

UNDERGRADUATE FAQS ANSWERED

SECTION A: OUR GENERAL APPROACH AND ENSURING NO DISADVANTAGE

1. What is your general approach to assessment and marking? Can student input change anything at this stage?

Since the University had to make the decision to cancel in-person examinations, the Faculty, including its various Boards of Examiners, has engaged in significant discussion and consultation with colleagues here and elsewhere, with the central University, and with our students. We have reflected on all of the comments and suggestions received from students; these both helped shape our approach and enabled us to test that our approach could withstand scrutiny from the most critical thinkers we know – you! As a result of that process, the overall approach has now been settled.

We have received a number of messages from students who feel that we, as a Faculty, have not listened to student concerns and have not changed anything significant in our approach. We understand how truly disappointing it must be to have an approach to exams that was not what you were hoping for. We know some students believe that we just decided not to make any changes because that was easiest, but that is really not the case. Each and every change we looked at seemed to either introduce or risk introducing unfairness or arbitrariness elsewhere. We found that no matter how we sought to redesign the exams, we could not altogether avoid introducing the risk of disadvantage to some students. No disadvantage is introduced by our intended approach to marking. In individual cases, mitigating circumstances can be taken into consideration in the awarding of marks. As before, students can through their college apply to the Proctors to have such circumstances recognised. This represents our general approach.

In reaching this conclusion, we were mindful of the impact on our students' mental wellbeing, both those who would suffer from changes being introduced to the assessments they had mentally prepared themselves for and anticipated, and those who are being affected by the current extraordinary circumstances on student mental wellbeing. We hope that the approach of adopting an assessment regime that does not significantly depart from what our students were otherwise preparing for alongside a marking and mitigating circumstances regime that accommodates individual impact is able to reassure all of our students.

Despite the overall approach being settled, there are various points of detail on which student input continues to be extremely valuable. For example, we have received emails about having examination papers that can be annotated without printing, which has supported our suggestion to the University that the examinations be available as word documents, whether instead or in addition to their usual pdf format.

2. Why is Oxford allowing only 4 hours and not, say, 24 hours?

This decision was made in order to approximate to the examinations you would have sat in person in Trinity Term. You will be able to choose a 4-hour slot to sit the paper within a 24-hour window. We know that other universities have made other decisions. Our approach to marking will reflect the time allowed.

3. Why did the Faculty not reduce the number of questions required to be answered on each paper as some other departments have?

We concluded that reducing the number of questions required to be answered would introduce or risk introducing additional unfairness and arbitrariness in outcomes. Fewer questions would, for some papers at least, require a very different strategy (how many topics to revise; how many problem questions should be compulsory, etc). This would be unfair for students who had already revised those subjects and would increase the sense of stress and pressure they felt. Further, and critically for Law compared to other Faculties and departments, we need to be able to certify for QLD purposes that we have formally assessed the content of the Foundations of Legal Knowledge. Reducing the number of answers required would enable some students to revise and be assessed on only a limited part of each subject, which then creates difficulties for us being able to certify our assessment for QLD purposes.

One possible response would have been to reduce the number of questions from which students could choose, but that creates its own unfairness and arbitrariness. For example, students who hoped to use essays to pull up weaker problem questions or vice versa, or answer all problem questions might no longer be able to do so, hence might unfairly do less well than they reasonably anticipated; students who had already revised certain subjects might then have to try and quickly cover more ground in case topic X would be cut from the shorter paper and, if they did not, or even if they did, the risk of getting 'lucky' or 'unlucky' with the paper would increase, making the outcome more arbitrary.

Adopting our general approach, we concluded that, for Law in particular, the fairest solution was to respond to student concerns in the application of the marking and mitigating circumstances regimes.

4. How will the Faculty approach marking to ensure that no students are disadvantaged by sitting their examinations in these circumstances? Is there going to be any specific new guidance to markers?

We know some students are concerned that, as the exams are open-book, they will be held to a higher standard. We can assure you that this will not happen. The marking criteria remain unchanged. That is not to say, however, that we are not making allowances for the extraordinary circumstances in which you are sitting these exams. To restate our general approach: we will use our approach to marking and the application of mitigating circumstances to ensure that no student is disadvantaged. This will be by operation of our 'safety net' policy, for which see Mods-specific and FHS/DLS-specific discussion below.

5. MODS-SPECIFIC:

a. Why did the Faculty not cancel Law Moderations?

