

A LEVEL 9084

LAW

LAW OF TORT

TOPICAL PAPER 4

WITH MARK SCHEME & EXAMINER REPORT

June 2011 – November 2023

FOR CAMBRIDGE 202' and onwards EXAMS

AIZAZ RAOOF


 **STUDENTS RESOURCE**

Airport Road :
Shop 23-24,
Basement Faysal Bank,
Near Yasir Broast,
Airport Road, Lahore.
Mob: 0321-4567519
Tel: 042-35700707

DHA Ph-V:
Plaza No. 52-CCA, Ph-5
DHA Lahore Cantt.
Mob: 0321-4924519
Tel: 042-37180077

Johar Town :
Opp. Beaconhouse JTC
Adjacent Jamia Masjid PIA
Society Shadewal Chowk,
Johar Town Lahore.
Mob: 0313-4567519
Tel: 042-35227007

Bahria Town:
70 - Umer Block
Main Boulevard
Commercial Area
Bahria Town Lahore.
Mob: 0315-4567519
Tel: 042-35342995

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Compiled by: Sahibdaza Aizaz Raof [+92322-4929484]
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Question Paper
9084/42/June/2011

LAW
Paper 4 Law of Tort
TIME

9084/42
May/June 2011
1 hour 30 minutes

SECTION B**Question 4**

Larsen plays for the Metros ice hockey team. During a match against the Bulldogs, Larsen finds himself playing against Pedersen, his former chemistry teacher. He has always had a grudge against Pedersen for giving him poor grades at school.

Larsen discovers that Pedersen is a very good player and finds it very difficult to play against him. After one particular incident on the ice, Larsen verbally threatens to injure Pedersen. Later in the match, after Pedersen has scored two goals against the Metros, Larsen takes the opportunity to tackle him fiercely and consequently Pedersen suffers two broken ribs. Pedersen is unable to work for twelve weeks and loses income amounting to £10 000.

Pedersen sues Larsen in trespass to the person. Advise Larsen of his potential liability and evaluate any potential defences that he might raise. [25]

Mark Scheme

By way of introduction, candidates might introduce us to the three arms of trespass to the person: assault, battery and false imprisonment. Candidates should immediately recognise the irrelevance of false imprisonment to the scenario. Assault should be defined and explained as a tort. Could Larsen's verbal threat of physical violence towards Pedersen amount to an actionable assault in tort law? Was immediate violence feared by Pedersen because of accompanying actions, for instance (e.g. *R v Meade*, *R v Constanza*, *Turbervell v Savage*)? Candidates should explore the issue here. Does the tackle which resulted in injury amount to a battery in tort law? Was it deliberate or merely careless? Was it hostile (e.g. *Letang v Cooper*, *Wilson v Pringle*)? Candidates must explore these issues. Ordinarily, it could be argued that ice hockey players participate in their sport in full knowledge that it is a contact sport and that injuries can result from such contact: the participants frequently make contact with one another by the very nature of the game. Hence, in most circumstances consent is seen to be given to the tort of trespass to the person that would otherwise be actionable as a result of the unlawful physical force imposed on one another during the game. Debate is called for to distinguish mere knowledge of risk from consent to risk (*Bowater v Rowley Regis Corporation*). Debate should then follow as to whether the fierce tackle in question was undertaken in a deliberate attempt to harm or whether it was indeed of itself an act of negligence giving rise to harm (*Condon v Basi*). In either event it would seem unlikely that Pedersen could be said to have consented to such harm by simply taking part in the game. If Pedersen is thus able to refute a defence of consent, would he be able to recover his loss of earnings? Candidates should discuss the concept of compensation and in particular whether the loss suffered is likely to be compensated in the event of a court case. A clear, compelling conclusion is expected.

Examiner's Report

This question was popular. Most candidates were able to give a reasonable explanation of the rules relating to assault and battery; although some explained false imprisonment in detail, which in fact was not relevant to the facts given. The stronger candidates were able to identify and discuss the issues of consent and hostility, although relatively few candidates were able to present a detailed account of the relevance of consent in the context of sport. Few candidates addressed the issue of damages and loss of earnings effectively.

