paths forward to do so.

Q8 invited candidates to debate whether (empirical) survey evidence establishing the likelihood of confusion had a role to play in a test otherwise infused by normative concerns. Three candidates attempted this question. All attempted to parse the descriptive/empirical and normative aspects of the likelihood of confusion test and how such a 'blended' test should ideally be constructed. They were suitably rewarded for this productive line of analysis.

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 Final Honours School Criminal Law paper was sat by six candidates. It comprised two parts:

- Part A (Essays): Seven questions, with candidates required to answer at least one
- Part B (Problem Questions): Four questions, with candidates required to answer at least two, completing four questions in total (excepting DLS candidates, who only answer three questions in total)

Overall, performance was sound. Most answers demonstrated competent engagement with the questions, appropriate use of authority, and reasonable argumentation. Higher marks were awarded to candidates who offered detailed, structured responses with strong analytical depth.

- Stronger essays integrated case law, statute, and commentary with precision
- Stronger problem questions reflected fluent application of the relevant law, clear issue-spotting, and thoughtful engagement with legal nuance

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).

Essay Questions

Most candidates elected to attempt three problem questions and one essay. The essays were generally persuasive and well composed, reflecting a solid grasp of core doctrines. A

number of candidates advanced original or sophisticated arguments, evidencing independent thought.

Problem Questions

The most frequently attempted was Question 9, which required engagement with the Sexual Offences Act, the Criminal Attempts Act, and subsidiary issues around intoxication and the Offences Against the Person Act. Candidates who invested time in unpacking the finer points of this scenario were credited accordingly

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).

16 candidates sat the exam for the Criminology and Criminal Justice option in 2025. Seven exam papers were double marked including the full spectrum of marks as well as borderline papers. The agreed marks ranged from 65% to 74%. Overall, the papers were of very high quality, demonstrating independent thinking, critical analysis as well as thorough engagement with a wide range of readings at the appropriate depth. Six candidates achieved distinction grades, and all candidates achieved grades above 65%. These results are better than last year's results where four candidates out of eighteen achieved distinction-level grades. They also reflect the impression we had throughout the year that this was a highly motivated cohort which very actively participated in the seminars at a high level. While there was a good distribution of the questions that candidates chose, the questions on the reform vs. abolition of prisons, Southern Criminology, crimmigration and state crime were particularly popular.

The examiners were impressed by how quickly students adapted to the socio-legal/interdisciplinary forms of arguing and working with sources that may be newer for those with a legal background. Sometimes, the desire to write a lot came at the expense of a deeper engagement with the literature and a more original line of argumentation. Students should remember that we are looking for thoughtful rather than lengthy essays and would encourage them to avoid the temptation of writing just for the sake of writing as much as possible.

Attendance at seminars was good this year but could be improved even further. As this is a seminar style course with very few tutorials, it is particularly important that students come to exchange ideas and develop their argumentation in class.

Overall, it was a pleasure to teach this 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).
11 candidates sat this paper. All questions on the paper attracted at least one answer, but the most popular were those relating to worker status, working time and unfair dismissal. Almost all the answers demonstrated a good grasp of the policy issues in employment law, but the very best essays combined this with detailed knowledge of the statute and case-law.
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).
Some candidates were caught out by question 3, on the distinction between 'worker' and 'self-employed' status, and answered instead on the distinction between 'employee' and 'self-employed' status. This demonstrates the crucial importance of reading the question carefully before starting to write.

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).
As in previous years, students were offered a choice of 10 questions, including 9 essay questions and 1 problem question. The paper covered the full breadth of the course. The most popular question was question 5 concerning the Aarhus Convention. Questions 1 and 3 (relating to environmental governance) were also popular. Three questions were not answered: question 7 on water quality; question 9 on climate change; and question 10 on nature conservation. A number of candidates did not sit the paper, which may have affected the range of questions selected. No student elected to answer the problem question set, despite encouragement during tutorials and revision sessions to engage with problem scenarios. This is the first paper since the Covid-19 pandemic that was written in closed book conditions. Students were provided with a categorised case list, with categories reflecting the particular topic studied during the course. With this context in mind, the quality of responses demonstrated a strong effort to engage with the breadth of the course. In many papers, it was evident that students had run out of time (unfinished essays, notably short responses, spelling errors etc). While this did not affect the examiners' assessment of the quality of the answer provided, it is worth noting for future exam preparation. Less strong answers tended to make broad generalisations or unsubstantiated arguments, without engaging with the legal detail. There were frequent omissions in weaker responses, and in particular limited engagement with the full breadth of the case list provided. Students are strongly encouraged to use the full breadth of the material covered in the course, and to use the case list provided as an aide in the exam. It is critical that students substantiate arguments with correct explanations of the current state of the law. When answering questions that overlap with other topic areas (such as e.g. environmental assessment and public participation) students should avoid the temptation to replicate

arguments across multiple essays in one paper. This repetition can be avoided by paying attention to the specific words of the 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).
Answers that achieved a high 2.1 showed a good understanding of the relevant area of law and answered the full breadth of the question. For example, a good answer to question 1 displayed a detailed understanding of key provisions of the Environment Act and situated their analysis within the context of post-Brexit environmental law, taking heed of academic discussions of 'incoherence' or executive dominance. Similarly, a strong answer to question 4 not only explained the facts and issues in *Finch* but also engaged with its legal significance for environmental impact assessment and displayed a thorough understanding of key provisions of the environmental impact assessment regime. First class answers displayed all the above qualities and also demonstrated critical faculty, intellectual initiative and drew on themes from across the course. For example, when analysing the UK's implementation of the Aarhus Convention, an excellent answer to question 5 would not just describe the relevant academic literature, but would also draw a conclusion based on the candidate's assessment of the issues surveyed in the essay. Excellent answers would also engage with the 'how' element of the question, rather than just providing a yes or no answer.

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).
The scripts were notably polarised. The usual proportion demonstrated an excellent grasp of the subject material, showcasing analytical skill, clarity of expression, and an ability to apply concepts critically and accurately. However, we also saw a significant number of scripts at the very low end of the grading scale, where candidates showed limited understanding of the subject.
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 Answers on the lower end thought this was a classic question about Article 114 TFEU and overreach. But that is only one part of the required answer. The stronger candidates engaged with the idea of both political safeguards (eg voting arrangements, yellow card system) and legal safeguards (subsidiarity and proportionality as applied by the courts) and examined in detail the content of Article 114 TFEU. **Question 2** This was a popular question but answers at the lower end didn't engage much with Article 4(3) but rather only discussed supremacy. On supremacy, the answer required the concept

to be unpacked, examining some of the key case law from the CJEU, including Internationale Handelsgesellschaft, as well as Costa v ENEL. Stronger answers skilfully engaged with the content of Article 4(3), relying on relevant case law and showed the many applications that it enjoys in EU law, including ensuring the 'fulfilment of the obligations…' and enabling a decentralised application of EU law.

Question 3

Strong answers critically analysed 'dialogue'– eg question & answer not the same as 'dialogue' but rather dialogue furthers understanding between the two parties. This question required a strong understanding of the CJEU's structure and function, as well as the different roles that national courts play vis a vis the CJEU in this regard, and detailed engagement with the relevant case law. Weaker answers didn't acknowledge Art 267 TFEU and overlooked key cases on the topic.

Question 4

This question required a detailed understanding of the two set cases. Van Gend required a discussion about 'vigilance of the individual' to complement Article 258 TFEU and the integration of national courts into application/adjudication of EU law, as well as horizontal effect of EU law. Mangold sees emancipation of Directives from their implementation period and from the Marshall limitation to vertical direct effect. Following from this, the stronger candidates discussed Egenberger, Bauer and Broßon, Smith v Meade as a continuation of 'horizontalisation' of human rights through shift into the Charter. Weaker answers didn't know the case law and so provided generic answers with little content.

Question 5

Strong answers demonstrated a nuanced understanding of the interplay between Articles 263(4) and 267(b) TFEU, and critically engaged with both relying on the relevant case law. Stronger answers also considered the Francovich-doctrine whereas weaker answers focused exclusively on Art 263 TFEU.

Question 6

This question required an assessment of what is meant by a 'human rights court' (eg in all Member States, courts apply HRs and are thus 'HR courts') but the obvious distinction is that the CJEU is not the same as ECtHRs. Stronger answers showed solid understanding of the 'three bills of rights' in the EU context and the way that the Court has applied each. Weaker answers focused mainly on the point that the EU is chiefly about the internal market and as such, not about HRs.

Question 7

Several candidates engaged thoughtfully with the decentralised enforcement structure of EU law, recognising that national courts and administrative bodies are primarily responsible for applying EU law due to its direct effect and the absence of harmonised EU procedural rules. Stronger answers identified the potential tension between national procedural autonomy and EU substantive rights, and correctly explained how this is mediated by the principles of equivalence and effectiveness. Those who distinguished EU tort law (e.g., Francovich) from procedural law showed a more sophisticated understanding, challenging the notion of a 'myth' of harmonised procedure and correctly observing that most national procedural rules remain neutral and permissive.

Question 8

This question was popular and asked the candidates to consider the following steps:

Measure a)

This is an indistinctly applicable measure but an universal ban so breaches Articles 34 and 35 and needs justification. Ground of justification includes Art 36 TFEU and proportionality. The latter asks to consider what is 'suitable' (ie does the measure achieve the aim of reducing obesity rates?) and what is necessary (ie no less restrictive measure equally effective?).

Measure b)

Restriction applies to candy made in T as well as imported. This would require an application of Keck and the subsequent legal tests to establish whether this is the same in law and in fact and so falling outside of Art 34 TFEU.

Measure c)

Cap on content of artificial sugars: assessment as above re ban on imports. More likely to pass, as lighter restriction.

