Writing legal essays and answering problem questions for modular subjects and exams – a Guide.

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1. General citation of authorities

One of the most important requirements for answering questions on the law is that you must be able to back the points you make with authority, usually either a case or a statute. It is not good enough to state that the law is such and such, without stating the case or statute which says that that is the law.

Higher marks will be given where the candidate has cited authorities by name; quite simply it helps to give the impression that you know your material thoroughly, rather than half-remembering something you heard once in class.

This means that you must be prepared to learn fairly long lists of cases. For exam purposes you need to memorise the name of the case, a brief description of the facts, and the legal principle which the case established. Once you have revised a topic well, you should find that a surprisingly high number of cases on that topic begin to stick in your mind anyway, but there will probably be some that you have trouble recalling.

Knowing the names of cases makes you look more knowledgeable, and also saves writing time in the exam, but if you do forget a name, referring briefly to the facts will identify it. It is not necessary to learn that the dates of cases, though it is useful if you know whether it is a recent or an old case. N.B Dates are usually required for statutes.

You need to know the facts of a case in order to judge whether it applies to the situation in a problem question. However, unless you are making a detailed comparison of the facts of a case and the facts of a problem question, in order to argue that the case should or could be distinguished, you should generally make only brief reference to facts, if at all – long descriptions of facts waste time and earn few marks.

2. Is there always a right answer?

In law exams, there is not usually a right or wrong answer. What matters is that you show you know what type of issues you are being asked about. Essay questions are likely to ask you to ‘discuss’, ‘criticize’, or ‘evaluate’, or ‘examine’. You simply need to produce a good range of factual and critical material in order to do this. Please do not reproduce large chunks of lecture notes! The lecturer will want to see evidence that you understand the topic you are writing about.

3. Breadth and depth of content
Where a question seems to raise a number of different issues – as most do – you will achieve better marks by addressing all or most of those issues than by writing at great length on just one or two. Law examinations tend to contain a mixture of essay questions and what are known as ‘problem questions’. Tackling each of these questions involves slightly different skills.

**Essay questions**

1. **Answer the question asked**

Over and over again, examiners complain that candidates do not answer the question they are asked – so if you can develop this skill, you will stand out from the crowd. You will get very few marks for simply writing all you know about a topic, with no attempt to address the issues raised in the question. If you can adapt the material that you have learnt on the subject to take into account the particular emphasis given to it by the question, you will do well. A good idea is to get some past exam papers from the library.

2. **Plan your answer**

Under the pressure of time, it is tempting to start writing immediately, but five minutes spent planning each essay question is well worth spending – it may mean that you write less overall, but the quality of your answer will almost certainly be better. The plan need not be elaborate: just jot down everything you feel is relevant to the answer, including case names, and then organize the material into a logical order appropriate to the question asked. It should go without saying that you should always start the essay with an introduction which sets out what you intend to cover in the essay and for what purpose. This way the examiner will see that you have thought about the substantive issues in the question you have been asked.

3. **Provide analysis and fact**

Very few essay questions require merely factual descriptions of what the law is; you will almost always be required to analyse the factual content in some way, usually highlighting any problem or gaps in the law and suggesting possible reforms.

Where a question uses the word ‘critically’, as in ‘critically describe’ or ‘critically evaluate’, the examiners are merely drawing your attention to the fact that your approach should be analytical and not merely descriptive; you are not obliged to criticize every provision you describe. Having said that, even if you do not agree with particular criticisms that you have read, you should still discuss them and say why you do not think they are valid. There is very little mileage in an essay that simply describes the law and says it is perfectly satisfactory. Descriptive essays such as these will provide you with
very few marks. Do not be afraid to apply an opinion of your own! This is your opportunity to discuss what you think is right or wrong with a particular topic.

4. Structure

However good your material, you will gain really high marks if you structure it well. Making a plan for each answer will help in this, and you should also try to learn your material in a logical order – this will make it easier to remember as well. The exact construction of your essay will obviously depend on the question, but you should aim to have an introduction, then the main discussion, and a conclusion. Where a question is divided into two or more parts, you should reflect that structure in your answer.

A word about conclusions: it is not good enough just to repeat the question, turning it into a statement, for the conclusion. Your conclusion will often summarize the arguments that you have developed during the course of your essay.

Problem questions

In problem questions, the exam paper will describe an imaginary situation, and then ask what the legal implications of the facts are – usually by asking you to advise one of the parties involved.

1. Read the question thoroughly

The first priority is to read the question thoroughly, at least a couple of times. Never start writing until you have done this, as you may well get halfway through and discover that what is said at the end makes half of what you have written irrelevant – or at worst, that the question raises issues you have no knowledge of at all.

2. Answer the question asked

This means paying close attention to the words printed immediately after the situation is described. If a question asks you to advise one or other of the parties, make sure you advise the right one! Think about the issues in the case. What case law would you apply? Are the cases you note really applicable in this problem question? How do you think it might be judged in a court of law? Answer the question in a logical way.

3. Apply the law to the facts

Remember this is a law examination. You will be required to cite relevant case law and statute. It is not enough simply to describe the law without applying it to the facts.
Unlike essay questions, problem questions are not usually seeking a critical analysis of the law. If you have time, it may be worth making the point that a particular area of the law you are discussing is problematic, and briefly stating why, but if you are addressing all the issues raised in the problem you are unlikely to have much time for this. What the examiner is looking for is essentially an understanding of the law and an ability to apply it to the particular facts given.

4. Structure

The introduction and conclusion are much less important for problem questions than for essay questions. Your introduction can be limited to pointing out the issues raised by the questions, or, where you are asked to ‘advise’ a person mentioned in the problem, what outcome that person will be looking for. You can also say in what order you intend to deal with the issues. It is not always necessary to write a conclusion, but you may want to summarize what you have said, highlighting whether, as a result, you think the party you have advised has a strong case or not.

There is no set order in which the main part of the answer must be discussed. Sometimes it will be appropriate to deal with the problem chronologically, in which case it will usually be a matter of looking at the question line by line, while in other cases it may be appropriate to group particular issues together. If the question is broken down into the same parts – a, b, c and so on – the answer can be broken down into the same parts.

Whichever order you choose, try to deal with one issue at a time. Jumping backwards and forwards gives the impression that you have not thought about your answer. If you work through your material in a structured way, you are also less likely to leave anything out.