**Question Paper
9084/43/June/2011**

**LAW
Paper 4 Law of Tort
TIME**

**9084/43
May/June 2011
1 hour 30 minutes**

SECTION B**Question 6**

Owen is lead singer with a band. He is in a bar having a drink with his friend Marcus when he is recognised by Bobby, a fan of the band.

Bobby approaches Owen several times during the evening, trying to persuade him to sing to the bar's customers. Bobby shouts abuse at Owen when he refuses to sing, so Owen gets up from his seat and moves threateningly towards him. When their faces are no more than a few centimetres apart, Owen tells Bobby that if he wasn't with his friend Marcus he would hit him. He gives Bobby a gentle push on the shoulder as he speaks.

Owen returns to his table. Bobby resumes his verbal abuse so Owen and Marcus decide to leave. Owen stands up and reaches for his wallet in his pocket so that he can pay for their drinks. Thinking that Owen is pulling out something with which to hit him, Bobby quickly picks up a chair and hits Owen over the head, knocking him out.

Marcus then grabs Bobby from behind, pushes him into the toilets and locks the door behind him. Bobby remains locked in the toilets until the police arrive about an hour later.

Advise Bobby, Owen and Marcus as to their respective liability, if any, in trespass to the person following this incident. [25]

Mark Scheme

Candidates could set their response in context by explaining that the tort of trespass has three forms: to land, to the person and to goods. This problem concerns trespass to the person, which also takes three forms: assault, battery and false imprisonment. Candidates should offer clear, concise definitions and brief explanations of each. Candidates should then address the four potential issues arising from the facts of the scenario. Could Bobby's verbal abuse amount to an assault? In general, words alone will not amount to an assault unless accompanied by threatening actions as they should not create reasonable fear that a battery is imminent (*Thomas v National Union of Mineworkers*). Consequently, could Owen's menacing action in facing up to Bobby amount to an assault? Quite probably, but for the words used in conjunction with the menacing movement (*Turbervell v Savage*); however, he then pushes Bobby's

shoulder, albeit lightly – could this amount to a battery as it is deliberate, illegal and ‘forceful’? What about Bobby’s act of hitting Owen with a chair – was this mere retaliation or self-defence, given what Bobby thought that Owen was going to do? If it is considered that his act was one of self-defence this might prove an adequate defence to any action taken by Owen against Bobby for battery. Did Marcus then falsely imprison Bobby, when he locked him in the toilet – or could this merely amount to a citizen’s arrest? This would appear to have been his intent, but was there any reasonable means by which Bobby could have escaped from the toilets had he so wished? The principles must be applied to the scenario and clear, compelling conclusions drawn.

Examiner’s Report

This was a relatively popular question. Candidates were able to explain the elements of trespass to the person although the quality of the explanations varied significantly. Stronger candidates presented clear definitions supported by relevant authority. Some candidates presented very basic and sometimes inaccurate explanations. Stronger candidates were able to address effectively the relevant issues of verbal abuse as a potential assault, self-defence, and the potential false imprisonment.

Question Paper	
9084/41/November/2011	
LAW	9084/41
Paper 4 Law of Tort	October/November 2011
TIME	1 hour 30 minutes

SECTION A

Question 3

The law of tort aims to protect victims from harm, to deter prospective tortfeasors and to compensate those who do suffer harm or injury.

With reference to the tort of trespass to the person, critically assess the extent to which these aims are met by the law. [25]

Mark Scheme

This question invites candidates to explain what is meant by trespass to the person and to explain the forms that it takes, i.e. assault, battery and false imprisonment. A sound factual response limited in scope to such description should be rewarded but not with marks beyond band 3. The question expects candidates to look at the three forms of trespass to the person but in the light of the three aims given in the question. Candidates should therefore address the question of what protection is afforded by the rules, what deterrent value they might have and whether the claimant does get compensated. Candidates’ responses should refer to case law whenever appropriate. Purely descriptive responses without the requisite assessment will be limited to marks within band 3

Examiner’s Report

Well-prepared candidates gave an appropriate account of the three arms of trespass to the person and analysed them in the context of the aims of protection, compensation and, to a lesser extent, deterrence. Responses were often thoughtfully presented and certainly amounted to a true assessment as required by the question. Less well-prepared candidates needed to be more selective of material to

include in their responses, as there was a tendency to introduce details of assault, battery and false imprisonment, whether these were required by the question or not. In the majority of these cases, the stated aims were not considered by the candidate.

