

EXAMINATION FOR THE DEGREES OF B.C.L. AND M. JUR

REPORT OF THE BOARD OF EXAMINERS FOR 2017

1 Introduction

This report notes various aspects of this year's examinations, and raises a small number of points which the Examiners believe may be important for those who have oversight of the examination of BCL and MJur candidates in future years.

2 Timetable

The exams started on Friday of week 8, and finished on Friday of week 10. No candidate had two papers on the same day. The papers on the first Friday and Saturday were set in the morning; papers in the first full week were set in the afternoon; those in the second full week in the morning. The extra day instituted in 2016 and repeated this year was helpful for timetabling of exams.

3 Statistics

Attached at Appendix 1 are the numbers of entrants, distinctions and passes. One candidate failed and did not submit any factors affecting performance.

There were 92 BCL candidates all of whom sat the examination, with 53% (49 candidates) achieving distinction. This was slightly higher than the comparable percentages in the previous four years (2013-2016) but lower than that in 2012.

There were 51 MJur candidates. In a pleasing departure from previous years, the gap in the percentage number of candidates obtaining a distinction in the MJur compared with the BCL narrowed, with 39% (20) achieving distinction, up significantly from 24% (13) in 2016.

In 2017 there was little discrepancy in the percentages of women and men gaining distinctions on the BCL, with 55% (23 candidates) of men and 52% (26 candidates) of women gaining distinctions. This compares favourably with 2015, when there was no discrepancy, and contrasts with the pattern of 2013, 2014 and 2016, when markedly higher proportions of men than women gained distinctions (e.g. in 2016, 56% of men but only 45% of women gained distinctions). For the MJur, 8 women out of 19 (42%) and 12 men out of 32 (38%) gained distinctions, a repeat of 2015 when more women than men obtained distinctions and a reversal of 2016 when more men (26%) than women (22%) gained a distinction.

For the first time, a gender and course breakdown has been prepared for prize winners in 2017, including statistics for 2015 and 2016 for comparison purposes. The general trend is that prize winners are overwhelming BCL candidates (78% (35) in 2017; 70% (31) in 2016; and 86% (38) in 2015) and that for the combined BCL/MJur there is a higher percentage of male prize winners though this gap has narrowed since 2015 (58% in 2017; 57% in 2016; and 70% in 2015).

In 2014, Examiners noted that very few BCL dissertations and no MJur dissertations were awarded a mark of 70 or above. Since then, markers have been encouraged to reward excellent work in dissertations, and in 2015, the Examiners were encouraged to see that 50% of the 12 dissertations submitted obtained a mark of 70 or over. In 2016, the results slipped back somewhat, with 2 out of 5 BCL dissertations and 1 out of 7 MJur dissertations awarded a mark of 70% or over. For 2017, the Examiners were pleased to note that 2 out of 3 BCL dissertations obtained a mark of 70% or over (67%), while 3 out of 6 MJur dissertations achieved this grade (50%).

4 Computer software

As in previous years, the use of Weblearn to submit draft papers, to deal with Examiners' queries on papers and to submit marks worked very well indeed. This was the third year in which Weblearn had been used to submit marks electronically, and the process was very easy and accurate.

A new exam database was in operation this year and was a resounding success, significantly improving presentation of results not to mention saving time spent by the Examinations Officer generating final results. Candidate profiles were presented on A3 paper with colour coding of assessment unit marks – a most welcome innovation by the Examinations Officer – which considerably aided Examiners in the classification of candidates.

5 Plagiarism and late submission of essays and dissertations

'Turnitin' software was used to check for plagiarism in all dissertations and all Jurisprudence and Political Theory essays, as in previous years. No concerns were raised with the Proctors this year.

Two candidates were given extensions on the deadline for submission of their dissertations, as a result of illness/extenuating circumstances. In one case submission was the day after the final examination Board, necessitating a brief reconvening of the Board to consider classification of his/her results.

6 Setting of papers

The Examiners checked all draft papers line by line; the papers were also sent to the External Examiner. The process yielded a number of further queries on a significant number of papers. Of particular note was the introduction of lists of materials appended to papers, which varied significantly in level of detail and in presentation and necessitated some additional toing and froing with Assessors. There was one serious error during the examination period, in a diagram on the Intellectual Property exam paper. However, this was not the fault of the Assessor; it had simply not been printed properly by Schools. The defect was discovered by the Assessor prior to the commencement of the exam and an appropriate announcement was made in Schools at the start, without causing disruption to the writing of the examination. An error was also found in the Restitution paper which was corrected in the examination though well after the 30 minute start time for attendance by the setter. Fortunately, the practice of ensuring that the invigilators have contact details for the setter ensured that he could be contacted and the error corrected promptly upon its discovery.

7 Information given to candidates

The Notices that were sent to candidates are attached as Appendix 2.

8 The written examinations

In response to last year's report requesting reconsideration of the presence of the Chair of Setters at each examination, in 2017 the Chair did not attend for the start of each examination, though did attend the first examination. Setters did attend, with the setter or an alternative present for the first 30 minutes of the examination. Since 2016 sub fusc is no longer required, but Assessors still need to wear gowns and hood. No questions of any significance were raised by candidates during these periods.

One issue which arose in the course of the written examinations was the noise generated by use of Schools as an information point for Open Day, affecting two papers sat in an adjacent room. A number of statements from the students sitting these papers, from the student representative, and the invigilator's log were tabled. The Examiners considered overall performance in these papers, noting in particular option averages 2013-2017 and raw marks for 2017, from which no discernible adverse effects were detected.

9 Materials provided in the examination room

No problems were experienced this year in the provision of materials in each examination.

The Examiners wish to note, in line with previous Examiners' reports, the expense and time involved in the provision of statutory materials by the Faculty. This year, for the fifth time, the Proctors agreed to a limited experiment whereby the materials in the Corporate Tax Law and Policy examination were provided by the candidates themselves. The experiment again worked smoothly, and the Examiners record their thanks to Judith Freedman for her assistance in organising the scheme and 'inspecting' the materials at the start of the examination. The Examiners, as last year, suggest that candidates should continue to provide their own materials for the tax examinations in future years, and that the procedure should be extended to other courses, as appropriate.

10 Marking and remarking

In accordance with established practice, the Board held one meeting rather than two (which reconvened to consider one candidate with an extended dissertation deadline). Routine double-marking of scripts prior to the meeting included all those scripts which might, however remote the chance, be thought to have the potential to affect a candidate's classification. In addition to the prescribed swapping and sampling of marks, this meant that there was blind double marking of all papers for which a mark had been given ending in 7, 8, or 9, and every paper given a mark below 60. Where a script had been double marked, the markers submitted an agreed mark before the meeting. There was only one paper marked below 50, which was a fail (38%). In addition to being double-marked, this was sent to the External Examiner along with a random sample of 5 borderline scripts in three subjects, namely International Economic Law, International Dispute Settlement and International Law and Armed Conflict. He confirmed the marks on each of them. (See the separate report of the External Examiner)

11 Factors affecting performance and special examinations needs

12 candidates had adjustments made under Examination regulations for the Conduct of University Examinations, Part 12. All were given extra time and/or used special equipment to write their papers and/or sat separately. 8 of these candidates wrote some or all of their papers in their respective colleges. 4 further candidates wrote their papers in special rooms in the Examination Schools.

14 candidates made FAP ('factors affecting performance') submissions to the Proctors relating to medical circumstances affecting their performance in examinations (10 (11%) of BCL candidates and 4 (8%) of MJur candidates). In accordance with procedure laid down by the Education Committee in Annex B to the guidance to examiners, a subset of the Examiners (Catherine Redgwell and Roderick Bagshaw) met before the marks meeting in order to consider all such certificates, and to band the circumstances into '1 indicating minor impact, 2 indicating moderate impact, and 3 indicating very serious impact'. A record was kept of these decisions and the reasons for them. This banding information was used in the marks meeting to inform the Examiners' decisions regarding the FAP submissions. The Examiners took specific and individual account all FAP submissions, and a record was kept of how the banding information was used and the outcome of the consideration with the reasons given.

12 Thanks

The internal Examiners would like to conclude by expressing their thanks to the External Examiner, Professor Andrew Lang, for his hard work and very helpful advice. Thanks are also due to Roderick Bagshaw for his additional work referred to in (11) above. Last but most certainly not least, the Examiners would like to thank the Examinations Officer, Laura Gamble, for her outstanding efficiency and supreme organisational skills, her unfailing good humour, and for her innovations using the new exam database. The Chair of Examiners would like to record her especial thanks to Laura for making her task so much easier throughout the whole of the examinations process.

Catherine Redgwell (Chair)
Roderick Bagshaw
Ariel Ezrachi
Dan Sarooshi
Andrew Lang (external)

Appendices to this Report: (1) Statistics; (2) Notices to Candidates; (3) Examination Conventions; (4) Prizes and Awards; (5) Mark distribution on first reading; (6) Reports on individual papers; (7) Report of Professor Andrew Lang, external examiner; (8) Report of factors affecting performance application.

BCL/MJur results statistics by gender 2016-17

BCL	2017						2016						2015						2014						2013					
	Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Dist	23	55	26	52	49	53	30	56	20	45	50	51	33	48	21	49	54	48	28	55	14	37	42	47	40	47	26	39	66	44
Pass	19	45	23	46	42	46	24	44	24	55	48	49	33	48	22	51	55	49	23	45	24	63	47	53	44	52	40	61	84	55
Fail	0		1	2	1	1	0		0		0		2	3			2	1	0		0		0		1	1	0		1	1
Total	42		50		92		54		44		98		68		43		111		51		38		89		85		66		151	

MJur	2017						2016						2015						2014						2013					
	Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total		Male		Female		Total	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Dist	12	38	8	42	20	39	7	26	6	21	13	24	4	14	6	26	10	19	3	14	9	38	12	27	5	23	1	8	6	17
Pass	20	62	11	58	31	61	20	74	21	75	41	74	24	83	17	74	41	78	17	81	15	62	32	71	17	77	12	92	29	83
Fail	0		0		0		0		1	4	1	2	1	3			1	2	1	5	0		1	2	0		0		0	
Total	32		19		51		27		28		55		29		23		52		21		24		45		22		13		35	

BCL and MJur Prize Statistics

2017

Gender/course		Number of prize winners	% of prize winners
Gender	<i>Female</i>	19	42%
	<i>Male</i>	26	58%
Course	<i>BCL</i>	35	78%
	<i>MJur</i>	10	22%
Course and gender	<i>Female BCL</i>	16	35%
	<i>Female MJur</i>	3	7%
	<i>Male BCL</i>	19	42%
	<i>Male MJur</i>	7	16%

2016

Gender/course		Number of prize winners	% of prize winners
Gender	<i>Female</i>	19	43%
	<i>Male</i>	25	57%
Course	<i>BCL</i>	31	70%
	<i>MJur</i>	13	30%
Course and gender	<i>Female BCL</i>	14	32%
	<i>Female MJur</i>	5	11%
	<i>Male BCL</i>	17	39%
	<i>Male MJur</i>	8	18%

2015

Gender/course		Number of prize winners	% of prize winners
Gender	<i>Female</i>	13	30%
	<i>Male</i>	31	70%
Course	<i>BCL</i>	38	86%
	<i>MJur</i>	6	14%
Course and gender	<i>Female BCL</i>	10	23%
	<i>Female MJur</i>	3	7%
	<i>Male BCL</i>	28	63%
	<i>Male MJur</i>	3	7%

IMPORTANT – TO BE RETAINED FOR FUTURE REFERENCE

UNIVERSITY OF OXFORD

FACULTY OF LAW

BCL/MJUR EXAMINATIONS 2017

NOTICE TO CANDIDATES

This document is traditionally known as the Examiners' Edict.

1. Examination Entry Details

It is your responsibility to ensure that your examination entry details are correct via the Student Self Service through the Oxford Student website (see www.ox.ac.uk/students/). For more information on examination entry see www.ox.ac.uk/students/academic/exams/entry

2. Timetable and Place of the Examinations

All examinations will be taken at the Examination Schools in the High Street. *Sub fusc* must be worn. You are advised to reach the Schools no less than ten minutes before the stated time of the examination. A bell will be rung some minutes before the examination to give candidates time to move from the entrance of the building to the examination room. Notices in the Schools will direct candidates to the appropriate room. **Seating in the examination room will be by desk number only. Seating charts will be displayed throughout the Examination Schools reception areas in each examination location, displaying candidate and desk numbers, as well as outside individual examination rooms.**

Please bring your candidate number with you to each examination paper, or devise some way of remembering this. In addition, please bring your University Card with you to each examination paper. Your University Card must be placed face up on the desk at which you are writing. You must **not** write your name or the name of your college on any answer book, essay or dissertation. **Use only your examination number.**

See <http://www.ox.ac.uk/students/academic/exams/guidance> for information on sitting your exams.

The examination timetables in respect of papers available in the BCL and MJur can be found at: www.ox.ac.uk/students/academic/exams/timetables Scroll down the page to 'other' in the list, you will find the BCL (EBCL) and MJur (EMJU) examination timetables under 'other'.

Legibility candidates submitting illegible scripts will be required to have them typed at their own expense, see further, *Examination Regulations* 2016, Part 16.7 under Marking and Assessment (<http://www.admin.ox.ac.uk/examregs/information/contents/>). The Examiners will make every effort to identify such candidates as early as possible. Candidates who leave Oxford before 5 July 2017 do so at their own risk. On leaving Oxford, candidates should leave up-to-date contact details with their college, including a telephone number and an email address.

For further information see the Proctors' Disciplinary Regulations (*Examination Regulations* 2016, Part 19, and Administrative Regulations for Candidates in Examinations (*Examination Regulations* 2016, Part 20) <http://www.admin.ox.ac.uk/examregs/information/contents/>

3. Materials in the Examination Room

In some examinations, but not for Corporate Tax Law and Policy (see further below), case lists, statutes and other materials will be available on the desks in the examination room, and a list of these materials are attached as Appendix B to the Examination Conventions available at: <https://weblearn.ox.ac.uk/x/qSLPav> See also section 10 below.

Corporate Tax Law and Policy only

Statutes and other source materials may only be brought into the examination room with the prior approval of the Proctors and then only subject to strict conditions.

Candidates will be permitted to bring into the examination room their own copies of Tolley's Yellow Tax Handbook, (2016-17), Part 1a, Part 1b, Part 1c, Part 2a, Part 2b and Part 3, LexisNexis. The following regulations will apply:

1. The copy of Tolley which you bring into the examination room must be **absolutely clean and unmarked**. As an aid to finding individual materials in the Tolley collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be **absolutely clean and unmarked**. These regulations will be strictly enforced. Particular attention will be paid to personal possession markings (eg your name, name of your college) which **must do no more than identify the ownership of the Tolley Handbook**.
2. Your copy of Tolley will be inspected by the examiners/invigilators in your presence at the start of the Corporate Tax Law and Policy paper. This will be carried out as quickly as possible. Thereafter during the examination scrutiny will be conducted as part of invigilation and will be random. Your copy of Tolley must remain **absolutely clean and unmarked** (see 1. above) **for the duration of the examination paper**.
3. In the event of any infringement or breach of regulations specified above, your copy of Tolley will immediately be confiscated and the matter reported to the Proctors. You will be permitted to continue and complete the examination paper but without access to the collection of materials in Tolley. Similarly, if for some reason you forget to bring your copy of Tolley to the examination, you will be permitted to write the paper but without access to the materials in the Tolley Handbook.
4. The Proctors will suspend the processing of the candidate's examination results while they fully investigate (including interviewing the candidate) the reported infringement or breach of the regulations. If they come to the view that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. Further information about these Regulations and disciplinary procedures may also be found on <http://www.admin.ox.ac.uk/proctors> Students who breach the Disciplinary Regulations for University Examinations may have their marks reduced, or may be failed in that examination or, in the most serious cases, may be expelled.