Regarding certificate: requirement applies to all candy, and is no more burdensome to comply with for foreign than for domestic producers, especially because (/if) foreign certificates are acceptable.

Alternatively, Sweet Tooth does not require a certificate in S, so that the requirement would entail adaptation costs for doing business in T. Useful to consider Oosthoek and its applicability here. Will also need to consider proportionality.

Measure d)

Requirement applies to all so indistinctly applicable measure. Need to consider proportionality (eg whether the measure is suitable and necessary).

Question 9

This question asks to consider the situation of Adam and Josef under EU Law.

Adam

Adam's original right to remain doesn't derive from Articles 20/21 TFEU as he is not a Union citizen. No info re Articles 9, 16(2); questionable anyway because Eve is not a migrant worker.

He might, however, have a derived right to remain in relation to Eve. She, however is not a national of X and has not moved, Article 3(1), 2(1) and so he cant derive any rights in this way. There might be a derived right from Cain & Abel's citizenship but this is not a Zambrano type of situation as the children are not forced to leave EU territory altogether. Abel's emotional attachment insufficient. McCarthy is also relevant to consider.

Strong answers also noted that Member State X cannot enforce Adam's obligation to leave without observing the procedural safeguards in Article 31.

Josef

No direct right to equal treatment under CRD Article 24 because Josef does not reside in X 'on the basis of this Directive' since Maria does not, either.

The question is then whether Josef enjoys any derived rights from Maria's rights under EU law (freedom to provide services, Carpenter), Article 7(2) Reg. 492/2011. Strong answers considered whether Maria is a worker, and depending on whether they found that to be the case, the non-discrimination principle that applies to Josef.

Question 10

Stronger answers demonstrated an accurate understanding of the concept of 'negative harmonisation'—interpreted as the removal of national barriers through the Treaty provisions on the four freedoms, particularly Articles 34–36 TFEU—while also recognising the unusual nature of the term as a blend of negative integration and harmonisation. These responses correctly linked derogations, such as those in Article 36 TFEU, to the limited grounds on which Member States can justify restrictions, and discussed how Cassis de Dijon extended the scope of justification to indistinctly applicable measures. Some noted that these derogations diminish or fall away once EU-level harmonisation occurs under Article 114 or the legal bases specific to each freedom. The strongest answers critically reflected on how the ability of Member States to invoke derogations—even temporarily—illustrates the limits of a fully integrated internal market, especially given the absence of unified action in certain modern policy areas like environmental protection. Weaker responses tended to list treaty provisions without analysis or failed to distinguish clearly between negative harmonisation and positive integration.

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 questions were answered reasonably well this year. There were very few weak scripts and most candidates demonstrated a good knowledge of the law and of the theoretical material. First Class scripts were marked by a thorough engagement with the material: not just summarising the arguments made in the academic material and the decisions in case law, but also by applying those to make arguments that answered the question that asked. By contrast many of the Upper Second level answers provided a useful summary of this material, but did not go on to analyse it in depth. Generally there could have been more evidence of careful reading of articles and book chapters to gain insight into academic analysis and to enrich answers to the questions.

FEMINIST PERSPECTIVES

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 feminist perspectives paper is marked by a wide range of markers and so it is not possible to comments on particular questions. The paper, as with previous years, was divided into two parts. In the first part the question related to a broad theme in relation to feminist thought. Candidates were encouraged to consider these broader issues, but also to draw on examples from specialist seminar topics. The best answers did this very well, illustrating how the wider themes could become relevant in concete examples and particularly some of the challenges in translating feminist thought into a legal rule that would be workable within the current legal system. Less strong answers tended to simply stated an example from the specialist section, without exploring the wider issues raised. Answers in the Part B specialist section were generally strong. They provided candidates to explore in detail particularly issue of concern to them.

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 standard this year was, generally, high. All eight questions were answered although there was a clear preference for questions on what we now call land law and contract. It was clear that great care had been taken in the composition of the best essays: the focus was unremittingly on the question which was answered directly and in interesting ways; there were clear and cogent arguments which were elegantly expressed; no relevant materials on the reading list were omitted; reflections on historical methodology – addressed throughout the course in lectures and tutorials – were adeptly woven into the text at appropriate points. While it might be illuminating to draw (briefly) on material from outside the course, it is never necessary to do so in order to answer the questions and doing so may weaken the essay given the difference between what Maitland calls the logic of history and the logic of authority.

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).
Candidates wrote on a number of topics, ranging from the more general (such as proportionality and the margin of appreciation) to the more particular (including freedom of religion, freedom of expression, and the nature of privacy). In view of the small number of scripts, it is not possible to provide a more detailed report on how particular questions were answered. However, as a general matter, the more successful answers combined three qualities: strong knowledge of the relevant case law and other legal materials; a wider sense of theoretical debates; and a keen focus on the question as worded. Less successful essays offered more general discussions in the vicinity of the topic without addressing the question set as directly or were less fully substantiated with doctrinal and academic support.

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).
The 2025 paper adopted the usual format of 10 questions; five essays and five problems, with candidates required to answer at least two problems There were nine candidates for this paper. The standard was good, with three scripts achieving a mark of 70+ and only one script marginally below 60.
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 was question three (possible reform of the Hague-Visby Rules) which was handled well, though one or two answers suffered a little from offering not much more than a summary of the rules with insufficient attention to the requirement of critical analysis. There were several attempts at an answer to question one ('geographical deviation') and question two (the 'autonomy principle). The former was answered well, making good use of the 'trade' case law and also comparing deviation more generally with the doctrine of fundamental breach in the general law of contract, as well as the comparison with unauthorised deck stowage which was called for by the question itself. A high standard was reached by those who answered question two by making good use of the case law (*The American Accord, Montrod*) *and* commentary. There no attempts at question four (action for the price), or question five (the passing of risk). As for the problems, they proved more popular than the essays, as is often the case, though less so than in previous years and only one script answered only problems. Question seven (mainly passing of property and risk) and question nine (mainly remedies (*Gill v Duffus, Kwei Tek Chao*) and affirmation/acceptance (*Panchaud Freres, Glencore*)) were the most popular. The very best of the answers to question seven dealt with both property *and* risk and, in relation to the latter, considered the possibility of claims both for want of care of the cargo and unseaworthiness, and the consequences thereof. The best of the answers to question nine saw the relevance of *Panchaud Freres*, particularly in the alternative scenario, whereas one or two focussed almost exclusively on the possible application of *Gill & Duffus* or *Kwei Tek Chao* and engaged in some essay-like analysis which was not an entirely apt for a problem question. Questions six (mainly termination for breach), and eight (mainly liability/quantum issues for lost or damaged containers) were less popular, but also done well. Only one candidate attempted question 10 (mainly risk and demurrage).

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).
Candidates answered a good range of the paper's questions, but the most popular appeared to be: Q3- Q9, and in particular Q3, Q4, Q8. Not many attempted Q1 and Q2.

There were some superb first class scripts. These were characterised by exceptionally careful and thoughtful analysis that paid acute attention to the terms of the question answered. They were able to explain arguments for particular theses that bore upon the question set, and offered targeted analysis of the pertinent steps of those arguments.
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).
Weaker scripts described particular views at higher, less nuanced, levels of generality, employed less precise conceptual analysis, used fewer helpful distinctions, and/or did not grapple with important aspects of the questions set. For instance, weaker answers to Q3 only addressed the 'need not', without addressing the 'may'; excellent answers could explain and critically assess arguments on both fronts. Likewise, Q5 specifically asked about 'legal obligation' and 'coercion', rather than more general issues about the role of sanctions in law, or whether all legal norms involve coercion.

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).
With some notable exceptions, this paper was not very well done. A major problem was poor problem question technique. By the end of three years of legal study, candidates really should know how to answer problem questions; unfortunately, few seemed to be able to do this. Only a few pointers can be given here. One is that when told to 'Advise X', the examiner is not asking candidates to state what arguments X might make (after all, X is not a lawyer and so will not be putting forward any arguments themselves) but how the case will pan out should it come to court. In other words, candidates are being asked to predict what the judge will say. At the very least, it is not enough to say 'X is advised to argue' without also stating how such an argument will fare. Unfortunately, many candidates failed to go this extra mile, just listing arguments back and forth like a tennis match. There was also failure to argue in the alternative. A prime example is question 10, where many candidates said a building scheme applied (which it clearly did not) and just moved on, failing to discuss the other possible ways in which a third party might gain the benefit of a covenant, and thereby failing to secure valuable marks. Another essential matter of technique for problem questions is that candidates should never assume facts. If a fact is not given, this is generally deliberate, and candidates should discuss the issue in the alternative. There was also a general failure to discuss the correctness of cases, eg, those of the Court of Appeal in *Mikeover v Brady* and *Binions v Evans*. If candidates are trying to predict how a problem question will be decided, they need to take account of the fact that previous decisions are sometimes overruled. On the other hand, Law Commission proposals for the statutory overruling of decisions are clearly irrelevant, though this did not prevent some candidates wasting time discussing them. More generally, candidates would often enunciate the correct legal test but leave it there, either making no attempt to apply it to the facts or simply asserting that it was or was not satisfied. Finally, there was throughout a general failure to deal with priority issues when they arose, either well or at all. Indeed, some candidates even resorted to the language of the unregistered land doctrine of notice, despite all problem questions clearly relating to registered titles.

Essay technique was also often poor. There was, for example, too much subjectivity, with many candidates telling the examiner of their 'beliefs' or 'thoughts', that this was 'their reading' of the case-law, that they found a particular decision 'unconvincing'. This is not how law degree answers should be written, especially in a doctrinal subject such as land law. The examiner does not care what candidates think or believe. What they are interested instead is in arguments which are fit to be put before a judge. This is, after all, a law degree. Another problem was the prevalence of tentative talk. We were often told, for example, that a certain case 'suggested' that the law was X, when in fact the case *decided* it was so. It was also said that cases made 'assertions' or 'outlined' propositions. What this in fact showed was a lack of confidence in knowledge of case-law and familiarity with how judges reason.