**Question Paper
9084/41/June/2012**

**LAW
Paper 4 Law of Tort
TIME**

**9084/41
May/June 2012
1 hour 30 minutes**

SECTION A

Question 2

False imprisonment arises from a complete deprivation of personal liberty of which the innocent party is aware.

With reference to appropriate case law, consider the accuracy of the above statement. [25]

Mark Scheme

Trespass to the person has now lost most of its significance in litigation in respect of personal injury and today arises mostly in the area of civil liberties, often associated with allegations of improper police conduct with regard to interference with freedom of movement. Trespass to the person, in the form of false or wrongful imprisonment, can be defined as the unlawful prevention of another from exercising their freedom of movement. Candidates are expected to analyse the components of the tort, viz. imprisonment as in a total deprivation of the ability to move in any direction (e.g. Bird v Jones), a deliberate, positive act as opposed to a careless one (e.g. Sayers v Harlow UDC), knowledge of detention (e.g. Meering v GrahameWhite Aviation Co Ltd, Murray v Ministry of Defence) and the mental element (R v Governor of Brookhill Prison), and the possible defences thereto. Candidates are expected to draw clear conclusions from their deliberations in response to the question posed. Responses that are limited to factual recall, however detailed, will be restricted to band 3 marks.

Examiner's Report

This question proved to be reasonably popular. Again there were some strong responses in which candidates were able to present an accurate account of the legal rules relating to False Imprisonment and undertake an evaluation of the key elements of the question. However again the weaker candidates focused on explanation without the required evaluation and therefore achieved marks no higher than the maximum for Band 3.

Question Paper
9084/42/June/2012

LAW
Paper 4 Law of Tort
TIME

9084/42
May/June 2012
1 hour 30 minutes

SECTION B**Question 6**

Electronic Enterprises owns a factory at which MP3 music players are manufactured. Kuldeep visits the factory and as he enters there is a notice displayed saying that Electronic Enterprises reserves the right to search anyone on leaving the premises.

As he leaves the building after his visit, Kuldeep is stopped by Ranjit, a security guard, and is asked to submit to a routine search. Kuldeep refuses to co-operate, so Ranjit tells him that he cannot leave the building and asks him to sit in the factory's Reception area. Kuldeep becomes angry after waiting for 20 minutes and shouts personal abuse at Ranjit. Ranjit loses his temper and hits Kuldeep so hard that he falls unconscious to the floor. Ranjit moves Kuldeep into a separate room, locks the door and calls for an ambulance. Kuldeep is still unconscious when he is taken to hospital but regains consciousness 30 minutes later and is sent home following minor treatment.

Advise Ranjit and Kuldeep of their respective rights and liabilities towards one another based in the tort of trespass to the person. [25]

Mark Scheme

By way of introduction, candidates might introduce us to the three arms of trespass to the person: assault, battery and false imprisonment. Assault should be defined and explained as a tort. Could Kuldeep's verbal abuse towards Ranjit amount to an actionable assault in tort law? Could immediate violence have been feared by Ranjit because of any accompanying actions, for instance? (E.g. R v Meade, R v Constanza, Turberville v Savage.) Candidates should explore the issue here. Ranjit inflicts physical violence upon Kuldeep. It appears to have been deliberate. Was it lawful? If not did this amount to a battery in tort? Candidates must explore the possibilities here. Kuldeep is subjected to two forms of detention: he is compelled to stay in the Reception area but against his will or voluntarily – was this detention lawful or might it amount to false imprisonment? (Sayers v Harlow UDC, Davidson v Constable of North Wales, R v Bournemouth Community & Mental Health NHS Trust). The elements of the tort clearly need to be outlined, discussed and conclusions drawn. Having knocked Kuldeep unconscious and locked him in a room, total deprivation of personal liberty is more likely, but as he was unconscious, he had no knowledge of the false imprisonment, which may have implications for the outcome of this claim. (Herring v Boyle, Meering v Grahame-White Aviation Co Ltd.) Whatever conclusion is reached it should be clear, compelling and fully supported.