4. Leaving the Examination Room and failing to hand in any written work on time

No candidate may leave the examination room within half an hour of the beginning of the examination and, to avoid disturbance to other candidates, candidates may not leave the examination room in the half an hour before the end of the examination, see *Examination Regulations* 2016, Part 19, Proctors' Disciplinary Regulations (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

A candidate who is taken ill while sitting a written paper may (with the invigilator's permission) leave the room and return while the examination is in progress to resume the paper on one occasion only (and no extra time shall be allowed). If the candidate is unable to complete the paper concerned because

they have been taken ill a second time, they should inform an invigilator so that the incomplete script can be handed in. It is the candidate's responsibility to obtain a medical certificate explaining how their performance in the paper concerned may have been affected by illness. The Examiners will only be made aware of any difficulties suffered by a candidate in the examination room if the candidate subsequently obtains a medical certificate that is submitted to the Registrar and passed by them to the Examiners, plus any other relevant information. For the procedures to be followed see part 12. below. See also *Examination Regulations* 2016, Part 20, Administrative Regulations for Candidates in Examinations and Part 13, Factors Affecting Performance in an Examination (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

Candidates who fail to attend a written examination paper without having obtained the prior permission of the Proctors are deemed to have failed the entire examination (not just that particular unit of the examination) unless the Proctors give instructions to the Examiners about reinstating them. For the procedures for withdrawal (from the entire examination and a particular unit of the examination) before the examination and after the examination has started, see *Examination Regulations* 2016, Part 14 (<http://www.admin.ox.ac.uk/examregs/information/contents/>). A candidate may not withdraw from the examination after the written part of the entire examination is complete. The point of completion is deemed to be the conclusion of the last paper for which the candidate has entered, or the time by which a dissertation or other written material is due to be submitted, whichever is the latter. Candidates should consult their College Advisor if any of these provisions apply to them.

Application to the Proctors for permission for late submission of the essays in *Jurisprudence and Political Theory* or the dissertation should be made by the candidate's college on the candidate's behalf before the submission date. For the procedure for late or non-submission see *Examination Regulations* 2016, Part 14, paragraph 14.3, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

Written work submitted late (even 10 minutes past the deadline) **on the prescribed date of submission but later than the prescribed time**, will be passed to the Examiners for marking but the Examiners may impose an academic penalty and a late presentation fee (to cover the administrative costs) will be incurred. See *Examination Regulations* 2016, Part 14, paragraph 14.9, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>). See also section 4.5 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>

For written work submitted **after the prescribed date** without prior permission, see *Examination Regulations* 2016, Part 14, paragraph 14.10, *Late submission and non-submission of a thesis or other written exercise* (<http://www.admin.ox.ac.uk/examregs/information/contents/>). See also section 4.5 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>

Candidates should consult their College Advisor or Senior Tutor if any of these provisions apply to them.

5. Examination Technique

If you did your undergraduate work elsewhere, and especially if you did it in another country, you are strongly advised to discuss the nature of Oxford law examinations with your college tutors and your peers. The underlying assumptions as to what constitutes a satisfactory, let alone an excellent, answer may differ substantially from those in your home jurisdiction. In particular, it is necessary to understand that the typical answer runs to three or four pages and that those marking the examination place great importance on the nature of the discussion that leads you to your final conclusion. If a question seems at first sight to admit of a satisfactory answer in one or two sentences, you must nevertheless take it as an invitation to engage in a critical discussion of the pros and cons. Even problem questions that ask you to advise one party must not be read as excluding discussion and critical comment of a kind no real party would wish to hear. These few suggestions do not in themselves give

sufficient guidance. You must take advice on this matter and you must contemplate the papers set in earlier years in the light of the advice that you are given. See section 4.2 of the Examination Conventions available at <https://weblearn.ox.ac.uk/x/qSLPav>

It is important to realise that a candidate is examined on the whole syllabus pertaining to any given paper, and, in particular, that a question on the paper may raise issues falling within more than one week's work.

6. Academic Integrity: avoidance of plagiarism

Plagiarism is presenting someone else's work or ideas as your own, with or without their consent, by incorporating it into your work without full acknowledgement. All published and unpublished material, whether in manuscript, printed or electronic form, is covered under this definition. Plagiarism may be intentional or reckless, or unintentional. Under the regulations for examinations, intentional or reckless plagiarism is a disciplinary offence. Further information about plagiarism and how to avoid it can be found at <http://www.ox.ac.uk/students/academic/guidance/skills/plagiarism> and you are strongly advised to consult this website. The University reserves the right to use software applications to screen any individual's submitted work for matches either to published sources or to other submitted work. Any such matches respectively might indicate either plagiarism or collusion. See the Student Handbook 2016-17 incorporating the Proctors' and Assessor's Memorandum, section 8.7 (<http://www.admin.ox.ac.uk/proctors/info/pam/>). Useful advice on plagiarism is also given in the Faculty's Graduate Student Handbook Taught Programmes 2016-17, pages 64-66 (https://www.law.ox.ac.uk/sites/files/oxlaw/bcl_mjur_handbook_2016-17_version_1.3.pdf).

In this connection, in respect of the Jurisprudence and Political Theory essays or dissertation, you **are required** to read the **Declaration of Authorship**, including acknowledgement of the University's right to check for plagiarism or collusion. You will not be able to submit your work until you have ticked a box to confirm that you have read and understood the Declaration of Authorship. You can view the Declaration of Authorship text in Schedule IV.

The Examination Board shall deal wholly with cases of poor academic practice where the material under review is small and does not exceed 10% of the whole. If a student has previously had marks deducted for poor academic practice or has been referred to the Proctors for suspected plagiarism the case must always be referred to the Proctors. Also, where the deduction of marks results in failure of the assessment and of the programme the case must be referred to the Proctors. In addition, any more serious cases of poor academic practice than described above should also always be referred to the Proctors. For further information on penalties for plagiarism see the Examination Conventions, 4.7, available on the Law Faculty WebLearn site <https://weblearn.ox.ac.uk/x/qSLPav>

7. Submission of Essays and Dissertations

If you are offering essays or a dissertation, you must read the following instructions very carefully. Both essays and dissertations will need to be submitted electronically via WebLearn, by the prescribed deadline.

(a) Jurisprudence and Political Theory Essays

Jurisprudence and Political Theory will be examined through three essays. Topics for essays will be prescribed by the Examiners and will be available on WebLearn by noon of Friday of eighth week of Hilary term (10 March 2017). You may also obtain a hard copy of the essay topics from Room 105, Faculty of Law, St Cross Building. You will be required to select three topics from a list of six. The three essays, which you submit, must be, in aggregate, not shorter than 5,000 words and not longer than 8,000 words. See *Examination Regulations 2016* (for the academic year 2016-17) (<http://www.admin.ox.ac.uk/examregs/2016-17/dicl-mjamophilinlawx/>). For these essays, footnotes and bibliographies are included in the word limit. Disregard of these limits may be

penalised; see *Examination Regulations* 2016, Part 16, paragraph 16.6 (<http://www.admin.ox.ac.uk/examregs/information/contents/>) and also see (c) below. Each essay must have a cover page containing the title, your examination number and the number of words used in the essay.

The essays must be submitted online to WebLearn by **Friday 21 April 2017** at noon. Late submission may be penalised; see paragraph 4 above. Instructions on how to submit the electronic copies are attached as Schedule II.

Once you have uploaded your essays to WebLearn, you must read the Declaration of Authorship (see Schedule IV Extract from WebLearn re. Declaration of Authorship). You cannot submit your essays until you have ticked this Declaration to say that you have read and understood it. All essays will be checked for plagiarism using the *Turnitin* software.

(b) Dissertations

If you are offering a dissertation you must read very carefully the requirements set out in the *Examination Regulations* 2016 (for the academic year 2016-17) (<http://www.admin.ox.ac.uk/examregs/2016-17/dicl-mjamophilinlawx/>). The requirements set out there are not repeated here. The Examiners draw particular attention to the word limit and to the requirement that every dissertation must include a table of cases with page references. See *Examination Regulations* 2016, Part 16, paragraph 16.6 (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

The number of words must be stated on the first page of the dissertation. There is a common approved format for all law dissertations and theses which can be found in the Faculty's Graduate Student Handbook Taught Programmes 2016-17, pages 55-56 (https://www.law.ox.ac.uk/sites/files/oxlaw/bcl_mjur_handbook_2016-17_version_1.3.pdf). You must ensure that your examination number, but neither your name nor the name of your college, appears on the dissertation. You must submit your essay electronically to WebLearn by **Friday 26 May 2017** (Friday of fifth week of Trinity Term) at noon. See part 4 above (late submission may be penalised). Submission of a dissertation where the title or subject matter is different from that approved by the Law Board may also be penalised; see the *Examination Regulations* 2016, Part 16, paragraph 16.6(2) (<http://www.admin.ox.ac.uk/examregs/information/contents/>) (also quoted in 7.(c) below) Late submission of this declaration may lead the Proctors Office to recommend an academic penalty, see *Examination Regulations* 2016, Part 14, paragraph 14.11 (<http://www.admin.ox.ac.uk/examregs/information/contents/>). See Schedule III for instructions on how to submit your dissertation electronically. Once you have uploaded your dissertation to WebLearn, you must read the Declaration of Authorship (see Schedule IV Extract from WebLearn re. Declaration of Authorship). You cannot submit your dissertation until you have ticked this Declaration to say that you have read and understood it. All dissertations will be checked for word count, and for plagiarism using the *Turnitin* software.

Basis of assessment – the Examiners draw attention to the provision in the *Examination Regulations* 2016, (<http://www.admin.ox.ac.uk/examregs/2016-17/dicl-mjamophilinlawx/>), that they are obliged to judge the extent to which a dissertation affords evidence of significant analytical ability on the part of the candidate.

The Education Committee have introduced a policy of giving written feedback for dissertations of 5,000 words or over. This will be in the form of a written report sent to candidates via the candidate's college, within six weeks after the release of the results.

(c) Exceeding the word limits (Jurisprudence and Political Theory essays and dissertations)

See the *Examination Regulations* 2016, Part 16, paragraph 16.6(1) (<http://www.admin.ox.ac.uk/examregs/information/contents/>) for submission of theses or other exercises: exceeding word limits and departure from title or subject matter.

Because of the manner in which word count software operates, legal citations often inflate the count. The Examiners have therefore determined that an allowance of an extra 3% should be permitted to candidates (should they wish to use it) above the figure of 8,000 for essays and 12,500 for dissertations. The word count that appears on the dissertation/essays must be the actual word count produced by the software. The word count for dissertations must include all footnotes and endnotes, but not any bibliography. The word count for essays must include all footnotes and bibliography (see also section 7(a) above). For dissertations you must ensure that any automatic word-count on the word-processing program you use is set to count footnotes and endnotes and for essays is set to count all footnotes and bibliography.

8. Prizes

A list of prizes is given in the attached Schedule I.

9. The Question Papers

An examiner will be present during the first half an hour of each examination paper to address any question concerning the paper. The format and rubric of examination papers can be found as Appendix A to the Examination Conventions available on the Law Faculty WebLearn site at <https://weblearn.ox.ac.uk/x/qSLPav> See also section 10 below.

Where a question includes a quotation, it will normally be attributed to the author. Where a quotation is not attributed, it will normally be the case that it has been drafted for the purposes of the examination paper.

10. Examination Conventions

The Examination Conventions are the formal record of the specific assessment standards for the course to which they apply. They set out how examined work will be marked and how the resulting marks will be used to arrive at a final result and classification of an award. They include information on: marking scales, marking and classification criteria, scaling of marks and resits.

The Examination Conventions are available on the Law Faculty WebLearn site at <https://weblearn.ox.ac.uk/x/qSLPav>

The Examination Conventions are also referred to on page 62 of the *Graduate Student Handbook, Taught Programmes 2016-17*.

Format and rubric of papers

The format and rubric of examination papers can be found as Appendix A to the Examination Conventions.

Materials in the examination room

The materials available in the examination room can be found as Appendix B to the Examination Conventions.

11. Candidates with special examination needs

The Proctors have authority to authorise alternative arrangements for candidates who for medical or other sufficient reasons are likely to have difficulty in writing their scripts or completing the examination in the time allowed. Information on the deadline for applying for such arrangements can be found at <https://www.ox.ac.uk/students/academic/exams/arrangements?wssl=1> or you should

contact your college **immediately**. See further *Examination Regulations* 2016, Part 12 (Candidates with Special Examination Needs), Part 11 (Religious Festivals and Holidays Coinciding with Examinations) and Part 10 (Dictation of Papers and the Use of Word-Processors, Calculators, Computers, and other materials in examinations) (<http://www.admin.ox.ac.uk/examregs/information/contents/>).

Emergency examination adjustment:

In cases of acute illness when a doctor's certificate is necessary, but when there is no time prior to the start of the exam to obtain one (i.e. the issue has occurred on the examination day or the night before), the request for alternative arrangements may be accompanied by a statement from either the College Nurse, Dean or Senior Tutor. Examples may include acute onset stomach issues, migraine, or panic attack, leading to a request for a delayed start, permission for toilet breaks in first and last 30 minutes, or move to college sitting. A doctor's certificate must follow and should be provided within 7 days of the initial request.

12. Factors affecting performance in an examination

If your performance in any part of the examination is likely to be, or has been, affected by factors such as illness, disability, bereavement etc, of which the Examiners have no knowledge, you may, through your college, inform the Registrar of these factors, see *Examination Regulations* 2016, Part 13.2 – 13.3 (factors affecting performance in an examination) (<http://www.admin.ox.ac.uk/examregs/information/contents/>). The Examiners cannot take account of any special circumstances other than those communicated by the Registrar (see also part 4 above). Candidates are advised to check with the appropriate college officer that any medical certificate for submission is complete (eg covers each paper where the candidate was affected by illness). The medical certificate must provide explicit detail about the factors that are likely to have affected your performance in the examination, see *Examination Regulations* 2016 Part 13.2 – 13.3 (factors affecting performance in an examination) (<http://www.admin.ox.ac.uk/examregs/information/contents/>). Every effort should be made to ensure that medical certificates or other documentation are passed on to the Registrar as soon as possible.

13. Release of Results

Information on results can be found at <https://www.ox.ac.uk/students/academic/exams/results?wssl=1> See also the *Student Handbook* 2016/17 (incorporating the Proctors' and Assessor's Memorandum), section 8.4, available on <http://www.admin.ox.ac.uk/proctors/info/pam> The Examiners hope that this facility will be available on Monday 17 July 2017 but if possible on Friday 14 July 2017 (depending on the final Examiners meeting and the Examination Schools). Results will not be available over the telephone from the Examination Schools or from the Law Faculty Office.

14. Appeals from Decisions of the Proctors and Examiners

For the procedures for appeals from the decisions of the Proctors, see *Examination Regulations* 2016, Part 18.1. For appeals from the decisions of the Examiners, see *Examination Regulations* 2016, Part 18.2 (<http://www.admin.ox.ac.uk/examregs/information/contents/>). If you wish to raise a query or make a complaint about the conduct of your examination you should urgently consult the Senior Tutor in your college. Queries and complaints must not be raised directly with the Examiners, but must be made formally to the Proctors through the Senior Tutor on your behalf, and no later than 3 months after the notification of the results. The Proctors are not empowered to consider appeals against the academic judgment of examiners, only complaints about the conduct of examinations. Further information about complaints procedures may be found in the *Student Handbook* 2016/17 (incorporating the Proctors' and Assessor's Memorandum), particularly section 11 and is available on <http://www.admin.ox.ac.uk/proctors/info/pam> See also section 8: Examinations.

Mr R. Bagshaw
Professor A. Ezrachi
Professor C. Redgwell (Chair)
Professor D. Sarooshi
Professor A. Lang (external), London School of Economics

1 March 2017

Schedule I – List of Prizes

Schedule II – Instructions for submission of electronic copy of essays into WebLearn

Schedule III – Instructions for submission of electronic copy of dissertation into WebLearn

Schedule IV – Extract from WebLearn re: Declaration of authorship text on WebLearn assignments page

SCHEDULE I

PRIZES IN THE BCL/MJUR EXAMINATIONS 2017

The Examiners have discretion to award the following prizes:

Allen and Overy Prize

Best performance in the Corporate Finance Law paper;

Clifford Chance Prizes

Best overall performance in the MJur. One proxime accessit;

Best performance in the Principles of Civil Procedure paper;

Herbert Hart Prize

Best performance in the Jurisprudence and Political Theory paper;

Law Faculty Prizes for Best performance in:

Advanced Property and Trusts;

Children, Families and the State;

Commercial Negotiation and Mediation;

Commercial Remedies;

Comparative Corporate Law;

Comparative Equality Law;

Comparative Public Law;

Conflict of Laws (John Morris Prize);

Constitutional Principles of the European Union;

Constitutional Theory;

Corporate Tax Law and Policy;

Criminal Justice, Security and Human Rights;

European Private Law: Contract;

International Commercial Arbitration;

International Law and Armed Conflict;

International Law of the Sea;

Intellectual Property Law;

Law and Society in Medieval England;

Law in Society;

Medical Law and Ethics;

Philosophical Foundations of the Common Law;

Private Law and Fundamental Rights;

Regulation;

The Roman and Civilian Law of Contracts;

Roman Law (Delict).

