



Department
for Education

Law

Draft GCE AS and A level subject content

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The content for AS and A level law

Introduction

1. AS and A level subject content sets out the knowledge, understanding and skills common to all AS and A level specifications in law.

Aims and objectives

2. AS and A level specifications in law should enable students to develop an understanding of both public and private law within the law of England and Wales and develop skills which will prepare them for further undergraduate study and future careers. Specifications should enable students to develop their ability to analyse both legal rules and principles and factual issues. A level specifications should also enable students to construct persuasive legal arguments and to evaluate the strength of such arguments. A level specifications should enable students to develop the ability to think critically about the role of law in society.

3. AS and A level specifications in law must encourage students to:

- develop their knowledge and understanding of the English legal system and areas of both private and public law within the law of England and Wales
- develop an understanding of legal method and reasoning as used by lawyers and the judiciary
- develop and apply the techniques of legal method and reasoning to analyse and offer answers to problems, based on legal principles, legislation and case law
- develop the ability to construct conclusions and communicate legal arguments by reference to appropriate legal authorities

4. In addition, at A level students must:

- develop the ability to communicate persuasive legal arguments by reference to appropriate legal authorities
- be able to demonstrate critical awareness of the influence and operation of the law in society

Subject content

Rules of combination

5. AS specifications must include the study of the nature of law and the English legal system (50%), one area of private law {law of contract or law of tort (25%)} and one area of public law {criminal law or human rights law (25%)}

6. A level specifications must include the study of the nature of law and the English legal system (25%), one area of private law {law of contract or law of tort (25%)}, one area of public law {criminal Law, human rights law (25%)} and one further area of public or private law from the same list of private and public areas of law which have not already been selected {law of contract, law of tort, criminal law or human rights law (25%)}

The nature of law and the English legal system

7. AS and A level specifications must require students to show knowledge and understanding of the nature of law and the English legal system. This must provide the students with the foundation for the study of both private and public law. AS and A level specifications should develop the student's understanding of legal method and reasoning through the study of statutory interpretation and judicial precedent.

Nature of law

8. For AS and A level specifications, the nature of law must include the study of the distinction between enforceable legal rules and principles and other rules and norms of behaviour; criminal and civil law and the different sources of law (including custom, statutory law and the common law). In addition, at A level, specifications must require students to show knowledge and understanding of the following:

- law and society (including the role law plays in society)
- law and morality (including the distinction between law and morals; the diversity of moral views in a pluralist society; the relationship between law and morals and its importance; and the legal enforcement of moral values); and
- law and justice (including the meaning of justice and theories of justice and the extent to which the law achieves justice)

English legal system

9. Specifications must require students to show knowledge and understanding of the following:

- Law making, which must include:

- Parliamentary law making including Green and White Papers; the legislative process; the influences on Parliament; the advantages and disadvantages of influences on law making
 - delegated legislation including types of delegated legislation (orders in council, statutory instruments, by-laws); the control of delegated legislation; the reasons for the use of delegated legislation and advantages and disadvantages of delegated legislation
 - statutory interpretation including the rules of statutory interpretation (the literal, golden and mischief rules); the purposive approach; intrinsic and extrinsic aids and the impact of European Union Law and the Human Rights Act 1998 on statutory interpretation
 - judicial precedent including the doctrine of precedent; the advantages and disadvantages of precedent; the hierarchy of the courts including the Supreme Court
 - law reform including the Law Commission
 - European Union law including the institutions of the European Union; the sources of European Union law and the impact of European Union law on the law of England and Wales
- The legal system including court and tribunal structures and legal personnel, which must include:
 - the civil courts and other forms of dispute resolution including civil courts and the appeal system
 - the criminal process including the criminal courts; appeals, sentencing and court powers; the role of lay people within the criminal process
 - legal personnel including barristers, solicitors, legal executives, regulation of the legal professions, the judiciary
 - access to justice and funding, both public and private

Private law

Law of contract

10. AS and A level specifications which require students to study the law of contract (additional content for A level is identified in bold and in square brackets) must include knowledge and understanding of the following:

- the rules of the law of contract [**and theory in the law of contract**]
- the essential requirements of contract (offer, acceptance, intention to create legal relations and consideration [**including privity of contract**])
- express (including basic exclusion and limitation clauses) and implied terms, [**conditions, warranties and innominate terms, more developed knowledge of exclusion and limitation clauses**]
- [**misrepresentation and economic duress**]