More generally, both for essays and problems, there was a naïve and woeful understanding of the doctrine of precedent. This was particularly noticeable in relation to question 9 (Easements), where many candidates confidently told us that the decision of the Court of Appeal in *Batchelor v Marlow* could be ignored because of obiter statements made in the Scottish case of *Moncrieff v Jameson*, or that such dicta licenced judges to depart from *Batchelor.* Some also asserted that the decision of the House of Lords in *Mexfield v Berrisford* (relevant to question 8 on leases) was not good law because of academic criticism of that case. If only academics had such influence!

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 was an essay question on the effect of the LRA 2002 on the doctrine of adverse possession. There were two elements to the question. The first was whether the LRA 2002 did indeed 'effectively' abolish the doctrine of adverse possession. As to this, a good answer would describe the law prior to 2002 and what the 2002 Act did to that previous law, detailing the mechanics of the 2002 Act, eg, disapplication of the Limitation Act 1980, the abolition of the statutory trust, and so on, and its replacement with the application and notification procedures, including the exceptional rules for boundary disputes. It would then address the question whether these did 'effectively' abolish the adverse possession doctrine in registered land.

The second element concerned whether the legislature was right so to do. Here should have come a discussion of the purposes of adverse possession, with candidates noting that though the facilitation of conveyancing is one reason for its existence in a system of unregistered title, and which of course fell away with the introduction of a register of title, it was not the only one.

Although an extremely popular question, it was rarely done well. The main problem was a failure properly to set out the statutory framework, in particular, the regime it replaced, with some even saying that the pre-2002 regime was the same for both registered and unregistered land. There was often nothing on the s 75 LRA 1925 statutory trust or fact that it arose automatically and no mention of the disapplication of the Limitation Act 1980. Likewise, few candidates mentioned that should the squatter apply to be registered as proprietor of the title of the person they have dispossessed but that person objects, then the latter must bring an action for possession within two years, and that, if not, a subsequent application by the squatter will be succeed. Many thought a mere objection was enough. Many also thought that the 2002 Act abolished adverse possession for

boundary disputes, not realising that boundary disputes provided an exception to the general rule. Likewise, few realised that the common law rule that a squatter acquires a legal fee simple title from Day 1 had not been abolished by the 2002 Act. Indeed, those who addressed the issue of the squatter's title often thought they had no title until the expiration of limitation period, even under old system, or that under the unregistered land system, squatters acquired a new title on the expiration of the limitation period. As to the 2002 Act scheme, we were even told that after 10 years, the squatter can apply to uplift their 'beneficial interest' to a legal title! The examiners were left wondering which books, if any, students were reading. Another error was in thinking that the boundary dispute exception was the general rule, with the result that squatters need always to reasonably believe they are 'owners' in order to succeed.

As to the second part of the question, there were many odd assertions, for instance, that the doctrine of adverse possession ensures that people make the best use of land or holds wealthy landowners to account. If candidates had bothered to read the case-law, they would know that both propositions are simply false.

Question 2

This was an essay question on the court's power to intervene in contractual arrangements to protect a mortgagor's right to redeem. A good answer would put the quote from *Knightsbridge Estates v Byrne* (1939) in context, explaining what the mortgagor was trying to do in that case and why their claim was rejected by the Court of Appeal. As the quote makes clear, the court does not intervene simply on the ground that a particular clause of the mortgage agreement is unreasonable. The answer would then go on to describe exactly when the court will intervene, discussing in particular attempts to exclude the equitable right to redeem (*Vernon v Bethell*; *Samuel v Jarrah Timber*; *Reeve v Lisle*; *Kreglinger v New Patagonia Meat Co*); attempts to postpone the equitable right to redeem (*Fairclough v Swan Brewery*; *Knightsbridge* itself); and collateral advantages (*Biggs v Hoddinott*; *Santley v Wilde*; *Noakes v Rice*). It would also discuss the controversial case of *Cityland v Dabrah*, where Goff J did talk in terms of reasonableness (57% rate of interest struck down) and its 'rehabilitation' by Browne-Wilkinson J in *Multiservice Bookbinding* as an example of 'unconscionability', whatever that might mean. More generally, candidates should discuss whether equity's intervention in any of these cases can be justified given that it constitutes an interference with freedom of contract. In this regard, discussion of *Samuel v Jarrah Timber*, *Noakes v Rice* and, more recently, *Jones v Morgan* (an appendix that would be 'better excised') would have been apposite.

This was a moderately popular question, but again, rarely done well. One tactic of avoidance was to say that statutory reforms subsequent to *Knightsbridge* made appeals to the clogs and fetters doctrine redundant. Not only is this untrue, but it meant that candidates scored badly by then discussing irrelevant material. Although there was sometimes a brief mention of *Multiservice Bookbinding*, there was hardly anything on *Cityland*. Moreover, the common waffle about the cases all being concerned with inequality of bargaining power only went to show that most candidates had never read a single case int his area; likewise, those who explained *Knightsbridge* on the ground that it was a fair bargain, thereby completely missing the point of the quote. Finally, there was often much irrelevant discussion of remedies, eg, constraints on possession actions, for which candidates received no credit.

Question 3

This was an essay question on the methods of severance of a joint tenancy introduced by

the 1925 legislation. A good answer would have first discussed what is meant by severance, explaining that it is the conversion of a joint tenancy into a tenancy in common and that, since 1925, it can only be done in equity (section 36(2) LPA 1925). The answer would then go on to explain that the methods of severance with which the question is concerned are those contained in section 36(2) LPA 1925, ie notice in writing and 'such acts as would, in the case of personal estate, have been effectual to sever the tenancy in equity', in other words, the *Williams v Hensman* methods. Of course, there is an argument that the *Williams v Hensman* methods were already applicable to land, though this cannot have been the view of the legislature, which would otherwise render the wording above otiose. Either way, this was something candidates needed to discuss.

Having established what these 'new' methods were, a good answer would have gone on to discuss when they apply. The first (threshold) question concerns the constraints of section 36(2) itself, limiting the operation of the new methods to situations where a 'legal estate … is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy …'. So, for example, where A holds on trust for B and C as joint tenants, section 36(2) clearly has no application; there are many others. The rest of the question should have then concerned itself with the detail of the section 36(2) methods, in other words, with what amounts to a sufficient notice in writing, what amounts to acting on one's own shares, and so on.

This question had surprisingly few takers. Discussion of the threshold issue was often omitted, with candidates instead spending time discussing proposals for the reform of the severance provisions in section 36(2) as recommended by the Law Commission and discussed in by Tee in [1995] Conv. These were not at all on point and no credit was accordingly given. Likewise, discussion of how in *Stack v Dowden* there seems to have been a severance (though Lady Hale seems to think that even joint tenants have shares) was off-point because, whatever it was, it was not a section 36(2) severance.

Question 4

This was a relatively narrow essay question on how courts sometimes invent trusts to arguably undermine the alteration provisions of the LRA 2002. Of course, the issue is contentious, and candidates were perfectly entitled to agree or disagree with the quote. Either way, a good answer would set out what the alteration provisions are and how they interact with trusts arising by operation of law. The specific cases needing discussion were *Malory v Cheshire Homes*, *Swift 1st v Chief Land Registrar*, and *Nasrullah v Rashid*. A good answer would have explained what the alteration provisions are and how these cases interact with it. Of course, *Malory* is a decision under the 1925 Act, and so one question would be whether it would be decided the same way under the 2002 Act. Candidates should explain whether both *Malory* and *Nasrullah* can be seen as rewriting the alteration provisions and the extent to which the finding of trusts in each case was legitimate.

This was a relatively popular question, though sometimes misread to be a general question about the so-called common intention constructive trust. This was bizarre, as not only does the question specifically refer to alteration of the register, which is never an issue in such cases, but there was a specific question (question 5) on such trusts on the paper. Some candidates discussed the issue whether a power to rescind should be able to form the subject-matter of an overriding interest. This is a difficult point, but not of much relevance to the question.

Question 5

This essay question on the 'Common Intention' constructive trust required candidates to examine both *Stack v Dowden* and *Jones v Kernott* and subsequent case-law. A good answer would point out how *Stack* is perceived to be problematic in a number of ways, not merely in its assertion that the law can somehow 'move on' despite three decisions of the House of Lords to the contrary and without invocation of the Practice Direction. More specific issues include the abolition of presumptions, whether its reasoning is confined to joint-names cases, whether there is still a requirement of detrimental reliance, whether a declaration of trust in the initial conveyance would have made any difference to the result, and whether these cases were confined to the family home. There is no doubt more. The answer would then go on to explain how, if at all, these issues were resolved by *Jones v Kernott*. Subsequent cases which might be discussed include *Marr v Collie*, *Hudson v Hathway*, and *Nilsson v Cynberg*.

This was a popular question. However, answers were often purely descriptive, with little discussion of juridical basis of the common intention constructive trust. No-one, for example, explained why the court searches for a trust. The reason, as *Pettitt* and *Gissing* explain, is simple: there is no jurisdiction in the court to reallocate property rights on the breakdown of a non-matrimonial relationship. The parties must do it themselves and, absent a conveyance, the only possibility is that of a self-created trust. The question then is how far the trusts found in cases such as *Stack* and in *Jones* are genuinely self-created or creations of the courts.

There was little or no discussion of the so-called sole name cases or why the analysis might be different in sole and joint names cases. Nor was there much discussion of the requirement or relevance of detrimental reliance. More worryingly still, there was little discussion of the facts and 'reasoning' in the leading cases, especially *Jones*, where it is difficult to see the crystallisation of the man's interest under the statutory trust supposedly imposed by section 36 LPA 1925 was a product of the parties' common intention. Many students simply took the simplistic view that it is perfectly legitimate for courts to go around reallocating on the basis of fairness, not appreciating that this approach was ruled out by *Pettit* and *Gissing*, and thereby completely missing the point of the case-law.