Linklaters Prize

Best performance in the Principles of Financial Regulation paper;

Littleton Chambers Prize

Best performance in the International and European Employment Law paper;

Monckton Chambers Prize

Best performance in the Competition Law paper;

Peter Birks Prize

Best performance in the Restitution of Unjust Enrichment paper;

Planethood Foundation Prize

Best performance in the International Criminal Law paper;

Ralph Chiles CBE Prize

Best performance in the Comparative Human Rights paper;

South Square Prize

Best performance in the Corporate Insolvency Law paper;

Vinerian Scholarship

Best overall performance in the BCL. One proxime accessit;

Volterra Fietta Prize

Best performance in the International Dispute Settlement paper;

Winter Williams Prizes

Best performance in the International Economic Law paper;

Best performance in the European Business Regulation (the law of the EU's internal market) paper;

3 Verulam Buildings Prize

Best performance in the Legal Concepts in Financial Law paper.

SCHEDULE II

Instructions concerning the electronic submission of the Jurisprudence and Political Theory Essays into WebLearn

For ease of reference and to enable this Schedule to be detached from the Notice to Candidates (Examiners' Edict), all the requirements and instructions for the preparation and electronic submission of Jurisprudence and Political Theory essays are explained in this Schedule.

By the deadline of noon on Friday 21 April 2017 you must submit electronically a copy of each of your essays into WebLearn for the examiners. Your essays will automatically be checked for plagiarism using the *Turnitin* software.

Instructions for submission into Weblearn:

1. To submit your essay, log into the WebLearn site and choose the 'JPT submission site' (<https://weblearn.ox.ac.uk/x/54loN0>). This site should be visible in your 'Active Sites' in WebLearn.

Then follow these instructions:

2. Include a cover sheet at the beginning of each essay, indicating the essay question, examination/candidate number and word count. Save each essay in pdf format. The pdf document name should be your Examination/Candidate Number and surname, for example: 123456Smith.pdf.

3. Click on Assignments on the left menu bar.

4. Click on 'Essay 1' to submit your first essay.

5. Read the instructions on the submission page carefully before uploading your document.

6. Use Choose File and browse for your essay on your computer. Upload the file.

7. Read the Declaration of Authorship. You cannot submit your essay until you have ticked this Declaration.

8. Click Submit.

9. You will receive an email confirmation that you have successfully submitted your work.

10. Repeat the uploading process again for the second and third essays, 'Essay 2' and 'Essay 3'.

If you experience a technical problem during the uploading process, send your essays to laura.gamble@law.ox.ac.uk (You must use your Oxford email account.)

Please ensure that your essays do not contain any pieces of information that could identify you to the marker of your essays.

SCHEDULE III

Instructions concerning the electronic submission of the Dissertation into WebLearn

For ease of reference and to enable this Schedule to be detached from the Notice to Candidates (Examiners' Edict), all the requirements and instructions for the preparation and electronic submission Dissertations are explained in this Schedule.

By the deadline of noon on Friday 26 May 2017 you must submit electronically a copy of each of your essays into WebLearn for the examiners. Your essays will automatically be checked for plagiarism using the *Turnitin* software.

Instructions for submission into Weblearn:

1. To submit your essay, log into the Weblearn site and choose the 'Dissertation' submission site (<https://weblearn.ox.ac.uk/x/1xtTjM>). This site should be visible in your 'Active Sites' in Weblearn.

Then follow these instructions:

2. Include a cover sheet at the start of your dissertation, indicating the thesis title, exam/candidate number and the word count. Save the dissertation in pdf format. The pdf document name should be your Examination/Candidate Number and surname, for example: 123456Smith.pdf.

3. Click on Assignments on the left menu bar.

4. Click on 'Dissertation' to submit your thesis.

5. Read the instructions on the submission page carefully before uploading your document.

6. Use Choose File and browse for your essay on your computer. Upload the file.

7. Read the Declaration of Authorship. You cannot submit your essay until you have ticked this Declaration.

8. Click Submit.

9. You will receive an email confirmation that you have successfully submitted your work.

If you experience a technical problem during the uploading process, send your essays to laura.gamble@law.ox.ac.uk (You must use your Oxford email account.)

Please ensure that your essays do not contain any pieces of information that could identify you to the marker of your essays.

SCHEDULE IV

Declaration of authorship text on WebLearn assignments page

Submission

Attachment

Originality of attachments will be verified by Turnitin.

- Always include file extension.
- Maximum file size is 20 Mb.
- Only the following file types will be accepted: Word 97-2003 (.doc), Word 2007+ (.docx), Excel (.xls, .xlsx), PowerPoint (.pps, .ppsx, .ppt, .pptx), PDF (.pdf), PostScript (.eps, .ps), plain text (.txt), HTML (.htm, .html), WordPerfect (.wpd), OpenOffice (.odt), rich text (.rtf), Hangul (.hwp)

No attachment yet

Choose File: or select a file from workspace or site

Declaration of authorship - I confirm the following:

- I have read and understood the University's disciplinary regulations concerning conduct in examinations and, in particular, the regulations on plagiarism (The University Student Handbook, Section 8.8; at <https://www.ox.ac.uk/students/academic/student-handbook>)
- I have read and understood the Education Committee's information and guidance on academic good practice and plagiarism at <https://www.ox.ac.uk/students/academic/guidance/skills?wss=1>.
- The [thesis/extended essay/project/other work] I am submitting is entirely my own work except where otherwise indicated.
- It has not been submitted, either wholly or substantially, for another Honour School or qualification at this University, or at any other institution.
- I have clearly indicated (with appropriate references) the presence of all material I have paraphrased, quoted or used from other sources, including any diagrams, charts, tables or graphs.
- I have acknowledged appropriately any assistance I have received in addition to that provided by my [tutor/supervisor/adviser].
- I have not copied from the work of any other candidate.
- I have not sought assistance from any professional agency, nor provided material for other examination candidates at this University or elsewhere (See <http://www.admin.ox.ac.uk/statutes/352-051a.shtml>).

(You must respond to submit your assignment.)

Don't forget to submit your work! A confirmation message will be displayed after submission.

**IMPORTANT – FOR IMMEDIATE ATTENTION AND TO BE RETAINED FOR
FUTURE REFERENCE**

FACULTY OF LAW

BACHELOR OF CIVIL LAW (BCL) AND MAGISTER JURIS (MJur) 2016-17

NOTICE TO CANDIDATES FOR

CORPORATE TAX LAW AND POLICY PAPER

MATERIALS IN THE EXAMINATION ROOM –REGULATIONS

Before choosing Corporate Tax Law and Policy, you were informed that you will need to use the current edition of Tolley's Yellow Tax Handbook (Tolley) during the course, and to become familiar with the arrangement of documents in these volumes. You will be permitted under certain conditions as documented below to take into the examination room your own copy of the current edition of Tolley's Yellow Tax Handbook (Tolley). The purpose of this Notice is to bring immediately to your attention full details of the regulations which apply to the handbook as a material in the examination room, and the procedures for their enforcement. **It is essential that you note and obey the following:**

1. The copy of Tolley which you bring into the examination room must be **absolutely clean and unmarked**. As an aid to finding individual materials in the Tolley collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be **absolutely clean and unmarked**. These regulations will be strictly enforced. Particular attention will be paid to personal possession markings (eg your name, name of your college) which **must do no more than identify the ownership of the Tolley Handbook**.
2. Your copy of Tolley will be inspected by the examiners/invisgulators in your presence at the start of the Corporate Tax Law and Policy paper. This will be carried out as quickly as possible. Thereafter during the examination scrutiny will be conducted as part of invigilation and will be random. Your copy of Tolley must remain **absolutely clean and unmarked** (see 1. above) **for the duration of the examination paper**.
3. In the event of any infringement or breach of regulations specified above, your copy of Tolley will immediately be confiscated and the matter reported to the Proctors. You will be permitted to continue and complete the examination paper but without access to the collection of materials in Tolley. Similarly, if for some reason you forget to bring your copy of Tolley to the examination, you will be permitted to write the paper but without access to the materials in the Tolley Handbook.
4. The Proctors will suspend the processing of the candidate's examination results while they fully investigate (including interviewing the candidate) the reported infringement or breach of the regulations. If they come to the view that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. Further information about these Regulations and disciplinary procedures may also be found on <http://www.admin.ox.ac.uk/proctors>. Students who breach the Disciplinary Regulations for University Examinations may have their marks reduced, or may be failed in that examination or, in the most serious cases, may be expelled.

Mr R. Bagshaw
Director of Examinations
November 2016

BCL/MJur Examination Conventions 2016-17

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1. Introduction

Examination conventions are the formal record of the specific assessment standards for the course or courses to which they apply. They set out how examined work will be marked and how the resulting marks will be used to arrive at a final result and classification of an award.

The supervisory body responsible for approving these conventions is the Social Sciences Board's Teaching Audit Committee.

Certain information pertaining to examinations (for example, rubrics for individual papers) will be finalised by the Examination Board in the course of the year not later than Friday 2 December 2016 and it will be necessary to issue further versions of this document. The version number of this document is given below. Subsequent versions will follow a numbering sequence from 1 upwards. Each time a new version is issued, you will be informed by email, and the updates will be highlighted in the text and listed below. Amendments and modifications to these conventions must be approved by the Law Faculty and the supervisory body responsible for the course and examination.

This version and subsequent versions can be obtained from the Weblearn site below:

<https://weblearn.ox.ac.uk/portal/site/:socsci:law:postgrad:subjects/page/54fe6560-f200-4493-b7d1-217a7bfea170?sakai.state.reset=true>

Version 1.3

Updates to previous Versions

This version contains details of rubrics and materials in the examination room which were not available in Version 1.1 (see below for further details). A section on penalties for plagiarism has also been added (4.7). This version also contains details of case lists/lists of items available in the examination room which were not available in Version 1.1 or 1.2 (see Appendix B).

2. Rubrics for individual papers

Candidates must offer four papers. The rubrics for individual papers can be found at Appendix A at the end of this document. Questions on each paper carry the same weighting.

A dissertation may be offered as one of the four. The dissertation, if offered, must be between 10,000 and 12,500 words including notes but excluding tables of cases or other legal sources. The proposed title must be submitted for approval by Monday of week -1 of Michaelmas Full Term. The dissertation must be submitted by 12 noon on Friday of week 5 of Trinity Full Term.

3. Materials available in the exam room

The list of materials available in the exam room for each paper can be found at Appendix B at the end of this document.

4. Marking Conventions

4.1 University scale for standardised expression of agreed final marks

Agreed final marks for individual papers will be expressed using the following scale:

70-100	Distinction
50-69	Pass
0-49	Fail

4.2 Qualitative assessment criteria for different types of assessment

(a) Timed examinations

Distinction answers are those that represent an excellent level of attainment for a student at BCL/MJur level. They exhibit the following qualities:

- acute attention to the question asked;
- a deep and detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- excellent synthesis and analysis of materials, with no or almost no substantial errors or omissions, and coverage of at least some less obvious angles;
- excellent clarity and appropriateness of structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- advanced appreciation of theoretical arguments concerning the topic, substantial critical facility, and personal contribution to debate on the topic.

Pass answers represent a level of attainment which, for a student at BCL/MJur level, is within the range acceptable to very good. They exhibit the following qualities:

- attention to the question asked;
- a clear and fairly detailed knowledge and understanding of the topic addressed and its place in the surrounding context;

- good synthesis and analysis of materials, with few substantial errors or omissions;
- a clear and appropriate structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- familiarity with theoretical arguments concerning the topic, and (especially in the case of high pass answers) a significant degree of critical facility.

Fail answers are those in which the qualities required for a pass answer are absent.

(b) Dissertations and extended essays

Distinction answers are those that represent an excellent level of attainment for a student at BCL/MJur level. They exhibit the following qualities:

- acute attention to and engagement with the central thesis (for dissertations) or question (for extended essays);
- a deep and detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- excellent synthesis and analysis of materials, with no or almost no substantial errors or omissions, and coverage of at least some less obvious angles;
- excellent clarity and appropriateness of structure, argument, integration of information and ideas, and expression;
- advanced appreciation of theoretical arguments concerning the topic, (including engagement with alternative theoretical positions) significant analytical ability, and personal contribution to debate on the topic.

Pass answers represent a level of attainment which, for a student at BCL/MJur level, is within the range acceptable to very good. They exhibit the following qualities

- adequate to good attention to and engagement with the central thesis (for dissertations) or question (for extended essays);
- a clear and fairly detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- good synthesis and analysis of materials, with few substantial errors or omissions;
- a clear and appropriate structure, argument, integration of information and ideas, and expression;
- appreciation of theoretical arguments concerning the topic, (including engagement with alternative theoretical positions)

Fail answers are those in which the qualities required for a pass answer are absent.

Scripts are marked on the University scale from 1 to 100.

NB MJur students who choose to take one paper from the Jurisprudence Final Honour School as one of their four options should refer to the FHS Examination conventions at <https://weblearn.ox.ac.uk/portal/site/:socsci:law:undergrad/tool/9cfbad4f-9189-4993-9c9b-62b6c1f76804> to view the qualitative assessment criteria which will apply to that paper.

4.3 Verification and reconciliation of marks

The Law Faculty does not operate a marking regime involving the blind double-marking of all scripts. However, extensive double-marking according to a system approved by the supervisory body does take place and the Faculty takes a great deal of care to ensure the objectivity of marking procedures.

For each paper¹ there will be a team of at least two markers. For each paper, a minimum sample of 6 scripts, or 20% of the scripts, whichever is the greater number, will always be double-marked, as will:

- any other script/essay which the first marker found difficult to assess, and
- any script or essay for which the first mark ends in 7, 8 or 9, and
- any script/essay which might be in line for a prize, and
- any script or essay for which the first mark is below 60, and
- any script which has an 'absent answer', that is, a paper which would formerly have been described as of 'short weight'.

For each double-marked script, the markers must meet to compare their marks and to come to an agreement as to the correct mark overall and for each question. The team operates under the aegis of the board of examiners and the whole board meets to discuss/finalise marks, providing an extra layer of assurance in terms of the objectivity of the process, and a means of resolving any situation where two markers are unable to reach agreement.

In exceptional circumstances (e.g. medical) third readings may take place.

The examiners meet and agree a final classification/result for each candidate, having taken account of medical and other special case evidence and having made appropriate adjustments for such matters as absent answers and breach of rubric. The examiners also agree on the award of prizes at this stage. The decisions of the examiners are then passed to Examination Schools. Candidates will be able to view their results (both overall classification and individual paper marks) within the Student Self Service webpage in eVision (<http://www.admin.ox.ac.uk/studentsystems/>).

Where a mark given for a particular element of a course converts into a decimal mark for the overall mark, decimals ending in .5 or above are rounded up, and those ending in .4 or below are rounded down.

4.4 Incomplete scripts and departure from rubric

The mark for a completely absent answer in any script will be zero, and the mark for a part answer will be such a mark above zero as is appropriate, in terms of the quality of what has been written, and the extent to which it covers the question.

The overall mark for a script will be arrived at by averaging the number of marks, to two decimal places, including zeros, over the number of questions that should have been answered on the paper. If a candidate completes the correct number of questions, but fails to answer a question which is compulsory (eg where the candidate does not answer a problem question as required by the rubric of that paper), up to ten marks may be deducted .

Candidates who write answers in note form may also expect to have their overall mark for the paper reduced.

4.5 Penalties for late or non-submission (for dissertations and Jurisprudence and Political Theory essays)

The scale of penalties agreed by the board of examiners in relation to late submission of assessed items is set out below. Details of the circumstances in which such penalties might apply can be found in the Examination Regulations (Regulations for the Conduct of University Examinations, Part 14.)

Lateness	Cumulative mark penalty
Up to two hours late	1 mark
Up to 24 hours late	5 marks
Up to six calendar days late	10 points
Beyond six calendar days late	A mark of zero will be awarded

¹ In this context that would mean each BCL/MJur option, including Jurisprudence and Political Theory

Application to the Proctors for permission for late submission of the essays in *Jurisprudence and Political Theory* or the dissertation should, if at all possible, be made by the candidate's college on the candidate's behalf before the submission date, though retrospective applications are permitted in exceptional cases.

4.6 Penalties for over-length work

Where a candidate submits a dissertation (or other piece of written coursework) which exceeds the word limit prescribed by the relevant regulation, the examiners, if they agree to proceed with the examination of the work, may reduce the mark by up to 10 marks.

4.7 Penalties for plagiarism

The Examination Board shall deal wholly with cases of poor academic practice where the material under review is small and does not exceed 10% of the whole.

Assessors should mark work on its academic merit with the board responsible for deducting marks for derivative or poor referencing.

Determined by the extent of poor academic practice, the board shall deduct between 1% and 10% of the marks available for cases of poor referencing where material is widely available factual information or a technical description that could not be paraphrased easily; where passage(s) draw on a variety of sources, either verbatim or derivative, in patchwork fashion (and examiners consider that this represents poor academic practice rather than an attempt to deceive); where some attempt has been made to provide references, however incomplete (e.g. footnotes but no quotation marks, Harvard-style references at the end of a paragraph, inclusion in bibliography); or where passage(s) are 'grey literature' i.e. a web source with no clear owner.