- discharge of contract including breach of contract (actual and anticipatory breach), **[performance and frustration]**
- remedies including damages (compensatory damages; causation and remoteness of damage; mitigation of loss) **[and equitable remedies]**

Law of tort

11. AS and A level specifications which require students to study the law of tort (additional content for A level is identified in bold) must include knowledge and understanding of the following:

- the rules of the law of tort **[and theory in the law of tort]**
- liability in negligence for injury to people and damage to property including the duty of care (neighbour principle and Caparo test); breach of duty (the objective standard of care); and damage (factual and legal causation)
- occupiers' liability (liability in respect of lawful visitors (Occupiers' Liability Act 1957) and trespassers (Occupiers' Liability Act 1984))
- **[torts connected to land (law of nuisance and Rylands v Fletcher)]**
- **[vicarious liability (nature and purpose of vicarious liability; testing employment status; other areas of vicarious liability)]**
- defences (including contributory negligence and volenti non fit injuria and **[defences specific to claims connected to nuisance and Rylands v Fletcher]**)
- remedies (damages including compensatory damages and mitigation of loss; **[and injunctions]**)

Public law

Criminal law

12. AS and A level specifications which require students to study criminal law (additional content for A level is identified in bold) must include knowledge and understanding of the following:

- the rules of criminal law **[and theory in criminal law]**
- general elements of liability (actus reus and mens rea, conduct, voluntary and involuntariness, causation, consequences, fault, intention, recklessness, negligence and strict liability)
- offences against the person (**[fatal offences of murder, voluntary manslaughter and involuntary manslaughter]** and non-fatal offences of assault, battery, assault occasioning actual bodily harm, wounding and grievous bodily harm with intent – Offences Against the Person Act 1861)
- **[property offences, including theft and robbery (Theft Act 1968)]**
- **[capacity defences of insanity and intoxication]**
- necessity defences of self defence, **[duress, and duress of circumstances]**
- **[preliminary offences of attempt]**

Human rights law

13. AS and A level specifications which require students to study human rights law (additional content for A level is identified in bold and in square brackets) must include knowledge and understanding of the following:

- the rules of human rights law **[and theory in human rights law]**
- protection of the individual's rights and freedoms in the UK (including the history of the European Court of Human Rights; the impact of the Human Rights Act 1998; **[the criticisms of human rights; entrenched nature of the Human Rights Act 1998 in the devolutionary settlement of Scotland and Northern Ireland]**).
- specific provisions within the European Convention on Human Rights including Article 8; Article 10; and Article 11 **[with the study of at least two additional Articles]**
- restrictions (including restrictions permitted by the European Convention on Human Rights; public order offences, police powers, interception of communications, duty of confidentiality, obscenity, torts of defamation and trespass, harassment)
- **[enforcement (role of domestic courts, the process of judicial review, the role of the European Court of Human Rights)]**
- reform of the protection of human rights in the UK

Legal skills

14. At AS and A level, specifications must develop competence in using legal skills during the study of the nature of law, legal issues and the English legal system, and the private and public areas of substantive law.

15. AS and A level specifications must require students to demonstrate their ability to analyse a factual scenario by identifying the key facts from which legal issues arise.

16. AS and A level specifications must require students, when formulating a legal argument, to be able to analyse legislation by applying the rules and principles of statutory interpretation; and analyse case law by applying the doctrine of precedent.

17. AS and A level specifications must require students, in respect of each private and public area of substantive law they are required to study, to analyse, apply and evaluate the legal rules and principles of that area of law. Analysis and application must include the ability to identify and breakdown into constituent parts the relevant legal rules and principles for each area of law and apply those legal principles to a hypothetical scenario. Evaluation must require students to formulate a reasoned argument to support a particular proposition by reference to the relevant legal rules and principles that support that argument.

18. AS and A level specifications must require students to construct clear, concise and logical legal arguments which are substantiated by legal authority, using appropriate legal

terminology. In addition, at A level students must be required to construct a persuasive argument including instances where they have recognised that there are no clear legal precedents or conflicting precedents to solve a problem.

19. A level specifications must require students to analyse and critically evaluate legal issues by identifying different perspectives, being able to support their identification of the strongest viewpoint and demonstrating the ability to counter alternative viewpoints.



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