The choice was not open to us to cancel Law Moderations. We need to run two assessments (Criminal Law and Constitutional Law) to ensure that the degree remains a qualifying law degree for SRA, BSB purposes.

b. Why did the Faculty not cancel Roman Law?

Once it was clear that it was necessary to assess Criminal Law and Constitutional Law, we then considered whether to also assess Roman Law. We concluded that it would create unfairness for particular students who were expecting being able to rely on their Roman Law performance to help them secure a Distinction. Trying to award Distinctions without assessing Roman Law would have required an entirely different approach, which would have been unfair to some students and less useful in determining the level of student attainment, given that it would have relied on performance in two papers only. We were very aware that changing away from what students expected could have had significant negative effects on some students' mental wellbeing.

c. Why did the Faculty not change the examinations to pass / fail?

We know that some students are strongly in favour of changing to a pass/fail approach, though it remains somewhat unclear precisely what is entailed by that. We assume that it means not publishing marks for each paper and not awarding Distinctions. Our current regime is pass/fail with stronger passes being awarded Distinctions and with supporting paper marks being published.

We did consider this alternative and concluded that it introduces more unfairness and arbitrariness than it seeks to address. Moreover, changing to pass/fail would have the negative effect on removing the chance of awarding Distinctions, which would arguably introduce unfairness for those students working towards that goal. Whilst the argument for a pass/fail approach has been made on mental health grounds, we note that it overlooks the negative impact on students' mental health where they have been planning for and working towards Mods in the expectation that awards would be made on a particular basis, such that any significant changes would be very damaging. We would have had to assign individual marks in order to calculate pass/fail and students – via a Subject Access Request – would be entitled to see those marks. Further, students would need to see their marks in order to be able to check whether to appeal (eg. on the basis of calculation error), so the request ends up being one for the marks to be released but not formally stated. In those circumstances, some students may well ask their tutors to refer to their marks on references, etc. and then it is the only the weakest students left with just pass/fail, so nothing has been achieved in terms of reducing pressure on individual students.

d. Is there a 'safety net' for Law Moderations? Why can the Faculty not just rely on marks received in Collections or term-time essays?

There will be a safety net specific to Law Mods. This is necessary because students do not have any prior results from summative assessments we can consider. Term-time essays and Collections cannot be relied on here because they are often set for a very different purpose (eg. some Collections focus on specific weeks to test vac work); assessed to different standards (some tutors assess as if the student has submitted it for Mods, others assess

based on where the student is on the course); and used by students for a different purpose (eg. to try out a novel argument and get feedback ahead of refining it).

Our **Law Moderations safety net** will be published as soon as it has been approved by the University.

6. FHS-/DLS-SPECIFIC

a. Why did the Faculty not reduce the number of examinations required?

It was not open to the Faculty to cancel any of the 6 Core examinations since these are required for Qualifying Law Degree purposes for the SRA / BSB.

b. Why did the Faculty not cancel Options examinations or the Jurisprudence examination?

We decided not to cancel the two Options examinations since these are the papers students generally enjoy the most and in which they are most likely to get Firsts, giving them a strong push towards a First class result overall. Further, some students have already sat one option paper in Week 9, Hilary Term. We decided not to cancel Jurisprudence because, whilst the students have already done some coursework, that coursework only assesses part of the syllabus, and experience shows that students' performance in the exam and the coursework often does not correlate because they assess different things. Cancelling the exam would then risk unfairness for students who would have done much better on the exam. We have ensured through our 'safety net' policy that retaining the Options and Jurisprudence examinations will almost invariably work in students' favour.

c. Why did the Faculty not make Jurisprudence optional so students could rely on their mini-option essay marks if they so wished?

The critical difficulty is that the mini-option essay and the exam assess different things and performance in one often does not correlate with performance in the other. As a result, it is not possible to fairly rely on the earlier assessment as evidence of likely performance in the latter, which would be required for all students who opted not to sit the exam. We have ensured through our 'safety net' policy that making the Jurisprudence examination compulsory will almost invariably work in students' favour.

d. Will the Faculty implement the 'safety net' referred to in the Pro-VC's communication and, if so, how?