If a student has previously had marks deducted for poor academic practice or has been referred to the Proctors for suspected plagiarism the case must always be referred to the Proctors. Also, where the deduction of marks results in failure of the assessment and of the programme the case must be referred to the Proctors.

In addition, any more serious cases of poor academic practice than described above should also always be referred to the Proctors.

5. Classification Conventions

5.1 Qualitative descriptors of Distinction, Pass, Fail

Qualitative descriptors are intended to provide summaries of the qualities that will be demonstrated in attaining each classification – Distinction, Pass, Fail – overall.

The qualities a Distinction will demonstrate include acute attention to the questions asked; extensive and detailed knowledge and understanding of the topic addressed; excellent synthesis and analysis of materials; clear and well-structured answers which show an engagement with theoretical arguments and substantial critical facility.

The qualities a Pass will demonstrate include a level of attention to the questions that is satisfactory to good; a satisfactory to good knowledge of the topics in question; appropriately structured arguments; and some familiarity with theoretical arguments pertinent to the topic.

A Fail will demonstrate a lack of the qualities required in 4.1 above in respect of one or more papers.

See section 5 below for further information about how the different classifications are calculated overall.

Note that the aggregation and classification rules in some circumstances allow a stronger performance on some papers to compensate for a weaker performance on others.

5.2 Final outcome rules

The final outcomes rules are as follows, bearing in mind that the examiners have some discretion to deal with exceptional circumstances, in accordance with the Examination Regulations

In order to attain a Pass in the BCL or MJur, candidates must attain marks of 50 or above in all four papers. A mark lower than 50 but greater than 39 can be compensated by a very good performance

elsewhere, but a mark of 39 or below is not susceptible to compensation. All papers, including the dissertation, carry the same weighting.

In order to get a Distinction in the BCL or MJur, candidates must attain a Distinction mark (a mark of over 70) in at least two of the four options and have no mark below 60.

5.3 Use of vivas

Viva voce examinations are not used in the BCL or MJur.

6. Re-sits

Candidates who fail or withdraw from the examination may with the permission of the Graduate Studies Committee and subject to such conditions as it imposes offer themselves for re-examination. Candidates offering themselves for re-examination must retake all of the papers, except that:

(a) if all of the written papers are passed and the dissertation failed then only the dissertation need be resubmitted;

(b) if the dissertation is passed and one or more of the written papers failed then only the written papers need be re-taken;

Partial resits may be permitted in exceptional circumstances. Candidates are allowed to re-enter on only one occasion. Candidates may only re-sit examinations on one occasion.

7. Factors affecting performance

Where a candidate or candidates have made a submission, under Part 13 of the Regulations for Conduct of University Examinations, that unforeseen factors may have had an impact on their performance in an examination, a subset of the board will meet to discuss the individual applications and band the seriousness of each application on a scale of 1-3 with 1 indicating minor impact, 2 indicating moderate impact, and 3 indicating very serious impact. When reaching this decision, examiners will take into consideration the severity and relevance of the circumstances, and the strength of the evidence. Examiners will also note whether all or a subset of papers were affected, being aware that it is possible for circumstances to have different levels of impact on different papers. The banding information will be used at the final board of examiners meeting to adjudicate on the merits of candidates. Further information on the procedure is provided in the *Policy and Guidance for examiners*, Annex B and information for students is provided at www.ox.ac.uk/students/academic/exams/guidance

8. Details of examiners and rules on communicating with examiners

The internal examiners are Professor Catherine Redgwell (Chair), Mr Roderick Bagshaw, Professor Dan Sarooshi and Professor Ariel Ezrachi. The external examiner is Professor Andrew Lang (London School of Economics).

Candidates should not under any circumstances seek to make contact with individual internal or external examiners.

FORM AND RUBRIC OF EXAMINATION PAPERS 2017

Advanced Property and Trusts (last examined in 2014-15)

Nine questions will be set. Candidates should answer three questions.

Children, Families and the State

Nine questions will be set. Candidates should answer three questions.

Commercial Negotiation and Mediation

Eight questions will be set. Candidates should answer three questions.

Commercial Remedies

Eight questions will be set, three of which will be problem questions. Candidates should answer three questions, including at least one problem question.

Comparative Corporate Law

Nine questions will be set. Candidates should answer three questions.

Comparative Equality Law

Eight questions will be set. Candidates should answer three questions.

Comparative Human Rights

Eight questions will be set. Candidates should answer three questions.

Comparative Public Law

Eight questions will be set. Candidates should answer three questions.

Competition Law

Eight questions will be set, four of which will be problem questions. Candidates should answer three questions, including at least one problem question.

Conflict of Laws

Eight questions will be set, four of which will be problem questions. Candidates should answer any four questions.

Constitutional Theory

Eight questions will be set. Candidates should answer three questions.

Constitutional Principles of the European Union

Nine (previously eight) questions will be set. Candidates should answer three questions.

Corporate Tax Law and Policy

Eight (previously nine) questions will be set. Candidates should answer three questions.

Corporate Finance Law

Nine questions will be set, four in Part A and five in Part B. Candidates should answer three questions, including at least one from Part A and at least one from Part B.

Corporate Insolvency Law

Nine questions will be set. Candidates should answer three questions.

Criminal Justice, Security and Human Rights

Eight questions will be set, four in Part A and four in Part B. Candidates should answer three questions, including at least one from Part A and at least one from Part B.

European Business Regulation (the law of the EU's internal market)

Nine questions will be set. Candidates should answer three questions.

European Private Law: Contract (last examined in 2014-15)

Eight questions will be set. Candidates should answer three questions.

Intellectual Property Law

Nine questions will be set, three questions in Part A, three questions in Part B and three questions in Part C. Candidates should answer three questions, one from Part A (Trade Mark and Unfair Competition), one from Part B (Patent) and one from Part C (Copyright and Related Rights). One question in each Part (A, B and C) will be a problem question. Candidates should answer at least one question overall that is a problem question.

Candidates will be required to answer Part A question, Part B question and Part C question in a **separate answer booklet** (or booklets).

International Commercial Arbitration

Eight questions will be set. Candidates should answer three questions.

International Criminal Law

Eight questions will be set, four in Part A and four in Part B. Candidates should answer three questions, including at least one question from Part A and at least one question from Part B.

International Dispute Settlement

Eight questions will be set. Candidates should answer three questions.

International Economic Law

Eight questions will be set. Candidates should answer three questions.

International and European Employment Law

Eight questions will be set. Candidates should answer three questions.

International Law and Armed Conflict

Eight questions will be set, four in Part A and four in Part B. Candidates should answer three questions, including at least one question from Part A and at least one question from Part B.

International Law of the Sea

Eight questions will be set. Candidates should answer three questions.

Law and Society in Medieval England

Ten questions will be set. Candidates should answer three questions.

Law in Society

Eight questions will be set. Candidates should answer three questions.

Legal Concepts in Financial Law

Eight questions will be set, two of which will be problem questions but choice of questions will be unrestricted. Candidates should answer three questions.

Medical Law and Ethics

Eight questions will be set. Candidates should answer three questions.

Philosophical Foundations of the Common Law

Eight questions will be set. Candidates should answer three questions.

Principles of Civil Procedure

Nine questions will be set. Candidates should answer three questions.

Private Law and Fundamental Rights

Eight questions will be set. Candidates should answer three questions.

Principles of Financial Regulation

Nine questions will be set. Candidates should answer three questions.

Regulation

Ten questions will be set. Five in Part A (conceptual approaches) and five in Part B (regulatory regimes). Candidates should answer three questions, including at least one from Part A and at least one from Part B.

Restitution of Unjust Enrichment

Eleven questions will be set, three of which will be problem questions. Candidates should answer four questions, including at least one problem question. (Previously eight questions were set, two of which were problem questions but choice of questions was unrestricted. Candidates answered three questions.)

Roman Law (Delict) (last examined in 2014-15)

Ten questions will be set, four of which will require comment on selections from the set texts, which will be provided in the Examination Paper in English (previous to 2010 these have been set in Latin). Candidates should answer four questions, including at least two questions requiring comment on selections from the set texts.

The Roman and Civilian Law of Contracts

Eight questions will be set. Candidates should answer three questions.

FHS Papers available for MJur candidates**Administrative Law**

Ten questions will be set. MJur candidates should answer four questions.

Commercial Law

Ten questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least two problem questions. In problem questions candidates should assume that the only applicable law is English law.

Company Law

Twelve questions will be set, four of which will be problem questions. MJur candidates should answer four questions, including at least one problem question.

Contract

Twelve questions will be set, five of which will be problem questions. MJur candidates should answer four questions, including at least two problem questions.

Copyright, Patents and Allied Rights

Twelve questions will be set, four in Part A (Copyright), four in Part B (Patents) and four in Part C (Problems). MJur candidates should answer four questions, at least one question from Part A, at least one question from Part B, and at least one question from Part C.

Copyright, Trade Marks and Allied Rights

Twelve questions will be set, four in Part A (Copyright), four in Part B (Trade Marks) and four in Part C (Problems). MJur candidates should answer four questions, at least one question from Part A, at least one question from Part B, and at least one question from Part C.

Criminology and Criminal Justice

Twelve questions will be set of which MJur candidates should answer four.

Environmental Law

Ten questions will be set, including problem questions, but choice of questions will be unrestricted. MJur candidates should answer four questions.

European Union Law

Ten questions will be set. MJur candidates should answer four questions.

Family Law

Twelve questions will be set. MJur candidates should answer four questions.

Human Rights Law

Ten questions will be set, one of which will be a problem question, but choice of questions will be unrestricted. MJur candidates should answer four questions.

Land Law

Eleven questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least one problem question.

Personal Property

Ten questions will be set, up to three of which will be problem questions but choice of questions will be unrestricted. MJur candidates should answer four questions.

Public International Law

Nine questions will be set. MJur candidates should answer four questions.

Tort

Twelve questions will be set, five of which will be problem questions. MJur candidates should answer four questions including at least two problem questions.

Trusts

Fourteen questions will be set, four of which will be problem questions. MJur candidates should answer four questions including at least one problem question.

MATERIALS IN THE EXAMINATION ROOM 2017

- I. **HONOUR SCHOOL OF JURISPRUDENCE/DIPLOMA IN LEGAL STUDIES/MAGISTER JURIS** (All case lists provided in the examination room will be attached to the back of the examination paper)

Administrative Law

Administrative Law Case List 2016-17

Commercial Law

Blackstone's Statutes on Commercial and Consumer Law, 24th (2015-16) edition, ed. Francis Rose
Commercial Law Case list 2016-17

Company Law

Butterworths Company Law Handbook, 30th (2016) edition
Company Law Case List 2016-17

Contract

Blackstone's Statutes on Contract, Tort and Restitution, 27th (2016-17) edition, ed. Francis Rose
Contract Case list 2016-17

Documents:

Consumer Protection from Unfair Trading Regulations 2008/1277 (as amended) (extracts)
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013/3134 (as amended) (extracts).

Directive on Unfair Terms in Consumer Contracts of 5 April 1993

Copyright, Patents and Allied Rights

Blackstone's Statutes on Intellectual Property 13th (2016) edition
Copyright, Patents & Allied Rights Case List 2016-17

Document:

Charter of Fundamental Rights of the European Union

Copyright, Trade Marks and Allied Rights

Blackstone's Statutes on Intellectual Property 13th (2016) edition
Copyright, Trade Marks & Allied Rights Case List 2016-17

Documents:

Charter of Fundamental Rights of the European Union
Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to Approximate the Laws of the Member States Relating to Trade Marks (codified version)

Environmental Law

Environmental Law Case List 2016-17

European Union Law

Blackstone's EU Treaties and Legislation, 27th (2016-17) edition, ed Nigel Foster, OUP
European Union Law Case list 2016-17

Family Law

Blackstone's Statutes on Family Law, 23rd (2014-15) edition
Family Law Case List 2016-17

Human Rights Law

Human Rights Case List 2016-17

Documents:

European Convention on Human Rights

European Charter of Fundamental Rights

Human Rights Act 1998

Labour Law

Blackstone's Statutes on Employment Law, 26th (2016-17) edition, ed Richard Kidner

Labour Law Case List 2016-17

Land Law (old and new regulations)

Sweet and Maxwell's Statutes Series, Property Law 8th (2002) or 9th (2003) or 10th (2004) edition

Land Law Case List 2016-17

Documents:

Consumer Credit Act 1974 ss 140A-140C

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 Art 60C(2) and 61(3)

Mortgage Repossessions (Protection of Tenants etc) Act 2010 (in full)

Consumer Rights Act 2015, ss 2, 61-69

ECHR (art 8, and protocol 1 art 1);

Personal Property

Personal Property Case List 2016-17

Public International Law

Blackstone's International Law Documents, 12th (2015) edition

Tort

Blackstone's Statutes on Contract, Tort and Restitution, 27th (2016-17) edition, ed. Francis Rose

Tort Case List 2016-17

Trusts

Sweet and Maxwell's Statutes Series, Property Law, 8th (2002) or 9th (2003) or 10th (2004) edition

Trusts Case List 2016-17

Charities Act 2011, sections 1-5

II. BACHELOR OF CIVIL LAW/MAGISTER JURIS

Children, Families and the State

Children, Families and the State List of Items 2016-17

Blackstone's Statutes on Family Law, 23rd (2014-15) edition

Children, Families and the State Statutes Collection 2016-17

Commercial Negotiation and Mediation

Commercial Negotiation and Mediation List of Items 2016-17

Documents:

Mediation Directive 2008/52/EC of 21 May 2008

ADR Directive 2013/11/EU of 21 May 2013
ODR Regulation (EU) No 524/2013 of 21 May 2013
UNCITRAL Model Law on International Commercial Conciliation (2002)
Uniform Mediation Act (US) (2001)

Commercial Remedies

Commercial Remedies Case List 2016-17
Blackstone's Statutes on Contract, Tort and Restitution, 25th (2014-15) edition, ed. Francis Rose

Comparative Equality Law

Comparative Equality Law Case List 2016-17

Comparative Human Rights

Comparative Human Rights Case List 2016-17

Comparative Public Law

Comparative Public Law Case List 2016-17
Blackstone's EU Treaties and Legislation, 27th (2016-17), ed Nigel Foster, OUP

Competition Law

Competition Law Case List 2016-17
Blackstone's UK and EU Competition Documents, 8th (2015) edition, ed. Kirsty Dougan

Conflict of Laws

Conflict of Laws Case List 2016-17
Documents:
Civil Jurisdiction and Judgments Act 1982, sections 32-34
Civil Procedure Rules Practice Direction 6B, para 3
Rome II Regulation (Regulation (EC) 864/2007)
Rome I Regulation (Regulation (EC) 593/2008)
Brussels I Regulation (recast) (Regulation (EU) 1215/2012)
Defamation Act 2013, s 9

Constitutional Principles of the European Union

Constitutional Principles of the European Union Case List 2016-17
Blackstone's EU Treaties and Legislation, 27th (2016-17), ed Nigel Foster, OUP

Corporate Finance Law

Corporate Finance Law Case List 2016-17
Butterworths Company Law Handbook, 30th (2016) edition

Corporate Insolvency Law

Corporate Insolvency Law Case List 2016-17
Butterworths Company Law Handbook, 30th (2016) edition
Document:
Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings

Corporate Tax Law and Policy

Corporate Tax Law and Policy Case List 2016-17
Tolley's Yellow Tax Handbook, (2016-17), LexisNexis

(students to take own copies into exam room)

Criminal Justice, Security and Human Rights

Criminal Justice, Security and Human Rights Case List 2016-17

Documents:

European Convention on Human Rights

European Business Regulation

European Business Regulation Case List 2016-17

Blackstone's EU Treaties and Legislation, 27th (2016-17) edition, ed Nigel Foster, OUP

Documents:

Council Regulation 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 to certain categories of horizontal State aid, OJ 2015 L248/1.