Examiner's Report

This was a reasonably popular question. Most candidates identified the issue as being that of Trespass to the Person and were able to present at least a basic explanation of Assault, Battery and False Imprisonment. Weaker candidates tended to apply the law to the facts in a rather superficial way. Stronger candidates were able to give a detailed explanation of the rules with reference to relevant case law and then apply the rules to the facts in a convincing way and reach clear and compelling conclusions.

Question Paper
9084/43/June/2012 Law of Tort

LAW
Paper 4 Law of Tort
TIME

9084/43
May/June 2012
1 hour 30 minutes

SECTION B**Question 6**

Victor is a supporter of United, his local football club. He is watching a match between United and City when the referee, Willy, awards a penalty against United and City score a goal. Willy sees Victor trying to get on to the pitch. He hears Victor shout: 'Cheating referee, I'll kill you!'

Victor's attempt to get on to the pitch is prevented by Ulysses, a steward, who grabs hold of him and escorts him from the spectator area and locks him in a room until the match is over. Victor is then allowed to leave the stadium. As he is walking through the car park he sees Willy and punches him in the face because United lost the match 1-0. Willy sustains a broken nose and loses two teeth.

Discuss the potential liability of Victor and Ulysses in the tort of trespass to the person arising from these incidents. [25]

Mark Scheme

Candidates should set their response in context by explaining that the trespass to the person takes three forms: assault, battery and false imprisonment. Candidates should offer clear, concise definitions and brief explanations of each. Candidates should then address the potential issues arising from the facts of the scenario. Could Victor's verbal abuse amount to an assault? In what context can words constitute an assault? (*Thomas v National Union of Mineworkers*.) Could Victor's menacing words accompanied by his attempt to get on to the pitch put Willy in sufficient fear for it to amount to an assault? Did Ulysses cause a battery to Victor when he grabs hold of him: was it deliberate, illegal and 'forceful'? The issue then arises as to whether or not Ulysses falsely imprisons Victor, when he locks him in the room – or could this merely amount to a citizen's arrest? This would appear to have been his intent, but was there any reasonable means by which Victor could have escaped from the room had he so wished? When Victor is walking through the car park he sees Willy and proceeds to punch him in the face. Is this a battery? The principles must be applied to the scenario and clear, compelling conclusions drawn

Examiner's Report

This was a popular question. There were some very strong responses to this question. Most candidates were able to identify the issue of Trespass to the Person and explain the rules relating to Assault, Battery and False Imprisonment with reference to at least some case law. In the weaker responses there was some imbalance with False Imprisonment given a more superficial treatment than Assault and Battery. Most candidates were able to apply the law to the facts however the best candidates did so with a detailed discussion of the relevant facts, a reference to possible defences and clear and compelling conclusions.

9084/41/June/2013

LAW
Paper 4 Law of Tort
TIME

9084/41
May/June 2013
1 hour 30 minutes

SECTION A**Question 3**

Trespass to the person no longer has any real significance in the law of tort.

Outline the elements of this form of trespass and discuss the extent to which you agree with this view. [25]

Mark Scheme

Candidates should define trespass to the person and the three forms that it might take: assault, battery and false imprisonment. An explanation should follow that to amount to a trespass, any act must be direct and physical even though no actual loss or harm needs to be proved as the tort is actionable per se. Appropriate case law should be selected and used to illustrate these points, such as R v Chief Constable of Devon & Cornwall, Nash v Sheen, Letang v Cooper, Sayers v Harlow UDC, R v Governor of Brickhill Prison etc). Candidates must then consider the extent to which the tort's significance has been lost. Today, the Criminal Injuries Compensation Scheme, the power that criminal courts have to award compensation and the development of the tort of negligence frequently remove the need for a suit based in trespass. Main area in which trespass to the person now arises is that of civil liberties especially associated with police misconduct. Candidates are expected to express a substantiated view in their response; marks should be limited to a maximum of band 3 where candidates fail to go beyond basic factual recall of legal principle.

