



AS level

Law

**Law
'A' level**

Introduction

Welcome to your Oxford Open Learning 'A' level Law course! This pack is suitable for students aiming to finish studying at AS level in (or after) **2009** and/or A2 level in (or after) **2010**.

The Specification (or Syllabus)

This course has been designed to give you a full and thorough preparation for the AS level or A-level Law specification, set by the Assessment and Qualifications Alliance (AQA).

The **Subject Code** for entry to the AS only award is **1161** (from 2009).

The **Subject Code** for entry to the Advanced level award is **2161** (from 2010).

These are the first years in which these exams are set, although it replaced a very similar specification for earlier years.

Private Candidates

The AQA specification is open to private candidates. Private candidates should contact AQA for a copy of '*Information for Private Candidates*'.



Oxford Open Learning

The Arrangement of Lessons

AS Units

Unit One Law Making and the Legal System

Section A: Law Making

<i>Lesson</i>	<i>Subject</i>	<i>Reading</i>
1.	The Formal Legislative Process	<i>AS Law for AQA:</i> Mod 1, Units 1 & 2
2.	Influences on Parliament	<i>AS Law for AQA:</i> Mod 1, Units 3 & 7
3.	Delegated Legislation <i>Tutor-marked Assignment A</i>	<i>AS Law for AQA:</i> Mod 1, Unit 4
4.	Statutory Interpretation	<i>AS Law for AQA:</i> Mod 1, Unit 5
5.	Judicial Precedent <i>Tutor-marked Assignment B</i>	<i>AS Law for AQA:</i> Mod 1, Unit 6

Section B: The Legal System

6.	The Civil Courts and other forms of dispute resolution	<i>AS Law for AQA:</i> Mod 2, Units 6 & 7
7.	The Criminal Courts and lay people <i>Tutor-marked Assignment C</i>	<i>AS Law for AQA:</i> Mod 2, Units 1 & 5
8.	The Legal Profession, other sources of advice, & funding	<i>AS Law for AQA:</i> Mod 2, Units 2 & 4
9.	The Judiciary <i>Tutor-marked Assignment D</i>	<i>AS Law for AQA:</i> Mod 2, Unit 3

Unit Two **The Concept of Liability**

Section A: **Introduction to Criminal Liability**

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| 10. Underlying Principals of Criminal Liability | <i>AS Law for AQA:</i>
Mod 3, Units 1-4 |
| 11. The Criminal Courts:
Procedure and Sentencing
<i>Tutor-marked Assignment E</i> | <i>AS Law for AQA:</i>
Mod 2, Unit 5 &
Mod 3, Unit 5 |

Section B: **Introduction to Tort**

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| 12. Liability in Negligence | <i>AS Law for AQA:</i>
Mod 3, Units 6 & 7 |
| 13. The Civil Courts:
Procedure and Damages
<i>Tutor-marked Assignment F</i> | <i>AS Law for AQA:</i>
Mod 2, Unit 6 &
Mod 3, Unit 7 |
| Summary of Cases
Glossary of Legal Terms | |

A2 Units

Unit Three **Criminal Law (Offences against the Person)**

Section A: **Criminal Law (fatal and non-fatal offences against the person)**

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|--|---|
| 14. Criminal Law: Defences | <i>A2 Law for AQA:</i>
Mod 4A, Unit 5 |
| 15. Criminal Law: Fatal Offences
against the Person | <i>A2 Law for AQA:</i>
Mod 4A, Units 1-3 |
| 16. Criminal Law: Non-Fatal Offences
against the Person
<i>Tutor-marked Assignment G</i> | <i>A2 Law for AQA:</i>
Mod 4A, Unit 4 |

Unit Four Criminal Law (Offences against Property) and Concepts of Law

Section A: Criminal Law (offences against property)

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| 17. | Theft and Robbery | <i>A2 Law for AQA:
Mod 5A, Units 1 & 2</i> |
| 18. | Burglary, Blackmail, Fraud and Criminal Damage
<i>Tutor-marked Assignment H</i> | <i>A2 Law for AQA:
Mod 5A, Units 3-5</i> |