There were also some odd assertions about the House of Lords in *Rossett* setting the threshold for common intention constructive trusts 'unreasonably high', though with no explanation of why or how anything less was consistent with the general law of trusts. Examiners were also told that Rossett was 'too strict' and 'unfair and arbitrary'. However, again no argument was presented to support such assertions.

More generally, there was a failure to apply the general principles of the law of trusts. Hardly any candidate, for example, mentioned section 53(1)(b) LPA 1925. Nor was there any explanation how the so-called paragraph 69 factors in *Stack v Dowden* could operate as a matter of law. Instead, it was assumed that courts were perfectly able to redistribute property rights on the ground of fairness and that that was a good thing, too.

Question 6

This was an essay question on the *numerus clausus* principle, more specifically, whether the concerns behind the principle could be met by an expanded registration scheme. A good answer would first ask whether there is such a principle, both at law and in equity, discussing cases such as *Keppel v Bailey* and *Hill v Tupper* (common law) and *Haywood v Brunswick Corpn* and *LCC v Allen* (equity). Assuming there is, it would then go on to

examine the rationales behind the rule, noting that only one of is the clogging of titles, eg, that third parties would be bound, as in *Hill v Tupper* itself. Even in that respect, though an expanded registration system would alert potential buyers to the presence of incumbrances, there would still be a worry that the title would be in any case be sterilised, so that an expanded register is not the answer.

There were some impressive answers to this question, distinguishing all the points made above and making good use of the academic literature, especially that of Rudden, Merrill and Smith, Epstein and Dagan. On the other hand, there were also some poor answers. Many, for example, did not understand the registration point, failing to notice that the question spoke of a reformed land register, and not simply retention of the current system. Many also omitted the sterilisation point as well as the general issue with regard to third parties.

There were also some very odd statements. So, for example, it was asserted by some that there is no numerus clausus in equity by virtue of section 1(3) LPA 1925; that the priority rules of the LRA 2002 were somehow relevant; that the LRA and the numerus clausus principle both aim to tackle the same issue; and that the *numerus clausus* principle is a product of the 1925 legislation.

Question 7

This was a problem question on licences, one contractual, the other gratuitous. As to the contractual licence, the starting point would be the application of *King v David Allen Billposting* and *Clore v Theatrical Properties* to hold that the licence granted to Excellent Promotions did not bind the licensor's lessee, Frank. A good answer would discuss Denning LJ's 'infusion of equity' in *Errington v Errington*, though only to note its rejection in *Ashburn Anstalt v Arnold*. The real issue was whether a *Binions v Evans* constructive trust arose due to the 'subject to' clause in the conveyance to Frank. This necessitated a discussion of both *Ashburn* and *Chaudhary v Yavuz* and the question whether Frank undertook a new obligation or whether the clause was instead inserted for the protection of the landlord. A good answer would go on to ask whether *Binions v Evans* was in any event rightly decided, there being problems in both locating the subject-matter of the trust and the authority relied on, *Bannister v Bannister*, which was only concerned with the application of the rule in *Rochefoucauld v Boustead*, whereas no section 53(1)(b) LPA 1925 issues were involved in *Binions* or subsequent cases. Alternatively, the licensee might be able to use the Contracts (Rights of Third Parties) Act 1999 to claim the benefit of the 'subject to' clause, though this would also require a similar exercise of construction to that needed for the *Binions v Evans* trust to determine whether it purported to confer a benefit on the licensee as opposed to protecting the licensor from subsequent claims for breach of contract.

As to the initially gratuitous licence given to Clive to run the cloakroom and bar, the issue was whether the estoppel licence arising from Clive's detrimental reliance had third-party effect. A good answer would discuss his position viz a viz Derek, the original licensor, on the assumption that it was he who was denying Clive access to the building. Having decided what remedies the courts might grant in that respect, the question was how far Derek's successor in title should be in the same position given they made no representation at all. Candidates needed to discuss both section 116 LRA 2002 and McFarlane's [2003] CLJ argument that this provision should only apply to property rights properly-so-called acquired via estoppel, eg, the estoppel easement in *Crabb v Arun DC*, and reasoning of HHJ Paul Mattews in *Brake v Swift*. They should also discuss the

application of the priority rules in the LRA 2002 itself.

Answers often omitted all discussion of 1999 Act, or simply asserted that it applied, or failed to discuss third party issues at all. Some thought both licences were easements, that there was a contract in favour of Clive, and that the expenditure of £50k by Clive was not detrimental. There were also some incredible statements, such as that *Binions v Evans* was not applicable because it was confined to unregistered land; that the problem for Clive was a want of the required writing under section 2 of the Law of Property (Miscellaneous Provisions) Act 1989; that the reason Excellent Productions had no lease was because of a lack of formality, that though Excellent Productions had no easement initially, it could be converted into one by section 62 LPA 1925; that Excellent Productions' licence could be contractual if there was consideration; that the *Binions v Evans* constructive trust approach had been overruled in *Ashburn Anstalt v Arnold*; and, finally, that the House of Lords in *Winter Gardens* held that contractual licences could be revoked.

Question 8

This was a lease/licence problem. A number of difficulties stood in the way of a court finding that Angela granted a lease to Mike, Norma, and Olivia. First, there was no certainty of term ('until Angela returns from research leave'), meaning candidates needed to discuss whether this arrangement came within the principle in *Mexfield v Berrisford*, with its later qualification in *Southward Housing v Walker*. If it was thought that it fell on the *Southward* side of the line, candidates should have then asked whether that case is consistent with *Berrisford* itself. There is also the difficult question of the formalities necessary to create such a lease. Second, there was arguably no grant of a right to exclusive possession because of Angela's reservation of the right to enter to effect repairs and her provision of cleaning services. Third, there was possibly no grant of a right to exclusive possession because the facts involved multiple occupiers, with the only route through to a lease being a finding that the three of them held one right as joint tenants. This in turn raised problems of unity of title (three separate documents), unity of interest (no joint liability to pay rent, held to be fatal in *Mikeover v Brady*) and no unity of time (three different starting dates). A good answer would, however, question the correctness of *Mikeover* and whether the three separate starting dates requirement was part of a sham. Candidates might have also asked whether, should an argument for a joint tenancy fail, there is the possibility of the court finding a tenancy in common, which supposedly only requires unity of possession.

Beyond this, two issues remained. The first was Olivia's 'sub-letting' to Pamela. If Olivia was a tenant, then this would be unproblematic. However, if she was a licensee, then candidates would need to flag this as a *Bruton* lease and discuss its the third-party effect, most notably in *Kay v Lambeth LBC*. More generally, candidates needed to discuss the third-party effect of the rights of Mike Norma, and Oliva, though not making the mistake of thinking that the fact of them being in actual occupation was enough to make them bind Brian.

This was an extremely popular question, with some very good answers. However, on the down side, many candidates failed to discuss either *Mikeover* or *Bruton*. Moreover, even when *Mikeover* was discussed, it was usually without criticism. Many candidates rightly said that a joint tenancy was needed, though without explanation of what or why. At other times, the possibility of a joint tenancy was simply dismissed out of hand. A common error was thinking that Mike, Norma, and Olivia had a joint liability to pay rent, meaning that *Mikeover* was not problematic; yet the fact that they signed three separate contracts made

it clear that they had separate liabilities. As to unity of time, the examiner was often told that a short discrepancy does not matter. But those who were saying this were clearly just making this up.

There were also some very odd statements. Some, for example, thought that if the arrangement did not satisfy the test for a lease at law, it could still be a lease in equity, not realising, of course, that the substantive requirements of both are the same. At other times, we were told that the High Court decision of *Southward* is the law because the decision of the House of Lords in *Mexfield* is 'muddled'. Woe betide the barrister who tries to put forward that proposition in court. Others said that it was a requirement of *Berrisford* that the parties intended to create a 90-year lease, which only demonstrated that that case had never been read. We were also told that if the parties had only a contractual licence, it must comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, that *Kay* says that *Bruton* leases have no third-party effect unless the 'tenants' were in actual occupation, and that there is a rule of substantive law that leases must always be for the best rent.

Question 9

This was a problem question on easements. A good answer would have first explained why resort needed to be made to the law of easements to give the parties any rights at all. It would then distinguish issues of content and creation. As to content, there were two difficulties in saying that Ken's 'right' to park was an easement: accommodation and ouster. As to accommodation, candidates needed to ask whether the 'right' could be brought within the reasoning of the Court of Appeal in *re Ellenborough Park*. As to ouster, discussion of *Batchelor v Marlor*, *Moncrieff v Jamieson*, and *Kettel v Bloomfield* was needed. As to any 'right' to walk across Cedar House garden, there were obviously no content issues and a good answer would not waste time discussing the *re Ellenborough Park* criteria here. Finally, on the 'right' to use the tennis court during the winter, candidates should have discussed *Regency Villas*, noting that the case is distinguishable on the ground that, unlike here, it involved holiday homes.

As to creation, candidates should have noted that there were two possible routes: the rule in *Wheeldon v Burrows* and section 62 LPA 1925. Candidates should have also noted that while there may be difficulty with some of the rights satisfying all the requirements of *Wheeldon v Burrows*, that the use of section 62, even in cases where there is no initial diversity of occupation, was sanctioned by the Court of Appeal in *Wood v Waddington*, and that the requirements of that section are less demanding in not requiring that the 'right' be necessary for the reasonable enjoyment of the land provided that it is 'continuous and apparent'.