Council Regulation 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108, OJ 2015 L248/9

Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty OJ 2014 L187/1;

Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks, OJ 2008 L299/25;

Directive 2005/89/EC [2005] OJ L33/22 (electricity security of supply)

Directive 2009/72/EC [2009] OJ L211/55 (electricity internal market)

Directive 2009/73/EC [2009] OJ L211/94 (natural gas internal market)

Regulation 713/2009/EC [2009] OJ L211/1 (ACER)

Regulation 714/2009/EC [2009] OJ L211/15 (network access for cross-border electricity)

Regulation 715/2009/EC [2009] OJ L211/36 (access to natural gas transmission networks)

Regulation 994/2010/EU [2010] OJ L295/1 (security of gas supply)

Directive 85/374 on liability for defective products, OJ 1985 L210/29

Directive 93/13 on unfair terms in consumer contracts, OJ 1993 L95/29

Directive 2005/29 on unfair business-to-consumer commercial practices in the internal market, OJ 2005 L149/22

Directive 2011/83 on consumer rights, OJ 2011 L304/64

Evidence

(Course not available in 2016-17)

European Private Law: Contract

European Private Law: Contract List of Items 2016-17

Study Group on a European Civil Code and Research Group on EC Private Law, Principles, Definitions and Model Rules on European Private Law: Draft Common Frame of Reference (DCFR) - Outline Edition (Munich: Sellier, 2009)

Translations of Extracts from national statutes and European instruments in the area of contract law as compiled by the teaching group and distributed in the course pack ('Statutory Materials I & II')

Intellectual Property Law

Intellectual Property Law Case List 2016-17

Blackstone's Statutes on Intellectual Property, 13th (2016) edition

Documents:

Unfair Commercial Practices Directive, Directive 2005/29/EC of 11 May 2005, O.J. L. 149/22 (June 11, 2005)

Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to Approximate the Laws of the Member States Relating to Trade Marks (codified version)

Charter of Fundamental Rights of the European Union

Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection, OJ L 361/1 of 31/12/2012

Agreement on a Unified Patent Court, Council Document 16351/12 of 11/1/2013

International and European Employment Law

International and European Employment Law Case List 2016-17

International Commercial Arbitration

International Commercial Arbitration List of Items 2016-17

International Arbitration: Documentary Supplement 2011-12, Gary Born, Aspen Publishers

Documents:

ICC Rules of Arbitration 2012

LCIA Arbitration Rules 2014 Recast Brussels I Regulation

International Criminal Law

International Criminal Law Case List 2016-17

Documents on the Laws of War, 3rd (2000) edition, Roberts and Guelff,

International Dispute Settlement

Blackstone's International Law Documents, 12th (2015) edition

Tams & Tzanakopoulos (eds) The Settlement of International Disputes: Basic Documents (Hart, 2012) ([ISBN - 9781849463034](https://doi.org/10.1017/9781849463034))

Documents:

UNCITRAL Model Law on International Commercial Arbitration

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

International Economic Law

International Economic Law Case List 2016-17

The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations, 1999, Cambridge University Press

International Law and Armed Conflict

Documents on the Laws of War, 3rd (2000) edition, Roberts and Guelff,

International Law of the Sea

Blackstone's International Law Documents, 12th (2015) edition

Legal Order of the Oceans, 2009, Hart Publishing

Law and Society in Medieval England

Law and Society in Medieval England Case List 2016-17

Legal Concepts in Financial Law

Legal Concepts in Financial Law Case List 2016-17

Butterworths Banking Law handbook 8th edition (2010)

Documents:

The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (2013 No. 600)

The Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (2010 No. 2993)

The Electronic Money Regulations 2011 (SI 2011 No 99) (as amended by SI 2012 No 1741, SI 2012 No 1791, SI 2013 No 366, SI 2013 No 472, SI 2013 No 1881, and SI 2013 No 3115)

The Consumer Insurance (Disclosure and Representations) Act 2012

The 2002 ISDA Master Agreement

Small Business, Enterprise and Employment Act 2015, ss 1, 2 and 13

Insurance Act 2015

Medical Law and Ethics

Medical Law and Ethics Case List 2016-17

Personal Taxation

(Course not available in 2016-17)

Principles of Financial Regulation

Principles of Financial Regulation List of Items 2016-17

Private Law and Fundamental Rights

Private Law and Fundamental Rights Case List 2016-17

Regulation

Regulation List of Items 2016-17

Restitution of Unjust Enrichment

Restitution of Unjust Enrichment Case List 2016-17

**IMPORTANT – FOR IMMEDIATE ATTENTION AND TO BE RETAINED FOR
FUTURE REFERENCE**

FACULTY OF LAW

BACHELOR OF CIVIL LAW (BCL) AND MAGISTER JURIS (MJur) 2016-17

NOTICE TO CANDIDATES FOR CORPORATE TAX LAW AND POLICY PAPER

MATERIALS IN THE EXAMINATION ROOM – REGULATIONS

Before choosing Corporate Tax Law and Policy, you were informed that you will need to use the current edition of Tolley's Yellow Tax Handbook (Tolley) during the course, and to become familiar with the arrangement of documents in these volumes. You will be permitted under certain conditions as documented below to take into the examination room your own copy of the current edition of Tolley's Yellow Tax Handbook (Tolley). The purpose of this Notice is to bring immediately to your attention full details of the regulations which apply to the handbook as a material in the examination room, and the procedures for their enforcement. **It is essential that you note and obey the following:**

5. The copy of Tolley which you bring into the examination room must be **absolutely clean and unmarked**. As an aid to finding individual materials in the Tolley collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be **absolutely clean and unmarked**. These regulations will be strictly enforced. Particular attention will be paid to personal possession markings (eg your name, name of your college) which **must do no more than identify the ownership of the Tolley Handbook**.
6. Your copy of Tolley will be inspected by the examiners/invigilators in your presence at the start of the Corporate Tax Law and Policy paper. This will be carried out as quickly as possible. Thereafter during the examination scrutiny will be conducted as part of invigilation and will be random. Your copy of Tolley must remain **absolutely clean and unmarked** (see 1. above) **for the duration of the examination paper**.
7. In the event of any infringement or breach of regulations specified above, your copy of Tolley will immediately be confiscated and the matter reported to the Proctors. You will be permitted to continue and complete the examination paper but without access to the collection of materials in Tolley. Similarly, if for some reason you forget to bring your copy of Tolley to the examination, you will be permitted to write the paper but without access to the materials in the Tolley Handbook.
8. The Proctors will suspend the processing of the candidate's examination results while they fully investigate (including interviewing the candidate) the reported infringement or breach of the regulations. If they come to the view that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. Further information about these Regulations and disciplinary procedures may also be found on <http://www.admin.ox.ac.uk/proctors>. Students who breach the Disciplinary Regulations for University Examinations may have their marks reduced, or may be failed in that examination or, in the most serious cases, may be expelled.

Mr R. Bagshaw
Director of Examinations
November 2016

Prizes and Awards, BCL/MJur 2017

Vinerian Scholarship

Tristan Cummings Merton College

Vinerian Scholarship Proxime Accessit (shared in 2017)

Man Hin Chan Oriel College

Sinziana Hennig St Catherine's College

Clifford Chance Prize for Best Performance in MJur

Thomas Reyntjens Pembroke College

Clifford Chance MJur Prize Proxime Accessit

Alexander Wentker Brasenose College

Allen & Overy Prize in Corporate Finance Law

Nupur Upadhyay The Queen's College

Clifford Chance Civil Procedure (Principles of)

Nicholas Condylis Magdalen College

Jonathan Mellor St Hugh's College

Herbert Hart Prize in Jurisprudence and Political Theory

Joshua Pike Worcester College

John Morris Prize in Conflict of Laws

William Day Trinity College

Law Faculty Prize in Advanced Property and Trusts

Ka Yee Lee Magdalen College

Law Faculty Prize in Corporate Tax Law and Policy

Orla Fenton Somerville College

Law Faculty Prize in Children, Families and the State

Tristan Cummings Merton College

Law Faculty Prize in Commercial Negotiation and Mediation

John Maslen St Hugh's College

Law Faculty Prize in Commercial Remedies

Man Hin Chan Oriel College

Law Faculty Prize in Comparative Corporate Law

Emily Rumble Wolfson College

Law Faculty Prize in Comparative Equality Law

Tristan Cummings Merton College

Law Faculty Prize in Comparative Public Law

Ka Yee Lee Magdalen College

Law Faculty Prize in Constitutional Principles of the EU

Elle Tait Magdalen College

Law Faculty Prize in Constitutional Theory

Samuel Hodge Oriel College

Law Faculty Prize in Criminal Justice, Security and Human Rights

Lewis Graham Jesus College

Law Faculty Prize in European Private Law: Contract

Alberto Escobar Rivas St Cross College

Law Faculty Prize in Intellectual Property Law

Amrutanshu Dash Balliol College

Law Faculty Prize in International Commercial Arbitration

Hin Ting Liu Harris Manchester College

Law Faculty Prize in International Law and Armed Conflict

Valerio Letizia Wolfson College

Alexander Wentker Brasenose College

Law Faculty Prize in International Law of the Sea

Brian Lee Christ Church

Law Faculty Prize in Law and Society in Medieval England

Rory Gregson Wadham College

Law Faculty Prize in Law in Society

Jan Philipp Köster Balliol College

Law Faculty Prize in Medical Law and Ethics

Alexandra Clarke Magdalen College

Law Faculty Prize in Philosophical Foundations of the Common Law

Gillian Hughes Magdalen College

Law Faculty Prize in Private Law and Fundamental Rights

Natalie So The Queen's College

Law Faculty Prize in Regulation

Emily Rumble Wolfson College

Law Faculty Prize in Roman Law (Delict)

Julia Wang Balliol College

Law Faculty Prize in The Roman and Civilian Law of Contracts (not awarded in 2017)

Linklaters Prize for Principles of Financial Regulation

Emily Rumble Wolfson College

Littleton Chambers Prize in International and European Employment Law

Elle Tait Magdalen College

Monckton Chambers Prize in Competition Law

Joshua McGeechan Worcester College

Peter Birks Prize in Restitution of Unjust Enrichment

Emma Hughes Merton College

Planethood Foundation Prize in International Criminal Law

Tsvetelina van Benthem Merton College

Ralph Chiles Prize in Comparative Human Rights

Emma Ainsley Linacre College

South Square Prize for Corporate Insolvency Law

Man Hin Chan Oriel College

Volterra Fietta Prize in International Dispute Settlement

Andrea Raab Worcester College

Winter Williams Prize in European Business Regulation (the law of the EU's internal market)

Valerio Letizia

Wolfson College

Winter Williams Prize in International Economic Law

Vivian van Weperen

Pembroke College

3 Verulam Buildings Prize for Legal Concepts in Financial Law

William Day

Trinity College

Raw Marks Statistics, BCL/MJur 2017
 Marks distributions on first reading, as percentages

Option	Average mark	Number sitting	Mark ranges (%)						
			49 or less	50-54	55-59	60-64	65-69	70-74	75 and over
Advanced Property and Trusts	68	16				13	56	25	6
BCL Dissertation	70	3					33	67	
Children, Families and the State	69	13			8		23	69	
Commercial Negotiation and Mediation	67	15				13	60	27	
Commercial Remedies	66	47		2	6	19	36	36	
Company Law	61	2			50		50		
Comparative Corporate Law	67	18			5.5	5.5	56	33	
Comparative Equality Law	68	15				20	33	47	
Comparative Human Rights	67	21			5	10	52	33	
Comparative Public Law	67	17			6	17	30	47	
Competition Law	67	20				20	55	25	
Conflict of Laws	66	21			10	28.5	33	28.5	
Constitutional Principles of the European Union	69	6					50	50	
Constitutional Theory	67	8				12	63	25	

Contract	63	6		16.5		50	16.5	16.5	
Copyright, Trade Marks and Allied Rights	71	1						100	
Corporate Finance Law	66	19				37	37	26	
Corporate Insolvency Law	67	11			9	9	46	36	
Corporate Tax Law and Policy	69	6					33	67	
Criminal Justice, Security and Human Rights	68	23				22	30	44	4
European Business Regulation (the law of the EU's internal market)	68	11				18	27	55	
European Private Law: Contract	64	15			20	33	20	27	
Intellectual Property Law	65	22			14	23	36	27	
International and European Employment Law	68	6					67	33	
International Commercial Arbitration	69	17				6	53	41	
International Criminal Law	70	6					33	67	
International Dispute Settlement	67	21				13	54	33	
International Economic Law	69	15				20	20	60	
International Law and Armed Conflicts	67	20				20	40	40	
International Law of the Sea	70	7					57	43	

Jurisprudence and Political Theory	67	10				20	60	20	
Law and Society in Medieval England	69	4					50	50	
Law in Society	65	15	7			27	33	33	
Legal Concepts in Financial Law	68	12				25	33	42	
Medical Law and Ethics	68	5			20		40	40	
MJur Dissertation	66	5				20	60	20	
Personal Property	66	1					100		
Philosophical Foundations of the Common Law	67	18			5	11	56	28	
Principles of Civil Procedure	68	9				22	33	45	
Principles of Financial Regulation	67	16			6	13	31	50	
Private Law and Fundamental Rights	69	5					60	40	
Regulation	67	9		11		22	11	56	
Restitution of Unjust Enrichment	65	31		3	10	29	29	26	3
Roman Law (Delict)(BCL/M Jur version)	69	3					67	33	
The Roman and Civilian Law of Contracts	67	1					100		
Trusts	55	1			100				

SUBJECT REPORTS

Advanced Property and Trusts

Fifteen took the examination. Standards were high, with five taking first class grades, the rest ranging in the top half of the upper second range.

The more popular subjects chosen included those concerning numerus clausus, utility and commons, constitution of trusts, and patrimonial theories of trust. Few tackled topics in property such as possession, or the bundle of rights model. But these topics have moved in popularity year by year, and we expect different emphases again next July.

The best papers isolated key themes and used arguments and evidence intelligently to support and probe those themes. Less strong papers tended to list ideas and authors without wielding these to address the question posed. But all students exhibited close knowledge of their topics, and overall this was a pleasing class result, with two outstanding papers at the head.

Children, Families and the State

This paper was generally very well answered. The best candidates were able to show a good knowledge of the theoretical material and the legal principles. Examiners were particularly looking for candidates who could use case law to demonstrate how theoretical material could be used to analyse issues which came before the courts. Low marks were given to scripts which failed to address the particular question asked and wrote generally about a topic. Examiners also rewarded candidates who were able to draw links between different topics covered in the seminars, even where the question focussed on one particular area. It was pleasing to see that all nine questions were answered by at least one candidate. A particular strength of several papers was a sensitive understanding of the issues raised by diversity for family law, particularly in terms of culture, religions and gender.

Commercial Negotiation and Mediation

Sixteen candidates (approximately 2/3 MJur and 1/3 BCL) attempted this paper. The overall standard of the scripts was very high. Four candidates (25%) were awarded marks of 70 or above, nine candidates were awarded marks of 65 and above, and the average mark was 67.06%. All questions except one (question 2) were attempted by the candidates at least once. Questions 1, 3 and 7 were particularly popular (they were attempted by 10, 9 and 11 candidates, respectively), 6 candidates attempted questions 4 and 8, 4 candidates attempted question 5 and two candidates question 6.

Questions related to the full academic scope of the course, ranging from psychology and game/decision theory to doctrinal analysis and policy issues in the field of commercial negotiation and mediation. Questions included issues with high practical/policy relevance, e.g. 'Mediating Brexit'. Candidates needed to work with a wide range of different materials extending from theoretical models and concepts to empirical studies, statutory rules and court judgments.

Most candidates displayed an impressive knowledge of the subject matters raised, demonstrating their ability to integrate the insights from the different materials studied. Their reflective answers to the questions also evidenced the usefulness of the practical negotiation/mediation training they had done as part of the course. Most candidates were able to precisely identify the problems raised by the essay questions and specifically addressed these problems in their answers. Some candidates failed to deal with all problems raised by a certain question or did so only in an unstructured manner. The weakest scripts simply used the questions to display more general knowledge only loosely related to the problems raised by the questions. The best scripts demonstrated the candidates' ability of clear independent thinking. These candidates showed not only a full command of the study materials. They came up with interesting and sometimes highly original scholarly answers (e.g. that certain aspects of Brexit could and should be arbitrated rather than mediated).

Commercial Remedies

All questions had some takers, with the problem questions proving particularly popular. The problem questions revealed a lack of technique amongst some candidates who were otherwise able. This may reflect the relative decline in the examining of such questions on the BCL and elsewhere. More focus by tutors on this issue will be required in future years.

Question 1 (deterrence) was the most general on the paper, and attracted some good answers. The best took it as an opportunity to examine two or three topics carefully, rather than an invitation to muse about everything they had studied.

Question 2 (interest) attracted only one (very good) answer. This may reflect the lack of focus on this topic in previous years. Candidates should be aware that it is a topic that lends itself to incorporation into problem questions.

Question 3 (specific performance) was unpopular, and revealed a lack of knowledge and thought about the issue of mutuality, that will need to be addressed.

Question 4 (penalties) was popular and often very well done, revealing thought about the various justifications that may be proffered for the rule.

Question 5 (injunctions) was also popular, and reasonably well tackled.

Question 6 (restitution for wrongs) would have benefited from more caselaw ammunition being brought to the fight, and a more careful consideration of the meaning of “gain”.