Examiner's Report

Candidates generally identified the relevant issue which was the tort of trespass to the person. The stronger candidates were able to present a detailed account of assault, battery and false imprisonment and then discuss the key issue raised by the question – whether the tort of trespass to the person is still of significance. The best responses presented a reasoned answer supported by relevant authority. Where candidates focused exclusively on explaining the legal rules but did not address the issue raised by the question, marks were limited to Band 3.

9084/43/June/2013

LAW
Paper 4 Law of Tort
TIME

9084/43
May/June 2013
1 hour 30 minutes

SECTION A**Question 1**

Analyse the protection offered by the tort of trespass to the person and critically assess its impact on the freedom of movement of the individual. [25]

Mark Scheme

Trespass to the person has now lost most of its significance in litigation in respect of personal injury and today arises mostly in the area of civil liberties, often associated with allegations of improper police conduct with regard to interference with freedom of movement. Candidates should open their response with an analysis of the three forms of trespass to the person: assault, battery and false imprisonment. The key components of each of the three should be discussed and illustrated by reference to case law before drawing conclusions regarding the level of personal protection afforded. With regard to impact on freedom of movement of the individual, candidates must critically assess the rules relating to false or wrongful imprisonment before drawing conclusions with regard to the tort's impact in this context. Candidates are expected to draw clear conclusions from their deliberations in response to the question posed. Responses that are limited to factual recall, however detailed, will be restricted to band 3 marks.

Examiner's Report

Most candidates were able to provide an explanation of the three forms of trespass to the person - Assault, Battery and False Imprisonment. The best candidates presented a detailed and accurate account of each form of trespass to the person with reference to appropriate case law. In the best answers candidates, having explained the rules, then engaged in a critical assessment of the tort of trespass to the person from the perspective of its impact on the freedom of movement of the person, which required a particular focus on the issue of false imprisonment. Weaker candidates however focused on the presentation of the rules; in some cases there was confusion and error in the explanation and often no critical assessment.

9084/43/June/2014

**LAW
Paper 4 Law of Tort
TIME**

**9084/43
May/June 2014
1 hour 30 minutes**

SECTION B

Question 5

Bristow and Denver have been sporting rivals since childhood. Their most recent meeting was at a basketball match. Bristow had never really liked Denver, especially as Denver always seemed to be better at any sport in which both of them had participated.

Throughout the match, they frequently provoked one another. At one point, Bristow verbally threatened to cause Denver an injury. Denver retorted by raising his fist and saying 'if we weren't in the middle of a match I'd knock you out'. Later in the match, after Denver had scored what appeared to be the winning points, Bristow deliberately tripped Denver as he was running back down the basketball court. Denver's consequent fall caused him to break both wrists and damage his knee. Denver was unable to work for six weeks and lost income amounting to £4500.

Advise Bristow and Denver of their potential liability in trespass to the person and evaluate any potential defences that they might raise. [25]

Mark Scheme

By way of introduction, candidates may introduce the reader to the three arms of trespass to the person: assault, battery and false imprisonment. Candidates should immediately recognise the