Section C: Concepts of Law

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| 19. | Law, Morality and Justice
<i>Tutor-marked Assignment I</i> | <i>A2 Law for AQA:
Mod 6, Units 1 & 2</i> |
| 20. | Balancing Conflicting Interests | <i>A2 Law for AQA:
Mod 6, Unit 3</i> |
| 21. | Fault and Judicial Creativity
<i>Tutor-marked Assignment J</i> | <i>A2 Law for AQA:
Mod 6, Units 4 & 5</i> |

Summary of Cases
Glossary of Legal Terms

Textbooks

This course is NOT self-contained, and has been designed to be used in conjunction with:

Jimmy O'Riordan: *AS Law for AQA*, Heinemann
ISBN: 0435 55160 4

and

Jimmy O'Riordan: *A2 Law for AQA*, Heinemann
ISBN: 0435 55161 2

One easy way of acquiring accompanying textbooks is through the Oxford Open Learning website (www.ool.co.uk).

Students taking the Criminal Law options selected by this course will find the following book helpful:

Claire Strickland: *Criminal Law....* Longman ISBN: 0 582 34024 1

For Unit 2, Section B (Tort), the following book is helpful:

Catherine Elliott and Frances Quinn: *Tort Law.....*Longman (2003)
ISBN: 0582 47331 4

This course avoids Contract Law options but students who wish to explore this area of the law in more detail will find the following book helpful:

Catherine Elliott and Frances Quinn: *Contract Law....* Longman
ISBN: 0 582 47330 6

AQA publishes a *Resources* list, full of useful supporting texts, which can be viewed on the AQA website or purchased from AQA.

The following texts, which are not essential to the course, will be found to be of great interest and assistance:

- * Elliott & Quinn: *Law for AQA.....* Longman
(ISBN: 0-582-42362-7)
- * Hunt: *A Level and AS Level Law.....* Sweet and Maxwell
(ISBN: 0-421-79830-0)
- * Strickland: *The English Legal System.....* Longman
(ISBN: 0-582-31956-0)

Also well worth acquiring are the examination board's Marking Schemes, which give details on how individual papers are marked and what constitutes a good answer.

In all cases, it is essential to consult only the latest editions.

Aims and Objectives of the Course

This course has been designed and written with the purpose of preparing you to sit and *pass* the Advanced Subsidiary (AS) and the Advanced Level (A2) Law Examination of the AQA (Assessment and Qualifications Alliance). As required, the course enables you to study the structure and operation of certain major aspects of the English legal system and selected areas of substantive law, and to develop skills associated with an understanding of the law and its operation in society.

At the end of the course you should:

1. have a knowledge and understanding of the processes by which and the structure through which law is created, administered and changed;
2. have an ability to analyse factual problem situations and apply the appropriate substantive legal rules and principles;
3. have an ability to evaluate critically the appropriateness and effectiveness of particular legal rules, institutions and procedures in fulfilling their functions;
4. have an ability to appreciate the effects of law and the legal system upon the individual and society.

Using the Course Materials

Lesson Structure and Assessment

Lessons are arranged to allow for progression through the AQA specifications from Unit 1 to Unit 4. Throughout the lessons, you will find Revision Points, Self-Assessment Tests and Tutor-Marked Assignments. You should work through all relevant exercises.

Tutor-Marked Assignments

At the relevant point in the course, you should attempt the tutor-marked assignments. It will be most helpful if you attempt these under examination conditions, however this is not obligatory.

It is very important that you **quote cases** to support your arguments, both in your assignments and in the exam. As you work through these course materials, make your own notes on some cases that are relevant to topics raised in the lessons. Look for

suitable cases in your textbook, in library books, on the internet, in the lessons and in the Summary of Cases at the back of this pack.

Suggested Answers

Suggested answers will be made available to you with your marked paper (if you are not working with a tutor you will have received the suggested answers upon enrolment). The tests are progressive both as regards difficulty and as regards knowledge. They have been designed not only to test your understanding of the specific lessons to which they relate and your ability to apply the skills which you have learnt to problematical situations, but also to provide you with a means of revising the content of earlier lessons.

A careful study of the Suggested Answers will be of great assistance to you with problems of technique, but remember that the Suggested Answers are the product of experience and are based on careful reading and analysis of the question and the drafting of a preliminary answer plan.

Problems and Difficulties

You will not go through the entire course without coming up against some things that you do not understand. If you find that something still does not make sense after you have been through all the relevant textbooks, do not hesitate to ask your tutor who should be only too pleased to help you.