There will be Law-specific FHS and DLS safety nets. It needs to be specific to Law because students do not have any prior results from summative assessments we can consider. The University is not proposing having regard to Law Moderations to assist for FHS because those earlier results belong to a different examination (ie. Law Moderations, not Final Honours School). This is why Moderations marks do not go into the calculation of the overall degree classification following the Final Honours School. Term-time essays and Collections cannot be relied on here because they are often set for a very different purpose (eg. some Collections focus on specific weeks to test vac work); assessed to different standards (some tutors assess as if the student has submitted it for Finals, others assess based on where the student is on the course); and used by students for a different purpose (eg. to try out a novel argument and get feedback ahead of refining it).

Our **FHS and DLS safety nets** will be published as soon as it has been approved by the University.

SECTION B: SITTING THE EXAMINATIONS

7. FHS- / DLS-SPECIFIC

a. What are the details of the new exam timetable?

It is our intention that the exam schedule is over three weeks and that it starts in Week 6. We are waiting for this to be confirmed by the University. As we have had to circulate this FAQ before this has been confirmed, we will circulate specifics as soon as we can.

b. How long will the Jurisprudence examination be?

We do not currently know. We are waiting for this to be confirmed by the University. As we have had to circulate this FAQ before this has been confirmed, we will circulate specifics as soon as we can.

c. How does 'Declared to Deserve Honours' (DDH) apply to Law students?

i. Will it be possible to know our predicted / estimated classification before making the decision to apply for the DDH?

ii. Will it affect entry onto post-graduate programmes?

iii. What will my reference say about it?

The Faculty is of the preliminary view that, if you need your Law degree to be a Qualifying Law Degree so that you have the option of practising as a solicitor or barrister, you will not be able to rely on the University's DDH policy. This is why we have designed our safety net so that it supports you sitting the exams and receiving an overall classification for your degree. We are, however, currently seeking to confirm the SRA's view and will notify students as soon as we have a definitive view.

More generally, we do not yet know the specifics of the operation the DDH degree outcome in terms of whether students will know the prediction in advance, who will write the extended reference, and what it might say.

We do not know how other institutions will regard the DDH degree outcome for the purpose of post-graduate admissions. For admission to the BCL, we have decided that DDH on our own FHS would be acceptable as a condition. We would remind BCL offer-holders, however, that DDH is likely not to be acceptable for professional purposes. References are produced by individual tutors, rather than the University, so you will need to discuss the detail of any reference with your tutors.

8. What format – pdf / protected pdf / word document – will the examination papers be in?

We do not currently know. We recognise many of you will not have access to printers at home, should you like to annotate around the problem questions, etc. We have asked the

University to make the examination paper available in a word document format, preferably in addition to a pdf format, so that students can annotate but feel confident that they also have the original version of the questions set.

9. Can I write my answers by hand and scan / photograph them for upload?

Yes, you are free to write your answers by hand. All scanning and photographing, just as uploading of typed answers must be done within your allocated 4 hours. If writing by hand is your preference, we would encourage you to have a 'dry run' at scanning or accurately photographing A4 pages of text and uploading as a single file to both check you are happy with the process and the speed with which you can do this.

10. How will the length of the examination be adjusted for individual students permitted additional time in the exam room?

This is a University matter and not the Faculty's policy to make. We have asked for clarification. Your colleges (Academic Offices / Senior Tutors, as appropriate) should also receive information about this.

11. What materials are you providing us for use in the examination?

This is still being finalised and is dependent on library resources and copyright. We will provide a final position on this as soon as possible.

12. How rigorously will the word limits be enforced?

For the purpose of this discussion, it is important to distinguish between the suggested guide length and the word limit. These have been set out in documents previously distributed to you.

For example, for questions in relation to which the guide length is 1,000 to 1,500 words and the word limit is 2,000 words, anything above 2,000 words **simply will not be read**.

The upper limit of 2,000 words is a firm one because it would be a significant disadvantage to your assessment performance if you just inserted large volumes of material into your essays that you had previously prepared for term-time essays, as part of your revision, etc. It is crucial that you answer the precise question set.

13. Will references be required and, if so, will they count for the word limits?

Students are not expected to cite materials in any way differently from how they would have cited them in closed-book exams. As a result, short form names for cases (e.g. *Smith v Bush*), abbreviated forms of legislation (e.g. Human Rights Act or 'HRA'), and simple reference to surnames for authors (e.g. 'As Enriques has argued...') can all be used as they would be in a closed-book exam.

We do not expect references to be placed in footnotes or endnotes (let alone in any particular form, such as OSCOLA), but if a candidate does use footnotes or endnotes, then they will count for the overall word limit.