Question 7 (account, damages for negligent advice, action for the agreed sum, limitation) involved issues being carefully separated out. The weaker answers tended to omit entire issues.

Question 8 (termination, damages, cost of cure) candidates often embarked on a lengthy discussion of whether loss of bargain damages were recoverable, without considering whether this loss had been mitigated in any event.

Comparative Corporate Law

Twenty-four candidates (eighteen BCL/MJur students, and six MLF) attempted this paper. The overall standard of the scripts was high. Seven candidates obtained first class marks, and the average mark was 67%. All questions were attempted, with questions 2 and 6 proving the most popular.

Question 2, which was attempted by twelve candidates, was the question most focused on positive law. Not all answers combined the ability to describe the rules with an in-depth analysis of the reasons why they differ across jurisdictions.

Question 6, the most popular, with 17 candidates attempting it, invited reflection on the relative merits of state-controlled and family controlled companies. Many answers were insightful and far from banal.

Question 1 also proved popular. It was attempted by eleven candidates and required reflection upon hedge fund activism and short-termism. Many of the best answers were given on this question, the issues raised by which had been the subject of lively debates during seminars.

Two questions proved to be tricky for some candidates. Question 4, attempted by 5 candidates, required reflection upon how characteristics of enforcement may affect substantive law. However, some of the answers did not go further than discussing corporate law enforcement in general, while some of the others

focused on the relationship between substantive law and enforcement but did not specifically address how enforcement modalities can explain the features of substantive law.

Question 8, attempted by seven students, required reflection upon the impact of indexed funds on corporate governance and corporate law, but some of the answers talked more generally about the impact of passive investment funds (no matter whether actively or passively managed) thereupon.

The question with the lowest number of attempts (three) was Question 7, relating to Brexit and focusing on regulatory competition. The low response rate is more likely to reflect the fact that many of the candidates had “deselected” regulatory competition from their list of lectures to focus on in their final revision than some form of Brexit fatigue.

Comparative Equality Law

There were 15 candidates who took this paper. The standard was generally good: seven scripts were awarded first class grades, and all other grades were 60% or over. Candidates were rewarded for good comparative methodology, accuracy in their use of legal materials, a proper focus on answering the question, and clearly structured and well supported arguments, as well as independent and critical thinking.

Question 1 (grounds); 4(b) (affirmative action); 5 (complaint model), and 8 (direct discrimination) were the most popular, together with question 6 (comparative method). Very few answered the other questions. The availability of a case list meant that students referred to cases much more readily, which enhanced their performance, but candidates should be wary of simply referring to cases without being sure that they are accurate and relevant. The strongest scripts presented a clear line of argument, with good recourse to the comparative jurisprudence, and a clear structure, and those that excelled were also able to develop their own ideas. Scripts where the candidate had transposed a prepared essay to an apparently relevant title, or which did not present the case law in an accurate and integrated way were marked down. Generally the standard was good and the results were pleasing.

Comparative Human Rights

A total of 21 candidates took the course. The examiners were very impressed at the quality of answers in this examination. All the questions received a good range of responses and the standard was good, with seven first class grades.

Examiners paid particular attention to the extent to which candidates were able to answer the question, structure their argument, make use of a wide range of material, appropriately use comparative law methodology and provide a critique of their own. The examiners were particularly pleased at the structure of answers, with candidates providing good introductions which set out their line of argument, as well as specifying clearly which jurisdictions they would be relying on. The availability of case lists meant that a good variety of cases were referred to, but more emphasis was correspondingly placed on candidates’ ability to use cases accurately and relevantly. While most of the questions were answered well, there was a tendency among those who answer Question 5 on freedom of speech to focus almost entirely on the truth theory of speech and on hate speech and therefore to omit the risks of State censorship and the reasons why more speech might be a better counter to ‘evil counsels’ than censorship. Candidates who answered question 8 generally did not distinguish properly between Questions 8 (a) (the constitutional role of courts in democracies) and Question 8(b) (the process of human rights litigation).

Overall, candidates had an impressive level of knowledge. There was an impressive grasp of secondary materials and a good ability to use the theoretical material to provide a critical analysis of the primary materials. The best answers were those which were able to synthesise the material into an argument which addressed in a critical and even innovative way the specific challenges raised in the question. In general, candidates displayed a high level of knowledge, an ability to apply theory to substantive materials and an interest and enthusiasm in the subject. It was indeed a pleasure to mark.

Comparative Public Law.

The Comparative Public law paper was done well this year, with a significant number of candidates achieving a mark of 70 or more. The best candidates combined in-depth doctrinal analysis of the law in the systems studied, with a good understanding of the normative and policy issues that were relevant to the question set. They also allocated their time evenly between the questions and achieved a good balance within each question, devoting roughly equal space to the three legal systems that formed part of the course. The most popular questions were those on review of law/fact, legitimate expectations and review for rationality and proportionality. There were also a significant number of answers to the questions on standing and damages.

Competition Law

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

The first essay question focused on the analysis of abuse of dominance and the use of the ‘as-efficient competitor’ test by the Commission and Court. Students were expected to consider the relevant case law, with a focus on the analysis of rebates and the *Intel* decision and Judgment. The second question addressed the effectiveness of the UK Competition and markets Authority in the public and private enforcement of competition law in the UK. Students were expected to make reference to case law and policy notes as well as to the UK legal regime. The third question considered the scope and goals of competition law. Students were expected to explore the goals of competition law, the role of economic analysis, the susceptibility of competition law to domestic values and how these may affect the level and nature of enforcement. The fourth essay question considered the dividing line between concerted practice and tacit collusion. Students were expected to explain the economic model of tacit collusion and the way in which the law distinguished between illicit action and rational reaction to market characteristics.

The four problem questions covered the enforcement of Article 101 TFEU, Article 102 TFEU, the European Merger Regulation and UK Competition Law. The majority of answers to problem questions were of very high standard and included references to market definition and structure, to the substantive provisions and to enforcement considerations.

The majority of candidates tackled two problem questions and one essay question. Exam papers this year were of a high standard with 25% of candidates achieving a first class mark.

Conflict of Laws

The general standard of answers was reassuringly good, with a few really powerful papers and only a few noticeably weak, though perfectly passable, scripts. Although the essay questions were devised so as to be open and accessible to all, they attracted only a handful of answers, with candidates voting with their pens in favour of problem questions. As to these, the questions rewarded those who could identify the principal points on which the legal analysis would turn. There were very few striking errors, though it was surprising to learn that the Brussels I Regulation could require a defendant to be sued in Israel. A mis-reading of *Lewis v Eliades*, in a way which set it at odds with Section 5 of the Protection of Trading Interests Act was seen more than once (and expressed in terms which were functionally identical), was unexpected; it was also surprising to see *Fiona Trust* given as authority for the view that an ambiguously-worded jurisdiction clause would be read as exclusive rather than non-exclusive. Perhaps the biggest muddle was with the effect of Article 3(2) of the Rome I Regulation and the suggestion that a change in governing law had then to be verified or vouched-for by reference to some other law. For all that, these were only occasional errors in a set of scripts which was pretty satisfactory.

Constitutional Principles of the European Union

This year candidates were asked to answer three questions out of nine and they were assisted by an extensive case list. Six candidates sat this exam. All questions were attempted, except question 8. The overall standard was very high. There were some excellent answers regarding the legal aspects of Brexit (attempted by five out of six candidates), which shows that the students were particularly interested in current developments. There were also some very good answers on the Eurozone crisis and the legal responses to it. Candidates demonstrated a very good knowledge of the law and appropriate understanding of the theoretical issues posed by EU's nature.

Constitutional Theory

Overall the standard was very high, with a number of first class scripts. The best answers responded in detail to the specific question posed, combining mastery of the theoretical literature with original reflection and insight. Questions about constitutional interpretation were relatively less popular than in previous years; questions about judicial review, representation and bicameralism continued to attract much interest. There were good answers to all questions, and on the whole candidates displayed an impressively broad and deep knowledge; however, surprisingly little interest was paid to constitutional conventions, even in questions to which they were relevant.

Corporate Finance Law 2017

This paper was well done, with many very pleasing answers. Most candidates had taken to heart tutors' advice about how to structure exam answers, and most answers were well informed and nicely argued, with effective introductions and conclusions and good logical flow. The tutors' exhortations to focus closely on the question posed were, unfortunately, less closely followed in some cases, and this was the main reason for lower marks.

1. This was a very popular question, answered by nearly all candidates. It was possible to obtain high marks by focusing on all or any of a number of issues: the effectiveness of covenants imposed by major creditors; the adequacy, or otherwise, of rules imposed by operation of law intended to resolve the conflict between shareholders and creditors (such as those relating to legal capital, or those relating to insolvency); and the difference in conflict between shareholders and different types of creditors. The best answers combined a sophisticated discussion of all of these.
2. This was also a reasonably popular question, and generated some subtle and well-argued answers. The main failing was to fail to address the issues raised in the question, and instead to offer a version of the arguments which had been discussed in the seminar irrespective of their relevance to the question posed.
3. This was a fairly popular question, and the answers evidenced a good level of knowledge of the area. Again, failure to focus on the actual question was a chief fault. For example, the question addressed the public offering of securities, and so discussion of the secondary market was only really relevant if used as a comparator, or otherwise to throw light on what the position should be in the primary market.
4. There were only few answers to this question, but they were largely good and knowledgeable. The best focused closely on the interest of companies themselves in having effective insider dealing rules, rather than setting out the usual justifications for such rules.
5. While this was not a particularly popular question, those who answered it did so well. The best answers critically evaluated the law relating to third party rights, and proprietary protection to creditors, with good comparison between the two courses of action.
6. There were a reasonable number of answers to this question, of slightly mixed quality. The very best considered the quotation carefully and evaluated it in the light of the current law of interpretation of financial contracts. Weaker answers tended merely to give an account of the current law of interpretation of contracts more generally.
7. Only a few candidates answered this question, and the answers varied in quality. The best not only focused on the way in which agent banks and bond trustees resolved the tension between lender individualism and collectivism mentioned in the question, but also carefully considered the importance of the interests of these intermediaries to the effectiveness of such resolution.
8. Only one candidate attempted this question.

9. This was a very popular question and was particularly well done. The best answers did not just set out the arguments for and against the regulation of private equity, but thought carefully about whether and how the amount of debt invested in the portfolio company should be regulated.

Corporate Insolvency Law

The overall standard of performance was high, and 31% of candidates obtained a first.

Question 1 - This question was not attempted.

Question 2 - This was a popular question. Stronger answers addressed the particular reform proposal referred to in the question, as well as whether there was a good case for reform in the treatment of rights to terminate or modify executory contracts on a party's entry into insolvency proceedings more generally. Generic discussion of the anti-deprivation rule as formulated in *Belmont* was not sufficient to secure a high mark.

Question 3 - The reference to a "greater" degree of redistribution invited discussion of the existing position under English law, as well as expression of a view on whether greater redistribution is desirable. Better answers engaged carefully with what is meant by "redistribution" in this context, with reference to the secondary literature. Those who favoured greater redistribution were required to be specific as to the form of redistribution they favoured.

Question 4 - This was a popular question. Again, evaluation of a specific reform was required. Thus, generic discussion of the secondary literature on the amelioration of perverse incentives in insolvency and its vicinity was not sufficient. The best answers engaged separately with the reform to assignability and with the introduction of compensation orders, drawing on the theoretical and empirical literature.

Question 5 - All candidates were able to contrast the English preference rule with the effects-based rules deployed in other jurisdictions. The better answers grappled with the wider range of defences necessary where an effects-based rule is used, and engaged directly with the core question of when preferences warrant regulation, considering both *ex post* and *ex ante* perspectives.

Question 6 - Many candidates focused, understandably, on the pre-pack. The best answers integrated analysis of the relevant rules with evidence of their operation in practice to critically evaluate the existing regime, drawing on broader theoretical accounts of the purpose of rescue-oriented insolvency procedures.

Question 7 – The best answers grappled directly with the particular challenges associated with the absence of a cross-class cram down mechanism, and the merits and demerits of existing 'workarounds', making comparative reference to US law and/or the proposal of the European Commission on this subject.

Question 8 – Weaker answers offered a generic account of the features of the recast European Insolvency Regulation, without focusing on the position of "local creditors" in particular. Stronger answers interrogated the case for protecting such creditors, with reference to theoretical literature, and evaluated the recast EIR in this light.

Question 9 – This question was not attempted.

Corporate Tax Law and Policy

The 6 students who took this course all performed well. Four obtained distinctions and the other two had marks of 65 or above. All questions were attempted by at least one student, including the problem question, which vindicated our decision to set only one problem question, thus allowing students more time to read the problem question and consider answering it. The most popular question was on the application of the OECD base erosion and profit shifting programme to the UK, which is very topical. The question on tax avoidance was also popular, as usual, and well done. Clear argument and analysis, coupled with detailed knowledge and the ability to combine legal detail with policy discussion, marked out the best papers, but all showed a pleasing level of understanding and interest in the issues.

Criminal Justice Security and Human Rights

Candidates did very well in this paper, with 11 firsts out of 23 scripts. Of the remaining scripts, 7 candidates got 66 or above, and the remainder achieved above 60.

9 candidates answered question 1, and some were well rewarded where they were able to harness the material on exceptionalism and states of emergency. Candidates who did less well used question 1 as a general mop up question on various aspects of the course, and made generalized theoretical allusions to the rule of law without engaging with the relevant theoretical material on exceptionalism.

15 candidates answered question 2. The question went beyond the theoretical literature and required candidates to provide concrete examples of coercive overreach. The good answers were able to do this, mostly focusing on the question of criminalization. The weaker answers focused almost exclusively on the content of Lazarus's article, without taking a broader or more critical approach.

9 candidates answered question 3. Generally the answers to this question didn't score very well. A number of candidates found it difficult to harness a variety of jurisdictions, or to pinpoint the questions of dignity and hope. The answers thus often fell into a descriptive account of the case law, with little abstract or comparative enquiry.

5 candidates answered question 4. Those who did scored well, and displayed a fine grained understanding of the case law and the theoretical debate on jurisdiction. Undoubtedly, candidates also benefited from choosing a less popular question.

In contrast to question 4, 21 candidates answered question 5 on the absolute nature of torture. This narrowed the ground for variation of answers, clustering candidates against each other in one area. Certainly, the best answers to question 5 distinguished themselves from the pack, either by taking an original conceptual approach to the question or by displaying a more thoughtful and dense approach to a wider set of case law material. To answer the question fully however, candidates needed to include some discussion of the nature of positive duties under Article 3, and whether these can ever be absolute. A number of weaker candidates missed this aspect.

Only one candidate answered question 6. The candidate identified substantive aspects of the right to privacy, but wasn't entirely successful in providing substantive reasons for rights existence. Nevertheless, the answer was well structured and thoughtfully argued overall.

4 candidates answered question 7. Generally, these answers were not in the top tier. The candidates found it difficult to bridge the gap between international law and human rights law, and fell short of proving an overarching account of both domestic protections relating to the use of lethal force, and international law frameworks related to targeted killing.

10 candidates answered question 8. The majority of candidates who chose this question scored very well indeed. These answers marshalled a wide range of cases across a variety of jurisdictions. While assisted by the existing comparative secondary literature, the good candidates moved beyond this and developed their own comparative arguments. A comfort with black letter legal analysis also improved the analysis here.

Generally, the candidates who did well used a wide range of sources within a well structured and clearly argued framework. The less successful candidates displayed gaps in knowledge and their answers were often superficial.

Finally, one candidate in this course scored 75 and wrote one of the best scripts the examiners had ever seen. They used an extraordinary array of sources, displayed a fine grained knowledge of all the material used, developed robust arguments and wrote exceptionally clearly. A model script.

There was an even spread of questions answered. Some trends became evident however with respect to certain questions. Quite a few candidates ran into some trouble on question 1 which was asking about the margin of appreciation generally. They took the quote from Hutchinson to construe this as a question on life sentences specifically. The examiners noted the frequency of this confusion, and were careful not to

penalize candidates too heavily. Nevertheless, we did feel the question beyond the quote was clearly focused on the more general discussion on the margin of appreciation and the UK's role in the Council of Europe system. Another difficulty arose where candidates who answered both questions 6 (which was on the concept of freedom of religion) and 9 (which was on the way in which the margin of appreciation has been applied to questions of same sex marriage under Article 14) had some difficulty with repetition of material. The candidates who chose both questions might have reconsidered their overall strategy either in their choice of questions overall, or in the way in which case law was marshalled in both questions.