It is important to notice that not all the lessons are of equal length. This is inevitable since some subjects can be dealt with in relatively short passages of notes and texts, whereas others require lengthier treatment.

Moreover, not all lessons are supplied with Self-Assessment Tests and where this is the case you should read with great care the portion of the text which has been suggested for study.

The 'AS' level and 'A' level System

The Advanced Subsidiary (AS) Level

Advanced Subsidiary (AS) courses may be used in one of two ways:

- As a final qualification, allowing candidates to broaden their studies and to defer questions about specialism;
- As the first half (50%) of an Advanced Level qualification, which must be completed before an Advanced Level award can be made.

Advanced Subsidiary is designed to provide an appropriate assessment of knowledge, understanding and skills expected of candidates who have completed the first half of a full Advanced Level Qualification.

The Advanced Level (AS + A2)

The Advanced Level examination is in two parts:

Advanced Subsidiary (AS) - 50% of the total award;
A second examination, called A2 - 50% of the total award

Most Advanced Subsidiary and Advanced level courses are modular. The AS level normally comprises three teaching and learning modules and the A2 comprises a further three teaching and learning modules. These modules generally match the Units of Assessment (or Exam Papers).

Examination Flexibility

The new style 'A' levels allow for more flexibility in the taking of exams. The two most popular options are:

- AS is completed at the end of one year and A2 at the end of the second year;
- AS and A2 are completed at the end of the same year.

Both of these options are open to students following this course as it is divided into two halves and follows the same modular sequence as the specification.

Grading and Shelf-Life

The AS qualification will be graded on a five-point scale: A, B, C, D and E. The full A level qualification will be graded on a six-point scale: A*, A, B, C, D and E. To be awarded an A* candidates will need to achieve a grade A on the full A level qualification and an A* on the aggregate of the A2 units.

Unit 4 2 hours Subject Content	Unit 4	25% of the total 'A' level marks Criminal Law (Offences against Property) and Concepts of Law
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AQA offers the option of studying either Sections A and C or Sections B and C. This course prepares you for Sections **A** and **C**.

In the examination there will be two multi-part questions based on "problem" scenarios in section A and section B. You should answer **one** of the multi-part questions in section A. Do not attempt to answer either of the section B questions.

In addition, there will be a choice of three essay questions in section C. You should answer **one** of these.

Studying the Syllabus

You should be sure to acquire your own copy of the syllabus, either via the AQA Publications Dept or from the website www.aqa.org.uk.

The syllabus can be purchased from

Publications,
AQA, Aldon House,
39, Heald Grove,
Rusholme,
Manchester
M14 4NA (tel: 0161-953-1170)

or downloaded from
www.aqa.org.uk/qual/gce/pdf/AQA-2160-W-SP-10.PDF.

We advise that you obtain a copy of the syllabus so that you can assess which topics you have covered in the most detail and which ones you will feel happiest about in the exam. AQA can also provide advice booklets on your course, including 'Supplementary Guidance for Private Candidates'. As you approach the examination, it will also be helpful to purchase and tackle past papers from AQA.

Using the Internet

All students would benefit from access to the Internet. You will find a wealth of information on all the topics in your course. As well as the AQA website (www.aqa.org.uk), you should get into the habit of checking the Oxford Open Learning site (www.ool.co.uk) where you may find news, additional resources and interactive features as time goes by. If you have not already done so, you may register for your free copy of *How to Study at Home*, our 200-page guide to home learning, or enrol on further courses. Put it on your Favourites list now!

Further Guidance

The Use of Cases

English Law is essentially a case law system and part of the English legal technique is the use of cases as authorities. You do not have to have a detailed knowledge of every case mentioned in the course but it is wise to study carefully those to which your attention is directed.

Because the English Courts follow the principle of *stare decisis*, it is essential for you to quote those cases which support your contentions and opinions. It is also necessary for you to be aware of those precedents which do *not* support your argument and which you could refute if necessary. To do this with confidence is the hallmark of having a legal mind!

The refutation of a leading case is known as “distinguishing” that case from the current one under consideration. This is done by showing that the facts are not “on all fours” in the two cases being discussed or by showing that the decision in one was reached by differing considerations to that obtaining in the other.