As these easements will have been created (if at all) on the conveyance of Paul's title to Ash House to Alex and since there has been no transfer of title to the servient tenement, no priority issues arose.

This was another very popular question. Unfortunately, few candidates addressed the accommodation issue with regards to parking, often just asserting or assuming the point. But it is not clear how it does, and there is no case which discusses the issue. Some said the issue had been decided in *Moncrieff*, but that simply showed that the case had not been read. The ouster issue was often poorly dealt with. There was, for example, the bizarre notion that *Batchelor* was confined to easements arising by prescription or the equally bizarre one that *Moncrieff* is now the law. Even those who picked up that *Moncrieff* did not (indeed, court not) overrule *Batchelor* and that point would need to be

decided by the UKSC, it was simply asserted, without more, that the 'possession and control' test of Lord Scott would be favoured.

Question 10

This was a problem question on freehold covenants. There were two issues: did Peter and Stella have the benefit of the covenants they wished to enforce and were Quentin and Rachel burdened by the same?

As to the first, a good answer would discuss in turn the possibility of Peter and Stella having the ability to enforce the covenants by virtue of: (i) assignment (express and (possibly) implied under section 62 LPA 1925); (ii) annexation (though query whether *Crest Nicholson* will prevent this happening because of the lack of identification in the covenant itself of the land to be benefited); (iii) a scheme of development (unlikely on the facts); section 56 LPA 1925 (impossible because the successors in title were not in existence at the time the covenant was made); and the Contracts (Rights of Third Parties) Act 1999. As to this last, candidates should note that the covenants are all made with Adrian 'and his successors in title', so satisfying the requirement that the contract purports to confer a benefit on a third party and that the third party is expressly identified as a member of a class. Note that the 1999 Act is wider than section 56 in specifically stating that the third party need not be in existence at the time the contract is made. Note also that it will not run into the problem in *Crest Nicholson* for annexation that the benefited titles need to be identified in the covenant. Note finally that even if the words 'successors in title' were not included in the conveyance, they would arguably have been read in by section 78 LPA 1925, which would therefore both provide some of the words necessary for annexation and identify a class of third parties for the purposes of the 1999 Act.

As to whether Quentin and Rachel were bound, this turned both on whether the requirements of the doctrine of mutual benefit and burden for the positive covenant (*Halsall v Brizell*, *Thamesmead Town v Allatoy*, *Rhone v Stephens*) and the *Tulk v Moxhay* doctrine for the others were satisfied, and the application of the priority rules of the LRA 2002. As to the second, candidates were only told that the titles were conveyed to Quentin and Rachel, with nothing being said about whether they gave value; nor was any indication given whether notices had been entered in relation to the various burdens. Thus, even if not protected by the entry of a notice on the register, it could still be the case that Quentin and Rachel were bound. Those who bothered to discuss the issue generally assumed a notice had been entered on the register; candidates should not, however, assume facts.

This was a relatively popular question. Many thought it to involve a building scheme, though failed to go through the requirements and prove their presence. Where, for example, was the mutuality of benefit and burden? Most seemed to think that the fact that the covenants were identical was enough, but this is clearly not the law. Having decided there was a building scheme, candidates were content to leave it at that. This is poor examination technique; other possible methods should have been discussed, especially, annexation and 1999 Act. When annexation was considered, there was an almost complete failure to consider *Crest Nicholson*, arguably the most important modern decision on the topic.

Question 11

This was a question on priorities under the LRA 2002. The first issue to address was the nature of the interests of Charles, Denis, Edward, and Andy's parents. As to Charles,

there was an ambiguity as to whether he had a legal lease or one arising under the *Walsh v Lonsdale* doctrine. As to Denis, the same might be said of his easement, though not his restrictive covenant. As to the right of pre-emption, though this is not a property right at common law, this was changed by section 115 LRA 2002. Finally, as to Andy's parents, they will arguably (subject to *Stack v Dowden*) have an interest under a purchase money resulting trust.

The question then is whether these various interests survived the conveyance by Andy of his title to Joe. The first point to note is that candidates were, as with question 10, deliberately not told whether the conveyance was for value. If it was not, then the possibility of Joe having a defence under section 29 LRA 2002 was precluded and the general rule in section 28 would apply. If, however, Joe did give value, then Charles's lease will be an overriding interest under schedule 3, para 1 if legal and under schedule 3, para 2 if equitable, but only if Charles himself (rather that, eg, his step-daughter (cf *Strand Securities v Caswell*) was in actual occupation. As to Denis' easement, if legal, this will be an overriding interest under schedule 3, para 3 if the conditions therein are met, while, if only equitable, will need to have been protected by the entry of a notice in the charges register of Andy's title. The burden of the restrictive covenant will also have to have been so protected. Edward does not seem to be in actual occupation of the land, so the burden of his right of pre-emption will need also to have been entered as a notice. Finally, as to Andy's parent's interests under a resulting trust, there is no possibility of overreaching since the purchase moneys (if any) will have been paid to a sole trustee (Andy), so the question will be whether the parents were in actual occupation for the purposes of schedule 3, para 2 at the time the disposition in favour of Joe was registered. This necessitated a discussion of the case-law on actual occupation, including *Williams & Glyn's Bank v Boland*, *Chokar v Chokar*, *Kingsnorth v Tizard* (albeit a case on unregistered land), and *Link Lending v Bustard*.

Given the general poor understanding of priorities, it was not surprisingly that only a handful of candidates attempted this problem, too few to make any useful comments.

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).
In the 2024-25 academic year, 17 students took the Media Law exam. Five candidates were awarded First Class marks and twelve were awarded Upper Second Class marks [should this reference be to 'overall marks'?]. The scripts were generally of good quality, showing a clear understanding of the subject and relevant debates. Most of the candidates engaged directly with the 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).
Q1. **Media freedom**. A small number of candidates answered this question. The best answers avoided a rehearsed discussion of the principles of media freedom, and focused on the applicability of the principles to digital platforms (and provided examples from the course). The question invited candidates to consider the differences and similarities between digital platforms and traditional media companies.

Q2. **Open justice.** The question invited candidates to consider the role of professional journalists in meeting the goals of open justice. In discussing this issue, candidates could consider whether journalists should hold special rights or privileges to cover court proceedings (and if so, whether such special rights are warranted for certain types of case).

Q3. **Defamation.** Many candidates answered this question. Most assessed the protections such as the public interest defence and serious harm test (and some candidates discussed other features of defamation law). The best answers also considered the impact of legal costs and discussed the SLAPP issue.

Q4. **Privacy**. Many candidates answered this question about the relevance of the celebrity status in privacy law. Candidates discussed the way that celebrity status is considered by the courts in misuse of private information. Most candidates looked at the underlying reasons for considering such a factor, and some also discussed the evolving nature of celebrity

Q5. **Contempt**. A small number of candidates answered this question. Despite the topical nature of the question, some answers provided a general overview of the pros and cons of contempt law. By contrast, candidates scored higher by engaging with the question, as to whether greater freedom to report on crime is necessary. On the part about an information vacuum, some candidates assessed criticisms of the law following the 2024 riots.

Q6(a). **Newspaper regulation**. The best answers to this question directly engaged with the question, looking at mandatory membership. The best scripts assessed the merits (and complexities) in moving away from a system of voluntary membership and how such a move would fit with self-regulation.

Q6(b). **Broadcast regulation**. A fairly straightforward question about impartiality rules, which allowed candidates to discuss the various challenges facing the regulatory regime (drawing on some recent regulatory decisions and case law).

Q7. **Obscenity**. The answers to this question were generally very good and approached the issue from a range of perspectives. Most explained both the pros and cons with the current law. Some called for clearer legal definitions and many also argued that the online platforms should play a bigger role.

Q8. **Online safety**. A question focused on the merits of targeting content that is illegal. The question was answered well. Some discussed whether greater attention should be given to 'legal but harmful' content. Many candidates noted the challenges in determining whether content posted is illegal. Most answers were familiar with the recent literature on the issue.

Q9. **Positive obligations**. A challenging question, which allowed candidates to consider examples from various different topics. Candidates considered examples such as source protection, access to the courts, and freedom of information. The better scripts avoided a general discussion of the different areas of law, and instead considered those areas as examples of positive obligations. Some discussed the possibility of platforms being required to support journalism.

Q10(a). **Secrecy and source protection**. The question combined two different topics. The question was specific and asked about the position of the journalist (rather than whether a leaker should be held liable). The best answers examined how the principles of

liability apply to journalists, and how source protection can operate when a national security issue is at stake.

Q10(b). **Problem question on secrecy and source protection**. No candidate attempted this question.

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 quality of scripts this year was fair, but many suffered from similar weaknesses. There was a general resistance to offering detailed, considered arguments in response to the questions asked, with candidates preferring to produce summaries of the relevant sections of the reading list. Those papers that offered original thinking and logical argument, supported by (but not merely summarising) the materials were rewarded. Many papers lacked a detailed engagement with the case law, which was disappointing. Often, it was clear candidates had not read the cases themselves, preferring to read the explanations of the cases in the secondary literature. Such an approach did not assist them, and it was particularly disappointing to see so many candidates simply following the arguments made in the articles, sometimes almost word for word.

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).
Moral and Political Philosophy did not run in 2024/25. This paper was sat, therefore, by a few candidates who had been unable to sit the examination in the previous year. The scripts were of varying quality, but all displayed a reasonable grasp of the 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).
As usual, better answers focussed clearly on the set question, whereas less strong answers tended to discuss the topic generally. For instance, question 3 asked candidates to consider whether *act* utilitarianism was compatible with friendship. This required candidates to explain why friendship (in particular, the partiality normally associated with friendship) presented a challenge to the impartiality of act utilitarianism, and how utilitarianism might seek to address that challenge. Similarly, in considering in question 12 whether democratic decision-making has intrinsic value, stronger answers explored the nature of intrinsic value, and whether democratic decision-making could have more than instrumental value.