irrelevance of false imprisonment to the scenario. Assault should be defined and explained as a tort. Could Bristow's verbal threat of physical violence towards Denver amount to an actionable assault in tort law? Was immediate violence feared by Denver because of accompanying actions, for instance? (e.g. R v Meade, R v Constanza, Tubervell v Savage) Candidates should explore the issue here. With regards to the trip which resulted in injury, did this amount to a battery in tort law? Was it deliberate or merely careless? Was it hostile? (e.g. Letang v Cooper, Wilson v Pringle). Candidates must explore these issues. Ordinarily, it could be argued that basketball players participate in their sport in full knowledge that it is a contact sport and that injuries can result from such contact: participants frequently make contact with one another due to the very nature of the game. Hence, in most circumstances, consent is seen to be given to the tort trespass to the person that would otherwise be actionable as a result of the unlawful physical force imposed on one another during the game. Debate is called for to distinguish mere knowledge of risk from consent to risk (Bowater v Rowley Regis Corporation). Debate should then follow as to whether the trip in question was undertaken in a deliberate attempt to harm or whether it was indeed in and of itself an act of negligence which gave rise to harm (Condon v Basi). In either event, it would seem unlikely that Denver could be said to have consented to such harm by simply taking part in the game. If Denver is thus able to refute a defence of consent, would he be able to recover his loss of earnings? Candidates should discuss the concept of compensation, in particular whether the loss suffered is likely to be compensated in the event of a court case. What of Denver's raised fist and verbal threat to knock Bristow down? The physical movement of the hand could amount to an assault if it was deemed close enough to induce the fear of an immediate battery. However the decision in Tuberville v Savage would suggest that word can moderate actions. Did the words uttered remove reasonable fear on Bristow's part? Clear, concise and compelling conclusions are expected. Candidate responses that are limited to factual recall, however detailed, will be restricted to Band 3 marks.

Examiner's Report

This was a popular question and there were some excellent responses. The best responses contained a detailed explanation of assault and battery and the defence of consent within the context of sport. In these responses the rules were then applied to the facts and clear conclusions were reached in relation to both liability and possible remedies. In some cases candidates included material relating to false imprisonment which was not relevant and therefore not creditworthy. Weaker candidates tended to present a less detailed account of the rules and did not apply the rules in a reasoned way resulting marks within the lower bands.

**Question Paper
9084/42/June/2015****LAW
Paper 4 Law of Tort
TIME****9084/42
May/June 2015
1 hour 30 minutes****SECTION B****Question 6**

Marco and Gianni are playing hockey for their university team in the final of the national championship. A former team member, Luigi, is now playing for the opposition. Marco and Gianni are still angry with him for leaving.

As they are playing, Gianni verbally threatens Luigi that he will injure him before the end of the game. Luigi replies that if the referee was not on the pitch he would ensure that Marco and Gianni 'would never play again'.

Later in the game Marco tackles Luigi aggressively on a number of occasions but the referee does not intervene. At half-time, when the players are returning to the dressing room, Luigi trips Gianni with his hockey stick. Gianni falls and suffers a serious head injury. He is unable to take any further part in the game and as a result of the injury he misses his final exams and has to repeat the entire year of university.

Consider the potential liability of Marco, Gianni and Luigi for trespass to the person in this situation.

[25]

Mark Scheme

Candidates should identify the issue here as one of trespass to the person. Candidates should identify the specific incidents in the scenario as being concerned with assault and battery. Candidates should explain each of these forms of trespass to the person and explore the key requirements for each with reference to appropriate case law. The rules relating to consent in the context of sport should also be examined. In relation to the incidents during the warm up phase of the game the issue is whether the threats made by both Gianni and Luigi are sufficiently immediate to put the other party in genuine fear of harm. Cases such as *Turberville v Savage* could be incorporated into this discussion. In relation to the aggressive tackles during the game candidates should consider whether these are covered by the defence of consent. The incident which occurs at half time should be identified as a possible battery. As it is not in the course of the game then the issue of consent should not arise. In relation to the injuries suffered by Gianni candidates should consider the type of damages which might be relevant in this case. False imprisonment is not relevant in this scenario. An explanation or application of false imprisonment should not be credited. Clear and compelling conclusions should be reached supported by relevant authority.

Examiner's Report

This was a popular question and candidates generally recognised that the issue involved was trespass to the person. There were some very strong responses. In the best responses candidates were able to set out the legal rules governing assault and battery using relevant case law to support the explanation. The best candidates also identified the importance of issues such as the defence of consent in the context of

sporting activity. In the best responses candidates then analysed the facts and applied the law effectively to reach a clear conclusion, in which the issue of damages was briefly addressed. In weaker responses candidates tended to give only a brief explanation of the law and application tended to be poor. Some candidates also explained false imprisonment in detail which was not relevant in the context of the scenario.