It is also possible in some cases to argue that a certain precedent was wrongly decided. This can only be done where the precedent is not binding on the Court before which the current case is being tried. You should read pages 34 onwards of your textbook where this matter is fully explained under the heading “Stare decisis”.

When citing a case, you should if possible name the claimant and defendant together with a brief synopsis of the facts of the case. If either claimant’s or defendant’s name escapes you, then you can refer to “...in a case where XXX was claimant”. Alternatively, you can refer only to the most salient fact, such as “... a case where a claimant became ill after drinking from a stone bottle, afterwards found to contain a decomposed snail...”

You do *not* need to quote the date and references. Incidentally, it is useful to note that when the date is enclosed in square brackets [...] then the date is essential if you want to refer to it quickly in a law library. But where the date is in round brackets (...) the date is not essential for speedy reference.

Ratio Decidendi and Obiter Dicta

Two Latin phrases that will occur fairly frequently in your reading are *ratio decidendi* and *obiter dicta*. The former means the reason for the decision, that is to say the very fundamental point of law that was considered by the judge(s) and as a result of which consideration, the decision was given. The latter phrase refers to

remarks made by the judge(s) “by the way” and which, whilst perhaps of importance, were not basic and essential to the decision. It is vital that you understand these two phrases and that in all cases you are able to discern the point that is being decided. You are very strongly advised to read the relevant portions of *Learning the Law* (op cit). It should be remembered that it is only the *ratio* which is binding on subsequent courts and not the *obiter*.

Examination Technique

Obviously your ultimate aim in taking this course will be to take and pass an examination and, as stated earlier, the course has been specifically designed with this end in mind. However, as the examination approaches there will undoubtedly be certain queries you will have as regards examination technique.

The most common question asked by students in this regard concerns the approach to, and the answering of, problematical questions. The key to answering such questions is proper preparation. Read through the question several times, analysing the situation presented as you do so. Make note of any points you think significant, cases that you think relevant, etc.

These notes will act as the basis of your essay plan and you should at this juncture organise these notes into a logical order. Define relevant basic terms, set out basic rules, etc. In actually writing your answer, remember to state the relevant law first and, having done so, apply it to the facts presented in the question. Remember also to examine all the possibilities to which the facts give rise and to make an effective use of the relevant case law.

Another query raised by students concerns the use of cases and the importance of including names, dates, and facts of cases in an answer. Firstly, if you cannot remember the name of a case, but you can recall the facts, then include the facts in your answer, but introduce them in some other way, e.g. ‘In a decided case...’ Secondly, if you know the name of the case but cannot recall its facts, it is acceptable for the case name alone to follow the principle. But if this is the only way you introduce cases your answer will look unbalanced. Thirdly, there is no need to remember case dates or law report references. Fourthly, try to choose cases that are relevant to the facts of the problem and illustrate those facts.

Legal Thought and Logic

As you read the various chapters of the text-book and the reports of various cases, you will note how the legal mind tends to analyse the various problems and to classify them in certain ways. It is not always easy to follow the logic of a certain decision but if you persevere, light will dawn!

Jurisprudence is not one of the subjects of your examination but, nevertheless, you may find it useful to read the article on "Jurisprudence" in, say, the *Encyclopaedia Britannica* or another of similar calibre.

In the majority of cases the law itself is not in dispute – it is the facts that have to be decided. Once the facts are ascertained it is necessary to apply the law to those facts. It is here that lawyers are bound by either statutes, precedents (i.e. case law) or equity and they do not apply what may seem to them to be the ideals of justice. The ideals of justice are matters for Parliament to consider or for the consideration of judges where the law itself is uncertain or productive of two conflicting possibilities.

Legal Essay Writing

How should essays be written? A good approach is given below. Read it before you begin the course and return to it as you tackle your first pieces of written work.

A. The Approach

1. Read the question fully and be sure you understand it.
Ask yourself the following questions:
 - (a) What is being asked in the question?
 - (b) What are the nuances?
2. Brainstorm the question.
3. Order the brainstorm.
4. Keep referring back to the question to make sure you are not straying from the point.
5. Draft an answer and read it through.
Ask yourself the following questions:
 - (a) Have I answered the question?
 - (b) Have I covered all the points?
6. Make a final copy.