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).
Fifteen candidates sat the Personal Property examination in Trinity Term 2025. The general standard of the answers was high.
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 was a popular question. The best answers considered the meaning of the term 'proprietary remedies', offered a sound analysis of the nature of the *vindicatio*, and examined the relationship between, on the one hand, 'proprietary remedies' and the *vindicatio*, and, on the other, the definition of 'personal property law'. **Question 2** was also popular. The best answers considered the various propositions asserted in the quotation and, in particular, examined whether the second alleged 'exception' to the need for a 'delivery' is, or should be, confined to 'contracts of sale'. **Question 3** attracted very few answers. **Question 4** was fairly popular. The strongest answers considered not only the nature of the 'title' acquired by possession, but the scope and implications of the rule, accepted in *The Winkfield*, that the chattel 'is deemed to be the chattel of the possessor and of no other'. **Question 5** was also fairly popular. The strongest answers considered, with respect to each of the various potential 'exceptions', whether the relevant disposition should be characterised as a 'transfer' of title or 'destruction'. **Questions 6**, **7**, and **8** attracted few answers. **Questions 9 and 10** were fairly popular and generally well answered.

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).

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).
All students showed a solid understanding of the Roman law of Delict. It was particularly pleasing to see that the DLS students performed as strongly as the Oxford

undergraduates and the postgraduate candidates. (The prize this year went to a DLS student.) The better scripts showed an awareness of the literature and of scholarly controversies. More critical engagement with these would have been desirable. The lack of it is reflected in the low number of first-class scripts.
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).
Among the questions, the first two were the least popular. These demanded a commentary on two Digest passages. Timing is the issue here, and that is why students played it safe. The most popular choices among the single-passage commentaries were the ones about the *lex Aquilia.* Another frequent choice was the last question. This invited a comparison of two areas of the law, chosen from among three alternative combinations. As usual, all excerpts from the Digest had all been discussed in class. The same is true of the subject-matter of the essay questions. These were overall less popular than the comments on single Digest passages.

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).
Consistent with previous years, the paper contained 8 questions (6 essay questions and 2 problem questions). In general, stronger answers to the essay questions contained clear introductions and well-articulated conclusions; and were supported – where appropriate – by relevant literature, case law and examples; whereas the strongest answers to the problem questions acknowledged certain of the nuanced positions involved and provided clear analysis referable both to case law and statute.
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 questions covered a broad range of areas across the syllabus, allowing candidates a wide degree of choice. The most popular questions answered were Qu.1 and Qu.4 – Qu.1 dealing with certain tax attributes and policy trade-offs; and Qu.4 dealing with the judicial approach to tax avoidance and the GAAR. Approximately half of the candidates answered each problem question (Qu.7 and Qu.8): generally, good marks were achieved for both of these problem questions. Questions 2 and 6 – respectively dealing with the concepts of

'asset' and 'disposal' for Capital Gains Tax purposes, and the tax treatment of employee benefits – were the least popular questions and the marks were more variable.

Qu.1 asked candidates to discuss certain target attributes and goals for tax policy-makers; including the trade-offs they face when aiming at these. Candidates were asked to reference their answers to specific taxes (other than Inheritance Tax). In general, the question was well-answered. Stronger answers (i) drew on key relevant literature (such as work by Adam Smith and the Mirrlees Review); (ii) demonstrated a clear analysis of the identified target attributes / goals; (iii) highlighted other possible attributes and goals from taxes (such as revenue-raising potential and certainty); and (iv) used clear examples to support their analysis and conclusions.

Qu.2 asked candidates whether the specific concepts of 'asset' and 'disposal' in UK Capital Gains Tax had been satisfactorily applied by the courts. The question was answered by relatively few candidates, and the quality of answers varied. Stronger answers were able to discuss the full range of complex authority on each issue, and reason toward a direct conclusion whether the courts have succeeded or failed – with both views being effectively argued. Weaker answers described some but not all of the relevant authorities, and addressed the question less precisely.

Qu.3 asked whether reform is needed to the UK Inheritance Tax treatment of different kinds of settled property. The very strongest answers appreciated that there might be two meanings to 'different kinds of settled property', i.e. that the subject matter of the settlement might differ (say land, or shares) or that there might be different tax treatments for different kinds of settlement (say IIP trusts, or non-IIP trusts). There were also many good answers however which focused only on the latter meaning of the question.

Qu.4 asked whether a distinction in UK taxation law between income and capital gains is justified – or whether the tax treatment of both should be more closely aligned. This question was generally well-answered – with stronger answers clearly summarising the differences in tax treatment (including bases, rates and thresholds) before critically considering, drawing on relevant literature, both conceptual and practical reasons for differentiation and alignment of treatment, including – amongst other matters - issues such as the treatment of inflation; arguments around the incentivisation of business; and possible "lock-in" effects.

Qu.5 asked whether the judicial approach to tax avoidance was and remains unsatisfactory – and whether, for this reason, the introduction of the GAAR was entirely justified. Many answers to this question were strong, reflecting a demonstrated knowledge of the evolution of relevant case law (for example, *BMBF v Mawson*) and the current status of the judicial approach to tax avoidance. Stronger answers showed a clear understanding of the derivation, purpose and operation of the GAAR – including its actual application in practice – and provided a clear juxtaposition of the GAAR with the latest judicial approach to analyse critically whether the latter was justified by the former. This was a question which lent itself to answers which were able to identify and support a clear argument / "point of view", leading to a strong conclusion. Answers which provided summaries of the evolution of the judicial approach, and a factual overview of the GAAR, but which did not critically analyse and comment on these by reference to the question and did not advance a clear argument(s) scored less well than those that developed a clear, reasoned argument in response to the question.

Qu.6 asked candidates to discuss whether the basis upon which employee benefits are subject to UK Income Tax is underpinned by clear principles – but whether the rules applying

to the taxation of any benefit arising from living accommodation are deeply problematic. The question was answered by relatively few candidates. Stronger answers identified the principles underpinning the taxation of many employee benefits, such as cash equivalence, drawing on relevant case law and highlighting examples where specific, rather than general, treatments have been adopted in statute. Stronger answers also commented on the various complexities of taxing the benefit of living accommodation – including the various exemptions and statutory valuation issues; and drew on relevant literature (such as historic commentary by the OTS). Weaker answers made generalised comments; or did not demonstrate a depth of understanding of the tax treatment of the benefit of living accommodation and its associated complexities.

Qu.7 was a problem question considering aspects of taxation of a trade by Robbie – including the terms of a contract with a large furniture company. This question was generally well answered with most students identifying the various technical points arising and commenting on their application to the facts. The strongest answers recognised that certain of the points may be nuanced – such as the treatment of expenditure on the website; and the treatment of the £300 cash alongside the handwritten card – and explored arguments for different treatments whilst proposing reasoned preferred treatments. The strongest answers also demonstrated a sound appreciation of relevant case law and included this where relevant in their analysis throughout.

Qu.8 was a problem question considering the tax treatment of a specialist comics collector – Billie – and both the tax treatment of certain transactions involving comics by Billie; and the prospective treatment of her estate on her death. As with Qu.7, the question was generally well answered, with students appreciating most, if not all, of the issues underlying different areas of the question. Again, the strongest answers used relevant case law in addition to relevant statutory references – and highlighted where the choice of treatment may be nuanced. The strongest answers also identified, for example, the specific PETs arising from the gifts included in the question when considering Billie's potential IHT position.

TORT

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(a)

This question concerned the place of strict liability in tort law. Few candidates attempted it. Those that did usually mentioned the doctrine of vicarious liability and the rule in *Rylands v Fletcher*. Answers were generally underwhelming. Few candidates engaged with either the objections to or justifications for strict liability, or addressed the substantial theoretical literature in this area identified at the end of the core reading list.

Question 1(b)

This question required candidates to discuss a passage that suggested that the strict liability regime embedded in the Consumer Protection Act 1987 had been watered down. It was a

relatively unpopular question. Most of the answers discussed recent case law regarding the 1987 Act without really engaging in earnest with the claim made in the passage in issue.

Question 2

This question asked whether the law concerning punitive damages should be reformed. It was surprising how many answers to this question did not mention landmark judgments in this area, such as *Rookes v Barnard*. To do well in relation to this question students needed to engage with key cases in the field and deploy the theoretical literature regarding the purpose/s of tort law in support of their answer.

Question 3

This question called for candidates to address the role of foreseeability in negligence law. Alas, most answers displayed a lack of understanding regarding the foreseeability concept and the diversity of ways in which it features in the law of negligence. To do well in relation to this question students needed to examine the possible reasons for the various foreseeability requirements.

Question 4

This question called for engagement with the Supreme Court's recent decision in *Tindall*. Unfortunately, answers were generally unimpressive. Students who attempted this question usually discussed the omissions and assumption of responsibility doctrines in general terms and without engaging with the holding in *Tindall*.

Question 5

This question raised the issue of whether the tort of inducing a breach of contract is a species of secondary liability. It was unpopular. Surprisingly, few candidates who attempted it engaged with *OBG v Allan Ltd*. Nor did they generally consider evidence in the black-letter law both in support of and militating against the accessorial liability theory of the tort. For example, if the tort is truly a form of accessorial liability parasitic on a breach of contract, why are remedies for it determined according to tort law rather than contract law principles?

Question 6(a)

This question concerned the *Bonnington* principle of material contribution to the risk. Weaker answers simply described the principle. Better answers were able to engage with the case for and against limiting the principle to indivisible diseases.

Question 6(b)

This question required engagement with a passage regarding the but-for test for factual causation. The passage in issue cast doubt on the dominance of the but-for test. Stronger answers engaged with the full range of exceptions to the test which the courts have developed.