14. What constitutes cheating? How will the Faculty (Moderators, FHS / DLS Board of Examiners) safeguard against cheating?

Following on from the previous question, you may consider preparing paragraphs of material that might be useful for particularly tricky issues, either in an essay or a problem. You may already have such paragraphs in your term-time notes or tutorial essays. Making use of these paragraphs in the assessment is not cheating but please note the following:

- Obviously, any such pre-prepared explanations or analysis must be in your own words, including attribution where required. In respect of the material requiring attribution, note that it is always better to explain authors' arguments in your own words and you will receive fewer marks for just copying in someone else's argument rather than actively making it part of your argument.
- The same considerations apply to simply 'cutting and pasting' sections of statute or judgments. As long as these are attributed, you are free to do this, but it may well not improve your mark to do so because you will be using valuable words to set out text that you would not have set out in the originally-scheduled closed-book examination. We would encourage you to adopt the same attitude when thinking about what to quote, how long the excerpts should be, etc. in this open-book assessment as you would have adopted in the closed-book assessment.
- If you are considering working with colleagues to prepare such explanatory paragraphs, you must note that you cannot present others' work as your own in the assessment and such group work submitted for sole assessment would fall under the academic offence of collusion. That is not to say that you should not discuss and debate your ideas with others – that is one of the great joys of being an Oxford Law student – but you must not present joint work as individual work. Similarly, cutting and pasting from essay banks provided by your tutors is plagiarism and cheating.
- Beyond such explanatory paragraphs, it would be surprising if you cut and paste large volumes of material from either your notes or your tutorial essays since that would suggest that you were not answering the precise question set. We would encourage you to ensure that the ease with which you can cut and paste does not distract you from the task in hand.
- If your term-time and revision notes contain large sections of verbatim or almost-verbatim unattributed text from textbooks, it would be plagiarism to cut and paste this into your assessment answers. As you are always encouraged to put external material into your words, it is hoped that students do not have notes of this type but, if you do, you must take care not to inadvertently plagiarise. Unintentional plagiarism based in poor academic practice (note-taking, etc.) is still plagiarism.

Whilst it may seem obvious, we note that any external assistance during the assessment such as discussing ideas with another member of your household is cheating. We have had a number of students raise concerns about the possibility of cheating based on collusion due to the 4-hour completion window being available the course of a 24-hour period. The University will ask you to sign an 'honour code'. We recognise that students may be

tempted to collude to gain advantage. Our Moderators and FHS / DLS Board of Examiners are implementing robust measures to identify instances of possible collusion for further scrutiny. These measures relate both to the examination papers and to student conduct. Please note that Law Moderators and the FHS / DLS Board of Examiners retain an absolute discretion to hold a viva for any student in any subject and we will not hesitate to do so if we have any concerns about possible collusion or other cheating.

If we become aware at any point, even after graduation, that any of our students have engaged in such behaviour, we will work with the University and any relevant professional bodies (such as the SRA or BSB) to ensure that such students face appropriate consequences for their actions. The consequences of cheating may have more far-reaching implications for Law students than those sitting examinations in other subjects.

15. My home/family circumstances will put me at a disadvantage – what will be done to address this? At what stage will it qualify for mitigating circumstances?

The University will be conducting a survey of students' working environments and IT facilities early next term and we encourage you to respond to this when it arrives.

If you believe that you will be negatively impacted in writing your assessments based on your personal circumstances (such as having no quiet place to write your assessments, having significant caring obligations at home, etc.) in a way that goes beyond the broader impact of the current extraordinary state of affairs on your cohort, we would encourage you to submit an application for mitigating circumstances in the examination, MCE (see information at: <https://www.ox.ac.uk/students/academic/exams/guidance?wssl=1>).

The most important point here is to note that this is not a Faculty decision. This must be submitted through your college. The boundary line between what will qualify as mitigating circumstances and what will be seen as mere general disruption due to the impact of the pandemic is unclear. For that reason, the Faculty would encourage any student who is concerned that their circumstances might qualify to talk to their college's Senior Tutor / Academic Office, etc. as appropriate. This is one of the key ways in which we can ensure that the marks awarded represent the fairest possible outcome of the assessment process.

16. How will the withdrawal* rules apply?

We have not yet received specific guidance on this. We will circulate any such guidance we receive. In the meantime, you may wish to discuss the matter with your college's Academic Office / Senior Tutor, as appropriate.

* Colloquially, this is often inaccurately referred to as rustication.

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