B. The Style

1. **The Introduction**
 - (a) Outline your answer in general terms.
 - (b) Keep this paragraph short.
2. **The Main Body of the Essay**
 - (a) Divide into paragraphs - each paragraph **MUST** relate to the paragraph before and after.
 - (b) Each paragraph needs to be a complete entity in itself.
 - (c) Keep sentences short.
3. **The Conclusion**
 - (a) Give a résumé of what has been said.

- (b) You may give your views but remember the way it is done. 'It is submitted that...'
- (c) Keep it short.

C. Content of the Essay

(i) Civil

A legal essay is divided into two distinct areas.

1. The Thought Processes

- (a) What is the Common Law?
- (b) What is the Statute Law?
 - (i) What is the English Law?
 - (ii) What is the European Law?
 - (iii) What is the International Law?
- (c) Is there case law?
 - (i) What are the leading cases?
 - (ii) What are the general principles?
 - (iii) How do these general principles apply?
 - (iv) How do the facts of the question fit into the principles?
- (d) Is there academic law on this point?
 - (i) Are there contradictions?
 - (ii) Where are the points of difference?
- (e) Your ideas
 - (i) There is nothing wrong with having an opinion.
 - (ii) Phraseology is important. 'It is submitted that...' or 'It is respectfully submitted that...'

2. The Legal Presentation

Now that you have ordered your essay in terms of English and the Legal Structure you must turn to the presentational skill.

REMEMBER; there are always two sides to every argument and then a judgement.

In civil law the parties are called the Claimant (the person who brings the case) v (versus) the Defendant (the person who defends the action) and there is the judge who decides the case. All parties have to be discussed in the essay. As such you must take account of each party and the opposing arguments. In an essay you need to start with the claimant's case and this is followed by the defendant's and then the judgment.

- (a) **The Claimant.** Follow the models above and look at the arguments from the claimant's point of view.
- (b) **The Defendant.** Follow the models above and look at the arguments from the defendant's point of view.

In each case the law may well be the same. It is your job to try to tease out the differences. Use words like 'MAY, MIGHT POSSIBLY, IF, BUT, THEN.'

Use authorities to show the differences between the principle and what the facts are in the case under consideration.

- (c) **The Judgment.** Try to give an assessment of the way you think the case is likely to go. When making such a decision the words to use are 'ON THE BALANCE OF PROBABILITIES'. Do not say 'beyond all reasonable doubt'.

(ii) Criminal (If Applicable)

A legal essay is divided into two distinct areas. Although the areas have to be distinct from the model point of view within sentences or paragraphs the points still have to be raised

1. The Thought Processes

- (a) What is the Common Law?
- (b) What is the Statute Law?
 - (i) What is the English Law?
 - (ii) Isolate the Actus Reus and Mens Rea for each substantive crime.
- (c) Is there case law?
 - (i) What are the leading cases?
 - (ii) What are the general principles?
 - (iii) How do these general principles apply?
 - (iv) How do the facts of the question fit into the principles?
- (d) Is there academic law on this point?
 - (i) Are there contradictions?
 - (ii) Where are the points of difference?
- (e) Your ideas
 - (i) There is nothing wrong with having an opinion.
 - (ii) Phraseology is important. 'It is submitted that...' or 'It is respectfully submitted that...'

2. The Legal Presentation for Criminal Essays

Now that you have ordered your essay in terms of English and the Legal Structure you must turn to presentational skills.

REMEMBER; there are always two sides to every argument and then a judgement. In civil law the parties are called the Prosecution or Prosecutor (the person who brings the case) v (versus) the Accused Defendant (the person who defends the action) and then

there is the judge who decides the case. All parties have to be discussed in the essay. As such you must take account of each party and the opposing arguments. In an essay you need to start with the claimant's case and this is followed by the defendant's and then the judgement.

- (a) **The Prosecutor** Follow the models above and look at the arguments from the claimant's point of view.
- (b) **The Accused** Follow the models above and look at the arguments from the defendant's point of view.

In each case the law may well be the same. It is your job to try to tease out the differences. Use words like MAY, MIGHT POSSIBLY, IF BUT, THEN.' Use authorities to show the differences between the principle and what the facts are in the case under consideration.

- (c) **The Judgment.** Try to give an assessment of the way you think the case is likely to go. When making such a decision the words to use are 'BEYOND ALL REASONABLE DOUBT'.

Finally, good luck!

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