Question 7

This question asked candidates to consider whether any new torts should be acknowledged. It was infrequently attempted but answers to it were generally thoughtful and, impressively, drew upon examples from across the law of torts.

Question 8

This was a fairly straightforward question regarding, mainly, breach of duty, intervening causation and contributory negligence in the context of motor vehicle accidents. It was surprising how many candidates thought that the question presented acute issues regarding the doctrine of *volenti non fit injuria* despite the fact that that doctrine is effectively extinct in tort law and has been eradicated by statute from the motor vehicle context. Understanding of the law of contributory negligence, which was central to the question and is a key part of tort law, was remarkably weak across the board. Major decisions were often simply not mentioned. Many candidates glossed over the critical distinction between the 'guilt' question and the 'apportionment' question. And numerous candidates did not recognise that causal irrelevance of carelessness on the claimant's part precludes a finding of contributory negligence.

Question 9

This was a fairly challenging question that raised issues regarding, principally, harassment, the intentional torts to the person and vicarious liability. Encouragingly, there were a number of strong answers to it. More difficult aspects of the question, which sometimes caused trouble, included (i) joint liability of Henrietta and Ivan for (in particular) the attack on Fred; (ii) whether and on what basis Ivan might be liable for the damage that Jack caused to Fred; and (iii) whether Jack might have the defence of defence of others in respect of any liability that he might incur to Fred and/or Ivan.

Question 10

This question centered on the law of defamation. It was a fairly difficult question because of the large number of publications involved. Some common areas of difficulty included: (i) failing to understand that, because the concept of a publication is not limited to formal publications in print, Mary had published a statement (the video recording) to the *Daily News*; (ii) not appreciating the perishability of the news pointed towards the publication of the story by the *Daily News* being protected by the defence in s 4 of the 2013 Act (although this factor is not, of course, decisive); and (iii) failing to recognise the significance of the distinction between libel and slander and enquiring whether any exceptions to the rule that slander requires proof of damage might apply.

Question 11

This question raised issues regarding the law of nuisance and the rule in *Rylands v Fletcher*. Many candidates tackled it. Most students recognised that Nadia might lack title to sue in respect of the noise. Some candidates noted that, if Perplexia College has a *prima facie* claim against Romulus College under the rule in *Rylands v Fletcher*, the defence of act of a third party might be available to the latter. An area of weakness in many scripts is that they did not address, or did not adequately address, the remedies that might be available to Peter in the event that he was able to establish that Romulus College was responsible for a nuisance.

Question 12

This question concerned, principally, occupiers' liability. It was popular. Common areas of difficulty included: (i) confusion as to whether the Consumer Rights Act 2015 or Unfair Contracts Term Act 1977 applied; (ii) failing to spot that a trespass to land claim might lie as against Tim; (iii) failing to recognise that, if the Occupiers' Liability Acts do not apply, a

claim might be available under the common law; (iv) omitting to identify that Tim might have a claim against Uma in negligence; and (v) not engaging with the exclusion notice, or not addressing its scope.

Question 13

This question raised issues regarding, mainly, pure economic loss and scope of duty. It was generally addressed quite well. There were a number of strong answers that displayed a good understanding of the effect of, for example, *Playboy Club*, and also that a claim in negligence is available against Brendan in respect of the damage to the car. Some difficulties that often cropped up included: (i) not addressing the decision in *Attia v British Gas* as regards Aria's potential claim against Brendan in respect of her mental harm; and (ii) omitting to explore the *SAAMCO* cap as regards any claim that might be available to Aria as against Zoe.

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 trusts scripts this year was solid. Candidates tended to attempt one problem question and three essays, with far fewer attempting two or more problem questions. It is also noted that, on average, answers tended to be shorter (in terms of word count) than they have been in recent years. This may have been because of the closed-book nature of the examination. Stronger essay answers invariably focused more on addressing the specific question asked, whereas weaker answers tended to talk in more general terms about the topic the question related to. As in previous years, and especially with some topics (e.g. resulting trusts), weaker candidates tended to focus more on scholarly commentary rather than what the cases say. Stronger answers displayed a better balance between primary and secondary materials.

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 very popular and produced some strong answers, but also many average ones. Higher marks were awarded to those answers which addressed the specific question asked, rather than just rehearsing the standard 'not wholly personal' vs 'not wholly proprietary' talking points. The best answers were able to articulate possible strengths and weaknesses of the rights against rights account by using well-selected examples from the case law and critically engaging with the scholarship.

Qu. 2: This question was not popular but attracted some solid answers. Strong answers interrogated the notion that 'equity should obey statutes' and gave equal weighting to both secret and half-secret trusts, rather than ignoring the proposed maxim or focusing excessively on just one of either secret or half-secret trusts. Strong answers also considered (in a critical way) the various leading accounts of how and why both such trusts work.

Qu. 3: A very popular question which produced some strong answers. The best answers divided their words between looking at internal and external criticisms of *Quistclose* trusts

as a type of trust. Weaker answers tended to look only at internal criticisms, notably debates around the classification of the *Quistclose* trust, or focus on the outcome in *Quistclose* itself. The best answers therefore looked at both matters of principle and policy, and, in particular, insolvency policy and/or the importance of encouraging lenders to lend to distressed companies.

Qu. 4: This question attracted a reasonable number of answers, though few particularly strong ones. Better answers considered a number of different types of constructive trust, and drew sensible distinctions between them. Weaker answers included fewer examples, described the law on constructive trusts, set out an unparticularised 'unconscionability' account of the law, or used the essay as an excuse to write a critical analysis of 'unconscionability' as it applies across English equity.

Qu. 5: This was a very popular question which brought about some very strong answers. The best answers critically analysed both the reasons why equity should not perfect imperfect gifts and the reasons why it should. Weaker answers tended to analyse only the justifications for the existence of the exceptions in *Re Rose* and *Pennington*, or simply describe the law. Weaker answers also spent too much time on doctrines which, properly understood, were not directly relevant to the question. As there was only a small group of cases to consider, assessing performance turned a lot more on the precise execution of arguments than it might have done in relation to other questions.

Qu. 6: This question was not popular and led to only a few very good answers. The central issue with answers to this question stemmed from a failure to define what one meant by 'fiduciary duty'. As a result, many candidates ended up considering trustees' duties of care or duties to act in the best interests of their beneficiaries without considering whether, properly understood, those duties fell within the scope of the question. Stronger answers focused on the debates about the scope of the concept of 'fiduciary duties', including the *Mothew* analysis that (on a narrow account of the law) the answer is that there are few (if any) prescriptive duties. They also cited the work of scholars such as Conaglen, Smith and Getzler.

Qu. 7: This question was about the so-called 'rule in *Re Hastings-Bass*', at least as it emerged from the decision of the Supreme Court in *Pitt v Holt*. It did not prove popular and there were so few answers it would be inappropriate to comment on specifically good or bad aspects of them here.

Qu. 8: This was the most popular essay question on the paper. It was specifically designed to stop candidates from jumping straight into a critical analysis of the Birks/Chambers vs Swadling debate, hence its focus on the reasons given by the judges. Better answers looked at the leading judicial accounts, especially those in *Westdeutsche* (Lord Browne-Wilkinson), *Vandervell*, and *Twinsectra* (Lord Millett). They weighted their analysis more evenly between presumed and automatic resulting trusts, and, in some cases, drew from broader external arguments, for instance in relation to insolvency policy. Weaker answers merely rehearsed the standard academic positions without looking at the cases in any detail, or, even after looking at the cases, got sidetracked by narrow debates (e.g. Swadling vs Mee).

Qu. 9: This was a question about knowing receipt. It did not produce many strong answers. Candidates often missed the point of the question, preferring to write essays comparing dishonest assistance and knowing receipt instead. The strongest answers considered two different aspects of the question: the question of unconscientious holding (i.e. the requisite state of mind for liability to be established) and the question of whether

the rights held by the knowing recipient need to be subject to a trust interest in the claimant's favour. A proper treatment of the latter would require a detailed reflection on the Supreme Court's decision in *Byers v Saudi National Bank*, and a critical reflection on the differences of opinion expressed by Lord Briggs and Lord Burrows.

Qu. 10: This question was moderately popular, but few answers got beyond identifying (1) the role of the Attorney General in enforcing charitable trusts and (2) the public benefit requirement for the validity of a charitable trust which seems to justify the A-G's intervention in relation to them. There a are range of reasons of both principle and policy which one can marshal in order to question the idea that non-charitable (i.e. private) purpose trusts should be valid, and those reasons needed to be applied to charitable trusts to see if they are of equal relevance.

Qu. 11: This PQ was focused on remedies for breach of trust, breach of fiduciary duty, and dishonest assistance. This was not a very popular question, although some answers were outstanding, covering the ground in a deft but specific way, making intelligent points and flagging uncertainties. Weaker answers missed out large parts of the question, or failed to spot the issues. Part 1 involved a bribe (which could be held on constructive trust), and tracing. Ultimately, the money used to pay off the student loan would not be recoverable as it has been dissipated with no substitute available to be claimed. However, the car could be the subject of a proprietary claim. Stronger answers also considered A's liability for the £100k loss to the trust fund. In bribing A, B was a dishonest assistor who will have to account for their own personal profits (*Novoship*) or make good the losses suffered by the trust as a result of the bad investment. Part 2 concerned a sale of a painting (probably) in breach of trust to a (possible) bona fide purchaser. The questions were therefore what (1) money claim (if any) and (2) proprietary claim (if any) can the beneficiaries bring against A. Turning to D, it is possible that A had a power of sale under the Trustee Act, meaning the transaction had an overreaching effect on the beneficiaries' rights. If not, D might still be "equity's darling". Part 3 raised the simple issue that a fiduciary is liable to account for profits made in conflict of interest even if the action which caused the profits did not cause their principal any loss.