Generally, candidates were well rewarded when they chose the problem question in question 10. The candidates who did very well distinguished between the rights arguments relating to Rachel (who was performing a religious cleansing ceremony while bathing in the water), and Leila (who was sitting on the beach for no specific religious purpose). There was also a trend to introduce Article 3 on the facts of Bernie and Elizabeth, which was unexpected, but some candidates reasoned through the ideas reasonably well when they did so.

Generally, the candidates who got first class marks for their essays displayed a strong understanding of the conceptual issues and the theoretical material with a comprehensive grasp of the case law. They were able to pinpoint the concrete case material inside of an overarching theoretical overview, and always engaged directly with the question. Candidates who achieved a high 2:1 were weaker on one of these factors, while candidates in the low 2:1 threshold were often criticized for making general and unsubstantiated assertions or for having a thin understanding of the material (either case law or secondary literature). Some candidates in the low 2:1 category saved themselves from going below the 60 line by engaging actively and intelligently with the question while marshalling a small selection of materials. The lowest mark given on one essay was 53 and the comment was simply: 'no material, simply an account of the candidate's opinion'.

Overall an impressive year in this subject.

European Business Regulation (the law of the EU's internal market)

There were 11 candidates. All did well, some very well. Every question had at least two takers, which showed a gratifying engagement with the wide sweep of material covered on the course. Overall the results were up to the normal standard

European Private Law: Contract

There were 15 papers, 14 of which were written by MJur candidates. All eight questions were attempted: the most popular (answered by more than half the candidates) were questions 6 (supervening impossibility) and 8 (problem question on formation: offer and acceptance); the least popular were questions 5 (the role of fault) and 1 (the future of European contract law). There were a pleasing number of very strong answers, which stood out by engaging directly with the question, making good use of the sources across all relevant jurisdictions, and presenting a clear, well-reasoned and well-structured comparative argument.

Intellectual Property Law

The standard of answers for this paper was on the whole high. Six of the twenty two candidates received distinctions. Candidates were required to answer at least one problem question, but the majority of candidates answered two essay questions and one problem question. (Four candidates answered all problem questions).

In Part A (Trade Marks), while the candidates tended to favour the problem question, both essays were also attempted. For Q1, on shape marks and acquired distinctiveness, while the purpose of and test for acquired distinctiveness was easily addressed, it proved more challenging to (i) tease out the distinctions between reliance and recognition identified in *Nestle (four fingered Kit Kat shape)*; and (ii) consider whether this new reliance standard should be applied to all categories of marks. For Q2, on the coherence of the trade mark infringement provisions, most candidates developed a well-structured essay, which began by

identifying the various functions of a trade mark and correlating these functions with specific categories of infringement. Better essays queried whether ‘double identity’ infringement shared the same harm as the likelihood of confusion; how the harm in blurring should be measured; and whether free riding involved any harm at all. Candidates who demonstrated familiarity with the detail of doctrinal arguments and secondary sources were rewarded.

Finally, for the problem outlined in Q3, part (a) required an analysis of whether *both* absolute and relative grounds could be identified which would keep the POPSI NO-NO mark off the register. The number of candidates who entirely ignored absolute grounds analysis was as surprising as it was disappointing. Part (b) initially required the range of possible marks to be identified. While a key issue related to the manner in which the non-conventional mark being applied for should be characterized (Shape? Position mark? Colour?), a minority of candidates missed the word mark issue entirely (THE PHONE FINGER GLOVES). It was expected that candidates would engage with absolute grounds analysis including distinctiveness and the ‘functionality’ exclusions for shapes. Further issues involved the scope of the infringement claim (were certain elements non-distinctive and should they be ignored?) and whether descriptive use or comparative advertising might be argued by the defendants. These were usually correctly identified but not argued to the requisite level of detail.

In Part B (Patents), the problem question proved more popular than the essay questions. Q4 was the most popular essay, with no candidate attempting Q5 - which required a discussion of the Unitary Patent the Unified Patent Court. Generally speaking, Q4 required candidates to reflect upon whether broad patents have an impact on the development of technology and whether this is (or should be) reflected in the doctrine of a) claim construction or b) sufficient disclosure. In relation to the common aspect of the question – broad patents and their impact on technology – the best responses considered specific areas of technology where patents have proved problematic, e.g. telecoms, biotech, and balanced this discussion with an analysis of specific safeguards and/or IP theories. However, it was common for this aspect of the question to be dealt with superficially, rarely going beyond a brief discussion of the monopolistic tendencies of patent law. The vast majority of answers directed their response at answering a) on claim construction. Again, better responses went beyond merely providing an overview of the UK’s approach to claim interpretation, to include a critical review considering, for example, the law in other jurisdictions and the wider European legal landscape.

The problem question, Q6, established two acts of infringement (experimental trials; modification and use in EVS), which necessitated a discussion of the possible defences open to Haitecs. Most candidates identified the infringing acts, but did not always apply all the applicable defences. A challenge to the validity of the patent was usually identified, but many candidates identified too few or too many grounds of challenge. Patentable subject matter, novelty and inventive step were regularly identified. However, determining which prior art was applicable for inventive step purposes was sometimes omitted. The experimental use defence was also often missed from the discussion. Most candidates raised the issue of FRAND commitments, but few took the time to consider whether it would be applicable in the circumstances (no such commitment stated in the facts). Also, the FRAND analysis was often made without any reference to competition law principles and case law.

In Part C (Copyright), of the two essay questions, Q7 proved considerably more popular. The liability under the communication to the public right for posting hyperlinks was explored by drawing on the CJEU’s reasoning in *Svensson*, *GS Media* and *The Pirate Bay*. Candidates focussed on the ambiguity of the division between commercial and private parties and the difficulty of ascertaining the legal status of work posted on the internet. More thoughtful essays critiqued the ‘new public’ requirement in some detail and traced the gradual broadening of an act of communication over time to occupy the space previously reserved for secondary liability. By contrast, only one candidate attempted Q8 on blocking injunctions, where the central puzzle of holding intermediaries accountable for infringing conduct without any finding of liability was adequately explored. Several candidates attempted the copyright problem (Q9) and in general worked

methodically through the different possible works that might have been protected and subsequently infringed. The visual appearance of the chef's creation was either mapped on to existing categories of works (those who explored artistic craftsmanship were rewarded) or an attempt was made to argue for the 'open list' approach post-*Infopaq*. The extent to which short fragments of text could be protected was also contestable. The treatment of possible defences was a little cursory for some, with the fair dealing preface being underdeveloped.

International and European Employment Law

Six candidates sat the examination. All candidates reached a very good standard of 66% or above. Two scripts were awarded marks of 70% or above. All questions on the examination paper were attempted. The most popular question was question 3 concerning the right to strike, which was perhaps attractive because of its relatively narrow focus, though not many answers tackled directly the precise question about limitations on the right based on free competition and the rights of others including employers. Another popular question was question 4 concerning the rights of migrant workers and whether migrant status should affect enjoyment of employment law rights. It is pleasing that this new branch of labour law studies that has to some extent been pioneered in Oxford has attracted such student interest and a very good standard of answers. The best answers to the examination questions were able to offer highly targeted clear critiques of the law reinforced by impressive range and depth of examples and legal materials. Weaker answers tended to confine their response to one aspect of the question, such as international law as opposed to EU law (or vice versa), or fail to offer much support for their discussion in details about the legal materials. Particular credit in the marking was given to students who were able to articulate an independent point of view within a clear analytical framework.

International Commercial Arbitration

There were seventeen candidates who attempted this paper—the course having been capped at fifteen. All wrote at a high standard—broadly similar to previous years. Seven candidates achieved distinction marks and the top script scored 74; no script marked lower than 60. In the very high quality scripts, candidates showed wide reading, independent thoughts and critical analysis across the syllabus. However, performance was not always sustained at the same high level across all three questions. Some under-performing candidates failed to pay adequately close attention to the exact question set, listing authorities and repeating well-rehearsed general points rather than developing arguments addressing the question.

As in previous years, this year's paper featured a broad variety of topics and gave candidates a free choice of three questions from the eight set. Again, there was a preference for the questions on separability and competence-competence, effects and enforcement of arbitration agreements, the Brussels I Recast, and enforcement of international arbitral awards. As in previous years, the more theoretical questions were disappointingly unpopular.

International Criminal Law

As in previous years, the exam was divided into two parts. In Part A, there was a good spread of answers across the topics. Candidates wrote excellent responses on the principle of legality (Question 1), the tension between criminal trials and other post-conflict goals (Question 2), and jurisdiction and due process at the IMT and ICTY (Question 3). In Part B, the evolution of the crime of rape in the jurisprudence of the ad hoc tribunals was popular (Question 7).

On the whole, it was a strong group. Candidates with detailed knowledge of the case law were rewarded, especially where this knowledge formed the basis for consequent critique of the law. There were four distinctions, with the rest being strong 2:1s. A very good year.

International Dispute Settlement

Scripts this year were particularly good, to the great satisfaction of the examiners. The great majority of them being focused, informed, and clearly written. All questions in the paper were attempted by numerous

candidates with the exception of Q4, which received no attention whatsoever. The problem questions (7 and 8) were very popular, and mostly very well done. Almost equally popular were questions on means of dispute settlement and litigation strategy, as well as MFN in dispute settlement, independence and impartiality of judges and arbitrators, and enforcement of awards and judgments, the latter three having been covered in tutorials. The unevenness in the distribution of answers continued to decline this year, to the extent that all questions bar two were attempted roughly the same amount of times.

Answers to problem questions were good to very good, without the incidence of pre-prepared answers tacked on to broadly relevant questions found in some essay answers – suggesting that candidates should not be afraid to test their ability to apply their knowledge to the simulated real-life situations presented in problem questions. Essay questions were also mostly focused and well done, though some candidates this year as well failed to read the question carefully and to tailor their answers to what was being asked.

No script was marked below 61, while seven out of 22 scripts received a distinction. The best scripts overall were those where candidates were able to discern differences in the fact pattern or phrasing of the essay question and tailor their analysis accordingly. Candidates revealed in-depth knowledge of international dispute settlement, citing numerous cases and secondary sources, to the great satisfaction of the examiners.

International Economic Law

The level of performance of the BCL/MJur students who wrote the International Economic Law examination paper in 2017 was simply outstanding. Of the students who sat the examination, 60% received a Distinction class mark overall in the subject with the remaining 40% of students obtaining high to fair 2:1 class marks. Of those students who were among the 2:1 class marks, it can be said as a general observation that these students would have performed even better had they adopted a more analytical, and less descriptive, approach to their answers and ensure that their answers were focused solely on answering the question asked rather than providing general statements about the topic that they may have prepared in advance.

International Law and Armed Conflict

This was the third year in which the exam for this course was divided into two parts. As in the last two years, Part A contained questions dealing with the use of force by states; Part B contained questions relating to international humanitarian law and its interaction with human rights law. The requirement that candidates answer at least one question from each part did not seem to cause any particular difficulties. There was no breach of rubric, and very few candidates seemed to run out of time on the final essay.

As to the distribution of answers, Questions 2, 5, and 7 were very popular. These concerned military intervention with the consent of the host state, the classification of conflicts, and implications of the ECtHR's decision in Hassan. These questions were similar, but not identical to, tutorial topics. Candidates were not rewarded if they reproduced tutorial answers without tailoring the substance to the actual question. Nonetheless, these questions produced some excellent answers. Question 3, on proportionality in the jus ad bellum, was moderately popular, as was Question 4 on the operation of the Security Council. Few candidates wrote on whether the limitations imposed by international law on the means of warfare form a coherent regime (Question 6) or who is a civilian for the purposes of international humanitarian law (Question 8).

Overall, the quality of the scripts was very high. There were 8 distinctions, with the rest being in the 2:1 range. The best answers drew on a range of state practice, case law, and academic commentary.

International Law of the Sea

Performance in the law of the sea examination this year was outstanding. Of the seven candidates sitting the examination, three achieved distinction marks overall and the remaining candidates achieved performances in the very high upper 60s. No script was marked below 68; indeed, such was the quality of

responses that no individual question was marked below 66. Questions 2 and 6 proved most popular, while no candidate attempted question 4. The paper contained one problem question which only two candidates attempted. The best answers to essay and problem questions demonstrated detailed knowledge of the key legal instruments, case law and academic authority. The best responses to essay questions were well structured and coherently argued, and displayed the ability directly to engage with the question posed. This was particularly important for, and pleasingly evident in the outstanding answers to, the broadly framed essay questions on dispute settlement (question 2) and on marine environmental protection (question 6).

Jurisprudence and Political Theory

Q3 (To whom are legal obligations owed?) was attempted by 8 out of 10 candidates. Quality was overall good. The better essays discussed the idea of directionality of obligation, focused on how laws can give rise to obligation, and connected the discussion to the ideas of authority, obedience, the right to rule, and accountability.

Q1 (Is there a gap between the meaning of the language used in some legislation and the difference made to the content of the law by use of the language?) and Q6 (Does inequality matter in itself?) were each attempted by 6 candidates.

The better essays on Q1 laid out the claims of the ‘communication theory’ and the arguments against it, and showed how reflection about the role of legal language in the explanation of the impact of legislation on the law can yield insights that bear on wider debates about the nature of law. Weaker essays simply started at a position about the nature of law and described the implications of that position on the matter of the role of language, paying little attention to the specifics of the essay question.

Essays on Q6 were mostly good. The better essays clearly distinguished between telic and deontic versions of egalitarianism. Weaker essays ignored deontic egalitarianism, tacitly assuming that only on a telic version might inequality be intrinsically bad. (The assumption was characteristic of essays that relied exclusively on the anti-egalitarian literature which tends to understand egalitarianism as a response to a problem of allocation rather than interaction.)

Q2 (Can the idea of normative powers help explain how law can make a difference to people’s normative situation?) was attempted by 5 candidates. Of these, 3 wrote high quality essays showing good grasp of the notion of normative powers and its relevance to the explanation of law’s normative significance as well as command of the relevant literature. The rest either simply surveyed a small part of the literature on normative powers without attempting to connect the discussion to law, or were off target by considering, not whether the notion of normative powers can explain how law can bind people, but whether the law’s conferring of normative powers on people can explain how people can bind themselves.

Q4 (‘[W]hen a theorist says, not that the judge does or does not accept a particular rule, but that the law contains or validates that rule, the theorist does more than describe someone else’s attitude. He accepts a rule himself, in the particular sense of confirming that it really is a rule of the system in question, and that plainly goes beyond just describing other people’s attitudes’ (Dworkin).) was attempted by 3 candidates. Some essays were very weak, consisting in thin reviews of the “Hart-Dworkin debate” or restating some points in the Postscript to the Concept of Law (to which the quote is a partial response). A better essay directly addressed the issue about the relation between psychological and legal claims that was raised by the question.

Only two candidates attempted Q5 (‘Liberalism is a demanding doctrine. Still, it is qualified somewhat by a division of the moral territory. Its relatively stringent impartiality applies only to uniform and involuntary social and political institutions’ (Nagel).) One addressed a different question: whether Rawls was right to claim that the justification of institutions ought to be ‘neutral’ (apparently understood, implausibly, as

‘morally neutral’). The other was focused on the question and included an intricate but not entirely clear attempt at an alternate explanation of why institutions might be subject to special constraints on their action.

Law and Society in Medieval England

Four candidates attempted this paper. The overall standard was good, as two achieved Distinction level marks, two good passes. Given the small numbers no further comment is possible.

Law in Society

16 students took the examination in Law in Society. The standard generally was high. Five obtained distinctions, while several other candidates came close. One candidate failed the examination.

Students were asked to choose 3 questions from 8, with some internal options. Answers generally showed a sound knowledge and understanding of the literature and empirical studies.

Legal Concepts in Financial Law

Overall, the standard of answers was good, with candidates displaying a pleasing level of knowledge and understanding and generally making some attempt(s) to tailor their responses to the question posed. There were 16 (BCL, MJur and MLF) candidates who sat the paper, six of whom achieved first-class marks, with the rest (with one exception) securing upper second-class marks. The overall marks ranged from 58 to 74. In terms of responses to individual questions:

Question 1: This general question provided candidates with the opportunity to display their range of understanding of the various topics on the course. The challenge was to balance the breadth of coverage with depth of analysis. The question was not popular, but was answered well (sometimes very well) by those who attempted it.

Question 2: This was a more focused essay question requiring candidates to compare and contrast guarantees, indemnities, contracts of credit insurance and credit derivatives as mechanisms for transferring the risk of non-payment. The question was reasonably popular and was on the whole competently done, but very strong answers were rather thin on the ground. All too often, the question was interpreted as an invitation to engage in a descriptive account of the differences between the different types of transaction without engaging with the more normative issue as to whether the characterisation as one type of transaction or another *should* matter.