Question Paper	
9084/41/42/43/November/2015	
LAW	9084/41/42/43
Paper 4 Law of Tort	October/November 2015
TIME	1 hour 30 minutes

SECTION A

Question 2

Trespass to the person is no longer necessary as the tort of negligence provides a satisfactory means of recovery for claimants.

Critically assess this view.

[25]

Mark Scheme

This question requires candidates to compare the basis for liability in trespass to the person with that of negligence and reach a conclusion as to whether trespass to the person is still necessary in providing a means of recovery in certain cases. Candidates should outline the essential elements of each tort and then compare and contrast key elements in order to address the central issue raised in the question. Reference should be made to appropriate case law here. Key points which should be discussed include issues such as intention and direct interference. Particular attention should be paid to the issue of false imprisonment and whether cases falling under this category of trespass to the person can be resolved through an action in negligence. Candidates should reach a clear and supported conclusion. If candidates explain the torts of trespass to the person and negligence but do not engage in a critical analysis as required by the question, then the maximum mark should be confined to Band 3.

Examiner's Report

Many candidates were able to provide a detailed account of the three forms of trespass to the person and some candidates also included an account of the elements required to establish a claim of negligence. However, few candidates then proceeded to consider the key issue raised in the question – whether the tort of trespass to the person is no longer necessary as claims can generally be brought in negligence instead. This could take the form of a comparison between the two torts and a consideration of when a claim could be brought in trespass but not in negligence – e.g. cases of false imprisonment might not be actionable in negligence or where no harm is caused a case in trespass may be possible as it is actionable per se. Critical analysis is vital here if candidates are to achieve the highest marks. A general explanation of the legal rules governing the tort of trespass to the person does not fully answer the question and therefore cannot achieve the higher marks.

Question Paper
9084/42/June/2016 Law of Tort

LAW
Paper 4 Law of Tort
TIME

9084/42
May/June 2016
1 hour 30 minutes

SECTION B**Question 5**

Sam's favourite soccer team, Barchester United, is playing in the cup final. He goes to the stadium on the day of the final but is unable to buy a ticket as they have all been sold. Sam is so keen to see the match that he tries to enter the stadium through an entrance which is used to deliver goods to the shops inside the stadium. Sam is seen by a security guard, Tariq, who stands in his way to prevent Sam from entering.

Sam is annoyed and pushes Tariq at which point three more security guards arrive. They surround Sam and Tariq tells him that if he does not apologise immediately they will break his legs. Sam apologises.

Tariq takes Sam to the stadium manager's office and tells him to wait until the manager is free to see him. Sam believes that he is locked in but in fact the office is unlocked. Several hours later the manager arrives and tells Sam that he is free to go.

Advise Sam and Tariq as to their respective rights and responsibilities in this situation. [25]

Mark Scheme

This question raises a number of issues concerning trespass to the person. All three varieties of trespass to the person are relevant here. Candidates should identify each of the three ways in which trespass to the person can be committed and explain each one with reference to relevant case law. Then candidates should apply each form of trespass to the facts of the case.

Assault – where Tariq threatens Sam – does this satisfy the elements of assault?

Battery – where Sam pushes Tariq is this sufficient to constitute a battery?

False imprisonment – when Sam is detained in the office – could this constitute a false imprisonment?

When his path to the stadium is initially blocked by Tariq – could this be categorised as false imprisonment?

Credit may be awarded for a reference to trespass to land – where Sam attempts to enter the stadium through the goods entrance. Both an explanation of the law and application to the facts are required in order to achieve the higher bands.

Examiner's Report

Candidates generally recognised that this scenario involved trespass to the person. In the best responses candidates explained the legal rules governing each category of trespass to the person – assault, battery and false imprisonment. In these responses the explanations were accurate and supported by relevant case law. Candidates then proceeded to apply the law to the facts of the scenario and reach a coherent conclusion in relation to each of the potential claims. Candidates were credited for a discussion of a possible trespass to land in relation to Sam's attempt to enter the stadium through the goods entrance. In less successful responses there was confusion between assault and battery and in many cases a lack of application of the law to the facts. In other cases there was a tendency to analyse the facts without reference to any legal rules. In a small number of cases the discussion was framed in terms of criminal prosecution rather than a civil action.