Qu. 12: This question was about the law on personal remedies for breach of trust following *Target Holdings v Redferns* and *AIB v Mark Redler*. It also raised issues about adoption of unauthorised dispositions from trusts, and backwards tracing and subrogation. The law on the scope of the rules in *Target* and *AIB* is contested, and credit was given to any meaningful and plausible engagement with it. Part 1 of the question raised facts which were, in substance, identical to *Target*, save that in this case the relevant documents were never in fact acquired. Candidates were expected to observe that there was no causal link between the misapplication of the trust fund and the £300,000 overvaluation loss and so, arguably, under *Target/AIB*, that £300,000 loss should not be recoverable. Part 2 involved a payment by the trustee to some third party, and not to the intended borrower, such that the *Target*/*AIB* recovery norm might not apply. Part 3 involved a transaction which the lender might want to adopt. If it can say that it was its money which was used to pay off the secured debt owed to the bank, it should be able to be subrogated to the former charge over Stonegate (*Boscawen v Bajwa*). Some candidates went into backwards tracing here, which wasn't wrong, although on the facts it was unlikely.

Qu. 13: This PQ raised 'three certainties' and formalities issues. It was a popular PQ, and many candidates produced good answers. However, several candidates overcomplicated their answers with arguments on points which were essentially non-contentious. Part 1 involved an *inter vivos* trust which could be construed as: (1) an invalid private purpose trust (*Re Endacott*); (2) a trust for N, with a motive (*Re Bowes*); (3) a trust for the children

(a la *Re Denley*); or (4) a charitable trust. The best answers considered the most likely of these options and concluded accordingly applying the relevant tests. Part 2 raised a certainty of subject matter issue. Did M intend to create a trust of 15 of her 30 bottles of madeira, or a trust of half of each of her 30 bottles. If the former, the trust is likely to be invalid under *Re London Wine*. If the latter, the trust could well be valid. Part 3 raised a fairly standard three-party *Rochefoucauld*/s53(1)(b) puzzle, and the best answers considered whether *Rochefoucauld* applied to the facts of the case and, if so, what the outcome would be. Strong candidates also considered the possibility of a constructive trust in N's favour, under *Bannister.*

Qu. 14: This was an exceptionally popular question and produced many strong answers. It was about s. 53(1)(c) and, in particular, whether three separate dealings with a beneficial interest by S were 'dispositions', and, as such, needed to be made in writing in order to be valid. Part 1 was almost universally done well. Candidates recognised that the creation of a sub-trust is not a disposition and so does not need to be in writing (*Nelson*). Part 2 was also done fairly well, albeit many candidates jumped straight to the perfection of an imperfect gift without taking time to explain why the gift in issue was, in fact, imperfect. Citing cases like *Grey* or *Oughtred*, the strongest candidates made clear that the promised gift could have no effect without writing. Almost all candidates included analysis of whether *Pennington v Waine* applied to the facts of the case, with a few candidates also picking up on the doubt, in *Zietal v Kaye*, as to whether *Pennington* can apply to incomplete gifts of beneficial interests at all. Credit was given to those who amplified their application of the law by reference to *Curtis v Pulbrook* and/or *Khan v Mahmood*. Part 3 raised a situation which was very similar to the facts of *LA Micro*. Following the Supreme Court (and citing *Grey*), the best answers took a broad definition of disposition, held that the attempted sale here was a disposition, but also held that no writing was needed because of section 53(2). The more detail with respect to that analysis – contract of sale, specific performance, vendor-purchase constructive trust, 'doctrine of merger does the rest' – the better. Some strong answers (often citing the work of English and Atmaz Al-Sibaie) offered an alternative analysis that there is no need for writing as there is no disposition, as what is occurring is a release of a beneficial interest, and releases, as per *Vandervell*, are not dispositions for the purposes of s 53(1)(c).

SUCCESSION LAW

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).

Q1 – this question was in two parts, with the first part requiring an analysis of the 1975 Act, with particular focus on the question of categories of applicant and standards of provisions available under the Act; the second part required candidates to consider the fairness of the intestacy rules as a model for forced heirship. Better answers gave equal weight to both aspects. Poorer answers ignored the second part, and offered no more than a general criticism of the 1975 Act.

Q2 – this attracted a small number of mostly good answers. Most candidates were able to discuss the difference between a will and lifetime dispositions that take effect on death, such as survivorship, life interest trusts and pension nominations.

Q3 attracted very few answers.

Q4 was one of the more popular questions. The better answers not only gave a good account of the three doctrines, but were able to examine the boundaries by reference to the case law. For instance, good answers were able to explain the difference between capacity to make a will as a general status, versus a testator's understanding (or lack of) a specific document. The role of understanding where a person is subject to the influence of others was also explored well.

Q5 did not attract many answers.

Q6 attracted a small number of generally good answers. Better candidates were able to discuss the role of liabilities in executorship as a distinctive feature when compared to trusts.

Q7 attracted very few answers.

Q8 was a popular question and most answers were of a good standard. Candidates lost marks dealing with the bank account. The correct approach was to first ask whether there was a joint tenancy, which would have led to survivorship. If that was answered in the negative, then it was still possible that a testamentary promise to leave a share of a bank account would pass the interest notwithstanding that the promise did not comply with the Wills Act, as per the Young v Sealey line of cases.

Q9 was generally well done. Most candidates were able to consider whether a White v Jones claim lay where there had been a failure to revoke a gift (rather than make a gift), as well as the role of survivorship in such claims.

Q10 attracted a number of strong answers. Most candidates were able to consider the steps in s. 20-21 of the Administration of Justice Act 1982, and apply recent decisions such as Re Bracey and Re Reading to the facts of the case.

University of Oxford External Examiner Report

EXTERNAL EXAMINER REPORT for the academic year 2024/25

1. Please check your title is correct, and select another option if needed: **Professor**

2. If you entered other, please specify No response

3. Please check your first name(s) is correct, and amend if needed: **Claire**

4. Please check your last name is correct, and amend if needed: **Fenton-Glynn**

5. Please enter the name of your home institution: Monash University

6. Please check the course level of the course(s) you acted as external examiner for is correct, and select another option if needed: Undergraduate

7. Please check the Division(s) responsible for that the course(s) that you acted as external examiner for comes under are correct, and amend if needed: Social Sciences Division

8. Please check the Faculty/Department(s) responsible for that the course(s) that you acted as external examiner for comes under are correct, and amend if needed: Faculty of Law

9. Please check the course(s) that you acted as external examiner for are correct, and amend if needed : DJUR: Honour School of Jurisprudence

10. Please select whether you have just completed your first year of your term of office as external examiner, whether you have now completed your entire term of office, or whether you are in another year of your term of office: Last year of term of office

11. Please check the date the final Examination Board took place is correct, and amend if needed. If you acted at external examiner for multiple courses which had separate Examination Board meetings, please check the correct date for the latest Examination Board meeting is showing, and amend if needed.: 11 July 2025

12. Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience? (Please refer to paragraph 15 of the Guidelines for External Examiner Reports) 12.1 A1. i) Academic standards of students: Yes

12.2. A1. ii) Academic achievements of students: Yes

13. Do the threshold standards for the programme appropriately reflect: (Please refer to paragraph 16 of the Guidelines for External Examiner Reports) 13.1 A2. i) The frameworks for higher education qualifications? Yes

13.2 A2. ii) Any applicable subject benchmark statement? Yes 14. In relation to the academic process: 14.1 A3. Does it measure student achievement rigorously and fairly against the intended outcomes of the programme(s)? Yes

14. Is it conducted in line with the University's policies and regulations? Yes

15. In relation to the information and evidence provided to you: 15.1 A5. Did you receive it in a timely manner to be able to carry out the role of External Examiner effectively? Yes

16. Regarding your previous report, please indicate whether you: 16.1 A6. Received a written response to your previous report? Yes

16.2 A7. Are satisfied that comments in your previous report have been properly considered, and where applicable, acted upon? Yes

17. B1. 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? The academic standards achieved by the students at Oxford University were of the highest standard. They were equivalent to those I saw at Cambridge, and much higher than at other institutions I have taught at.

18. B1. 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). As with academic standards, the student performance was of the highest calibre. It was equivalent to the performance of students at Cambridge, and higher than other institutions I have taught at.

19. B2. 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. The rigour and conduct of the assessment process was excellent. Great care was taken by the Board of Examiners to ensure equity of treatment for all students. The process appeared at all times to be conducted fairly and in line with University guidance and regulations.

20. B3. Are there any issues which you feel should be brought to the attention of supervising committees in the faculty/department, division or wider University? If you acted as external examiner for multiple courses, please indicate whether the issues related to all or selected courses. I do not believe there are any issues that need to be raised.

21. B4. 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 do not have any to note here.

22. B5. a) 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. As always, I was incredibly impressed by the support provided by the professional staff at the Faculty of Law. Their attention to detail, knowledge of rules and procedures, and institutional knowledge concerning past practices and precedents, made the process much easier for all involved.

23. B5. b) Now that your term of office is concluded, please provide an overview here. I have been impressed by the rigour with which the Board of Examiners approach their role. I felt the process improved markedly across my three year tenure, with a much more streamlined approach, and one which seemed to follow clearer rules. I still believe the Board is asked to

do too much - in all other institutions I have been involved with, the central university has been the decision-maker with regard to mitigating circumstances and special considerations. However, the way the Board approached this difficult task has been commendable.

E. NAMES OF MEMBERS OF THE BOARD OF EXAMINERS

Mr. N.C. Bamforth (Chair)
Professor D. Gangjee
Professor. I. Solanke
Professor. L. Rajamani
Dr. S. Douglas
Professor N. Bui
Professor A. Layard
Professor. K. Grevling
Professor E. Voyiakis (External Examiner)
Professor C. Fenton-Glynn (External Examiner)