Question 3: This question was again reasonably popular and was generally answered well, with some sophisticated responses at the top end. Many answers examined the historical development of the floating charge and how this developed into a cost-effective form of security, as well as the more recent developments reducing the utility and cost-effectiveness of this form of security. The best answers addressed how reforms might balance the efficiency of the floating charge from the secured creditors’ perspective with the interests of other claimants to the corporate assets.

Question 4: This was a popular question that elicited a large number of first-class answers and strong upper second class answers. Candidates demonstrated an ability to deploy judicial and academic material in order to answer the question posed with precision.

Question 5: Another popular question that produced mainly strong answers with few weaker responses. Whilst most candidates were able to demonstrate a good understanding of the key areas of difficulty or controversy in relation to financial collateral arrangements, there was a tendency to engage in a descriptive account of those areas with insufficient attention being paid to the precise wording or criteria in the essay question.

Question 6: This was quite a popular question that was answered reasonably well, although there were few impressive answers. Some answers tended to stray onto topics that were not relevant to securitisation (such as issues relating to financial collateral); others answers failed to provide an accurate description of ABS; and yet others did not consider the key advantages or risks of this particular structure. The lesson is that students must ensure they are responding closely to every element of the question or quote.

Question 7: Only one candidate answered this question, which raised a range of issues involving insurance, tracing, paper-based payment systems and money. It was competently answered.

Question 8: Only two candidates answered this question, which concerned syndicated loans, tracing and electronic payments. The issues were dealt with well and sometimes very well indeed.

Medical Law and Ethics

This option was taken by five students this year, fewer than normal. There were eight questions from which students had to answer three. In general the answers were strong and all eight questions were answered by at least one candidate. The best answers were able to discuss a range of different theoretical approaches and then demonstrate how these impacted on the decisions reached in particular cases. It was pleasing to see students showing not only a good understanding of different perspectives, but also consideration of why writers disagree on the issues. Good answers were also able to draw on a range of different topics in answering the question to show how the balance between different principles may play out differently in different contexts. Weaker answers failed to address the questions asked and wrote more generally about the topic. Examiners will severely mark down candidates who appear to write a “pre-prepared” essay generally on the theme of the question, rather than addressing the actual question asked.

Philosophical Foundations of the Common Law

The quality of the papers was very good this year. All the candidates displayed a good knowledge of the relevant literature and an ability to bring it to bear on the set questions. The scripts of a First Class standard combined an excellent grasp of the material with a well-organised argumentative structure. They drew on the theoretical literature to advance their arguments, and showed that the candidates were thinking for themselves, and not merely following a particular theorist.

All of the topics, with the exceptions of causation and the cross-over of contract and tort, attracted many takers. There were excellent answers to all of these questions.

Principles of Civil Procedure

Fewer students than normal took this option this year, but the standard in the exam was high. Only two candidates scored less than 68 and just under half of all candidates obtained a first. There were outstanding answers on interim remedies, collective redress and legal professional privilege. Many of the questions were based on quotes taken from recent cases. Stronger answers engaged with the facts of the case and the specific context in which the quote was given. Unfortunately, no one attempted the question on the funding of the justice system, which would have allowed candidates to discuss either technical or theoretical aspects of cost and funding rules and the right to, or value of, access to justice for all.

Principles of Financial Regulation

A total of 39 candidates (23 MLF, 10 BCL and six MJur) took this paper. The overall standard of the scripts was impressive. Twelve candidates (31%) obtained marks of 70 or above and only three candidates (8%) obtained marks lower than 60. The average mark was 66, similar to previous years.

Candidates were generally successful in structuring their answers so as to engage with the particular question set. Most candidates were able to synthesise effectively a wide range of materials. However, the most impressive scripts were characterised by candidates taking carefully-reasoned positions of their own, demonstrating clear evidence of independent thought.

Question 1 was popular, being attempted by 15 candidates. Answers pursued a wide range of approaches, and many showed real originality in their analysis.

The better answers to Question 2, which was attempted by 18 candidates, focused specifically on the role of risk weightings within the Basel framework. Weaker answers discussed the issue (raised in previous papers) whether the numerator of the capital adequacy ratio was sufficient.

Question 3, attempted by 11 candidates, was generally done well. The best answers focused on how the absence of secondary markets, and unsophisticated nature of many investors, may affect the appropriate

scope of disclosure obligations in the context of equity crowdfunding. Weaker answers appeared to treat this simply as a question about whether mandatory disclosure in capital markets is generally justified.

Question 4 was the most popular, attracting 20 answers. Good answers provided a clear statement of what they understood ‘shadow banking’ to encompass, then analysed the nature of the risks to financial stability associated with this sector, and concluded with a critical account of the regulatory responses to date. Less strong answers, however, launched into discussions of risks without seeking to define the subject-matter, and/or described in detail risks arising in the commercial banking sector before simply asserting—without explaining why—that these risks were analogously present in the shadow banking sector.

Question 5, attempted by 16 candidates, produced a good range of discussions about the decision-making challenges for consumers. Better answers focused specifically on how the footprint of these problems matched—or did not match—the scope of the definition in the question.

For Question 6, which 15 candidates attempted, the best answers, in addition to describing the problems of executive compensation and the regulatory response, engaged with the question by challenging what ‘real control’ might mean and whether it would indeed be desirable in this context.

Questions 7 and 8 attracted relatively few answers (six each), but were generally done competently.

Question 9 was attempted by 10 candidates. All were able to evaluate the case for cost-benefit analysis in financial regulation, and the best answers distinguished themselves by their detailed engagement with case studies and consideration, as invited by the question, of possible alternatives.

Private Law and Fundamental Rights

There were five candidates, all of whom reached a high standard. All candidates achieved a mark of 67% or better. Two of the candidates were adjudged to be worthy of a distinction. All of the questions on the examination attracted answers except question 6 on copyright and question 7 on the contrast between direct and indirect horizontal effect of fundamental rights. All the candidates tackled question 2 which compared the effect of fundamental rights on the development of the tort of negligence and the development of the tort of misuse of private information. In their answers the candidates demonstrated a very good knowledge of the case law and the underlying tensions that were addressed in the cases. The examiners were less convinced that the candidates had developed a clear analytical framework within which to make critical assessments of the case law. The examiners also thought that in many instances the answers could have been more nuanced. The candidates understood well the main points raised by the questions in the examination with the possible exception of question 4, where the issue was raised of a possible analogy being drawn between discrimination law, which imposes directly enforceable duties on some private actors such as employers, and human rights law, which at present does not, though perhaps should.

Regulation

This academic year yielded again a strong performance of students in the 3 hour written examination for the ‘Regulation’ course. Students showed in particular a good understanding of a range of the theoretical perspectives discussed in MT 2016 and developed good skills throughout the course in applying the theoretical material to the specific case studies of particular areas of regulation discussed in HT 2017.

Marks ranged over the full range of marks from 53% to 72% for the prize winning script, with a total of five first class scripts.

Scripts in the high 2,1 range could have been improved by answers responding more precisely to the specific question asked, developing the critical analysis of the argument presented, and including more legal detail in the answer.

Scripts in the 2,2, range could have been improved by answers engaging with a wider range of reading and greater clarity in the points being made.

Most scripts provided well-structured answers with a significant amount of critical analysis that showed a development of short essay writing skills also through the tutorial essays and the collection.

Restitution of Unjust Enrichment

Of the 31 candidates sitting this paper, nine were awarded Distinctions, 18 had marks between 60 and 69, and four had marks between 50 and 59. General problems with answers included:

- i. Poor problem question technique. When a problem question asks candidates to ‘Advise X’, what is not wanted is a list of arguments X might raise, with no discussion of their chances of success. What is required instead is an account of what a court will most likely hold should the issue come before it. Another failing so far as problem questions were concerned was an uncritical application of the law, even where the ‘law’ consists only of dicta;
- ii. An assumption that something called ‘corrective justice’ underlies all restitutionary claims. This is contentious in the extreme and at the very least needs justifying arguments;
- iii. Too little attention to the specific question asked. This was a particular issue with questions 2, 6, and 7;
- iv. A tendency on the part of some candidates to argue like a layperson rather than a lawyer, with much use of phrases such as ‘I think’ and ‘It seems to me’;
- v. A failure to differentiate between issues which were contentious and those which were non-contentious in the problem questions;
- vi. A preference for the views of academic commentators over judges in determining the content of the law. The starting point must always be what the cases say, with reference to academic authors only where the cases run out.

More specific comments are as follows:

Question 1 – This question on the fourfold ‘Birksian’ enquiry had very few takers.

Question 2 – This question on the decision of the Supreme Court in *Menelaou* was popular but often poorly-answered. Many candidates saw it as a general opportunity to discuss the ‘at the expense of’ requirement, with few bothering to look at *Menelaou* in detail. Those who said that all problems in this regard had been solved by the subsequent case of *ITC* often failed to explain how Lord Reed’s reasoning in the latter could be reconciled with *Menelaou* itself.

Question 3 – This question had almost no takers.

Question 4 – This question had very few takers. Those who did do it rarely addressed the specific issue raised, preferring instead to give generalised accounts of presumed undue influence, with no discussion of how a case such as *Williams v Bayley* could be seen as in any way similar to *Allcard v Skinner*.

Question 5 – This question had almost no takers.

Question 6 – This question was popular. Reward was given for those answers which noticed it was specific to knowing receipt. Answers which only addressed the more general question of ignorance as an unjust factor fared less well.

Question 7 – This question on the Birksian pyramid was popular, though many answers addressed only the more general question whether a move to ‘absence of basis’ would be desirable.

Question 8 – This question had almost no takers, which may be down to a typo on the examination paper, with ‘defendant’ being wrongly substituted for ‘claimant’.

Question 9 – This was a problem question primarily concerned with defences and proprietary claims. However, many candidates spent inordinate amounts of time discussing the possible unjust factors, which on the facts were not contentious, even to the extent of asking whether the advance payment by the customer was a prepayment or a deposit, a question only relevant if it had been the customer and not the builder in breach. There was also confusion over the operation of the defence of change of position, with

a worryingly high number of candidates thinking that a successful investment in shares could count as such. By the same token, in the alternative scenario in which change of position might be applicable, few asked whether such a defence was available in cases of failure of consideration. As to proprietary claims, it was simply assumed by many that a so-called 'tracing' claim would be available, with no discussion why.

Question 10 – The first issue in this problem question concerned the fact that the money paid was already due. A surprising number of candidates either missed this or dismissed it as irrelevant. There was again much angst over the unjust factor, even though, at least in the primary scenario, this was clearly duress to goods. As to the fact that some of the money was stolen, those candidates who spotted the issue were generally content to simply state that there were two views on the issue, without explaining which view was correct and why.

Question 11 – Identifying the unjust factor in this problem question was not meant to be difficult (failure of consideration), but again candidates spent a number of pages discussing it, leaving themselves less time for consideration of the meat of the question, the operation of the defence of illegality. When that point was addressed, many discussed the different judgments in *Patel v Mirza* as though they were equally valid, with a trial judge being able to choose between them. Few candidates addressed the possibility of *Tinsley v Milligan* still representing the law so far as the operation of trusts was concerned.

Roman Law (Delict)

Three students took the exam. There was one first, and two solid 2.1s. The overall standard was very pleasing: candidates demonstrated a good command of the set texts and familiarity with the relevant secondary literature; First class answers offered clear and sophisticated engagement with the questions posed, combining detailed doctrinal analysis with sensitive reference to historical context and to the broader conceptual underpinnings of the civil law of wrongs.

Roman and Civilian Law of Contracts

There was one candidate. The script was competent. No further comment is possible in the circumstances.

EXTERNAL EXAMINER REPORT FORM 2017



Title of Examination(s):		BCL and MJur
External Examiner Details	Title:	Professor
	Name:	Andrew Lang
	Position:	Professor of Law
	Home Institution:	London School of Economics

Please complete both Parts A and B.

Part A				
<i>Please (✓) as applicable*</i>		Yes	No	N/A / Other
A1.	Did you receive sufficient information and evidence in a timely manner to be able to carry out the role of External Examiner effectively?	Y		
A2.	Are the academic standards and the achievements of students comparable with those in other UK higher education institutions of which you have experience?	Y		
A3.	Do the threshold standards for the programme appropriately reflect the frameworks for higher education qualifications and any applicable subject benchmark statement? <i>[Please refer to paragraph 3(b) of the Guidelines for External Examiner Reports].</i>	Y		
A4.	Does the assessment process measure student achievement rigorously and fairly against the intended outcomes of the programme(s)?	Y		
A5.	Is the assessment process conducted in line with the University's policies and regulations?	Y		
A6.	Did you receive a written response to your previous report?	Y		
A7.	Are you satisfied that comments in your previous report have been properly considered, and where applicable, acted upon?	Y		
<p>* If you answer "No" to any question, please provide further comments in Part B. Further comments may also be given in Part B, if desired, if you answer "Yes" or "N/A / Other".</p>				

Part B

B1. Academic standards

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

On the basis of the examination papers I reviewed, the overall standard was extremely high, amongst the highest I have seen at any UK or international higher education institution. The BCL and MJur degrees rightly attract world class students, and this is reflected in the outstanding papers they produce.

- b. *Please comment on student performance and achievement across the relevant programmes or parts of programmes (those examining in joint schools are particularly asked to comment on their subject in relation to the whole award).*

The overall average mark in the BCL is high, and a high proportion achieve Distinctions. But on the basis of the standard of work I reviewed, it seems perfectly justified. If anything, the higher range of Distinction marks (74+) could be used more often, to distinguish more clearly between Distinction marks.

It is good to see that the MJur candidates receiving Distinctions has increased significantly this year, reflecting an improvement in the quality of the work submitted.

The average mark given across different courses was consistent, with only a very small number of outliers.

B2. Rigour and conduct of the assessment process

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

The assessment process is rigorous and fair. All procedures and practices as regards the preparation and conduct of exams are sector-leading. The standard of the exams was appropriately demanding, and fair.

The process for double marking scripts is sound – blind double-marking of all X7, X8, X9 scripts, with an additional random sample where appropriate. This seemed to result in a significant proportion of scripts being blind double-marked. Having all these borderline and quasi-borderline scripts reviewed also makes the work of the Exam Board much easier and more efficient.

The presentation of the gender breakdown for marks was very helpfully presented this year, and it was very pleasing to see no issues apparent in that respect.

There were relatively few cases of medical evidence this year. All were treated diligently and with discretion.

There was one fail script this year. Given the significant implications of a mark of 38 for the student concerned, I looked at the script very closely. No mitigating circumstances had been submitted by the student, and the script had been carefully double marked. It was also discussed in some detail in the meeting. The mark was confirmed after what I thought was a thoughtful, detailed and fair consideration of the case.

I understand that the practice of having the Exam Board Chair attend the beginning and end of each exam was modified this year, and caused no difficulties. This seems to have been a positive change. As noted in my report last year, a number of other universities only require staff to be contactable by mobile phone during the exam, and this seems to work well, and entails significantly less staff time at a very busy time of year.

B3. Issues

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

None.

B4. Good practice and enhancement opportunities

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

The possibility of computer-based (rather than written) exams was discussed in the meeting. This is a matter of interest to a number of peer institutions and seems to me something that the university could usefully explore as a priority issue in the near future. I noted the positive development of a trial electronic exam being run in the coming academic year.

B5. Any other comments

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

The administrative staff in charge of the examinations process should be commended on their efficiency, professionalism and care. The University is very fortunate to have an outstanding team.

Signature:	Andrew Lang
Date:	28 July 2017
<p>Please email your completed form (preferably as a word document attachment) to: external-examiners@admin.ox.ac.uk and copied to the applicable divisional contact. Alternatively, please return a copy by post to: The Vice-Chancellor c/o Catherine Whalley, Head of Education Planning & Quality Review, Education Policy Support, University Offices, Wellington Square, Oxford OX1 2JD.</p>	

Form to report factors affecting performance applications considered by examination boards – for inclusion in Section II Part E of internal examiners' report

Name of examination:	
Number of factors affecting performance applications received before final meeting of examiners:	14
Number of factors affecting performance applications received after final meeting of examiners:	0
Total number of factors affecting performance applications received:	14
Percentage of factors affecting performance applications received (as a percentage of all candidates in the examination):	10%
Number of factors affecting performance applications which resulted in a change to the classification/final degree result:	0
Percentage of factors affecting performance applications which resulted in a change to classification/final degree result (as a percentage of all factors affecting performance applications):	0%
Number of factors affecting performance applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result):	0
Percentage of factors affecting performance applications which resulted in changes to marks on an individual paper(s)/submission(s) (but not to the final classification/degree result) (as a percentage of all factors affecting performance applications):	0%
Number of factors affecting performance applications which did not result in any changes to marks or degree result:	14
Percentage of factors affecting performance applications which did not result in any changes to marks or degree result (as a percentage of all factors affecting performance applications):	100%