**ASSESSMENT GUIDANCE: COURSEWORK**

**GUIDANCE NOTES FOR STUDENTS What Coursework will I have to do?**

On the GDL you will study two modules that are assessed through the submission of coursework.

1. Ethics and Professional Legal Practice.

In addition to passing the Legal Method Examination, the Ethics and Professional Legal Practice module is assessed through the submission of a 2,000 word essay on an ethical dilemma. You will be given a small selection of titles to choose from reflecting the different professional contexts in which you may wish to practice as a lawyer.

The essay will assess your ability to research, plan and execute a piece of written work within the context of legal ethics. In this module you will be provided with guidance on these key skills which will also be of assistance for your Research Project or Law of Organisations Coursework.

* **What Learning Outcomes are relevant?**  The following learning outcomes will be assessed:

 **Knowledge and understanding;** **Intellectual ie analysis, problem solving and critical judgement and**

**evaluation; and** **Skills ie research and written communication.**

When tutors mark your coursework they will use the **Assessment Criteria for Coursework** to assess whether or not you have achieved the relevant learning outcomes and to determine your mark. A copy of the Assessment Criteria can be found in section 7 of the Student Handbook.

**How will I know if I am meeting the Learning Outcomes?**

All the intended learning outcomes are explained in section 1 of the Student Handbook.

Before you attempt any coursework it is important that you think about the outcomes relevant to this and how we expect you to achieve them. To help you in this, the relevant outcomes are set out again below with some explanatory examples.

**1. KNOWLEDGE AND UNDERSTANDING**You demonstrate **knowledge and understanding** by showing that you can:

*   state the law accurately;
*   explain the law; and
*   refer to wider issues which put legal rules in context.  You should consider the following:  ***Cite authority correctly***  Correct law is law based on the highest authority, whether the latest binding precedent, or legislation. Always check the date of any secondary source you use, such as a textbook, in case it is out of date. Check whether the leading cases on which you are relying have been superseded by later case-law.  ***Use primary sources***  If you are referring to cases or statutes, you need to cite a law report, or a section of the statute. It is not acceptable to cite only a textbook which gives the author’s version of the law. If you are relying heavily on a case, or statute, make sure you read it and quote the ratio or provisions of the statute directly.  ***Explain the law***  To show understanding as well as knowledge, you need to demonstrate understanding of the purpose of the law or how it applies to a particular factual situation.

**2. INTELLECTUAL: ANALYSIS**You demonstrate the skill of analysis by showing that you can:

*   identify relevant facts and issues;
*   distinguish similar factual situations by reference to legal principle;
*   qualify and apply exceptions to legal principles; and
*   apply legal principles in an orderly way.  You should consider the following issues:  ***Analyse the question***  Say what issues you think the question or essay title presents, and how you are going to consider them, how you think they are related, and what order of treatment you will adopt.  ***Analyse the relevant law***  As well as demonstrating your knowledge and understanding, you should aim to set out *relevant* law in a structured way.  **PROBLEM SOLVING**  This outcome is relevant for legal essays as well a legal report on Law of Organisations. In addressing either a problem based question or an essay title you should apply the techniques of problem solving to the consideration of identified issues within the field of legal practice relevant to your selected coursework. You should demonstrate problem solving by:
*   identifying legal, factual and practical issues arising in the context of legal practice;
*   using standard techniques for resolving issues by application of legal principles; and
*   presenting arguable conclusions. **CRITICAL JUDGEMENT AND EVALUATION**  This learning outcome is particularly relevant to the coursework. You demonstrate critical judgement and evaluation in coursework by:
*   expressing an opinion based on interpretation of primary sources and study of secondary sources; and
*   assimilating extensive factual and legal material, and presenting a reasoned personal view.

When writing your essay or report you need to show that you can engage with legal arguments and express your own view. You might do this by saying which of two commentators’ approaches you prefer, or you may be confident enough to strike out on your own.

You will not however satisfy this outcome if you simply state your own views without showing knowledge of the relevant authorities, or if you fail to consider opposing views*. “Argue, don’t assert.”* We expect you to argue as a lawyer, in a reasoned, logical and dispassionate way, considering and replying to other views, rather than making unsupported statements.

**3. SKILLS**

**The two key skills assessed in the coursework are Research and Written Communication as outlined in the Assessment Criteria for coursework set out in section 7 of the Student Handbook.**

**RESEARCH**

You demonstrate the skill of research by showing that you can:

*   select key relevant issues for research;
*   access, comprehend and use standard research tools (both hard copy and  electronic);
*   use both electronic and hard copy research tools; and
*   devise a strategy for researching a topic.  It is a good idea to begin by reading a simple textbook account of the area first. Concentrate on the points of law which are clear before you look at disputed areas. When writing the Coursework assessment, use this research to show that you know the relevant primary sources.  We do not expect you to cite everything relevant. All we expect is that you use a range of materials appropriately, both primary sources and secondary authority.  **Please note that we do not expect you to go beyond the materials available in the University Learning Resource Centre, or available on the student network.**

**WRITTEN COMMUNICATION**

You demonstrate the skill of written communication by;

*   writing clearly and making your point effectively;
*   constructing legal arguments precisely; and
*   using a style appropriate to the intended audience.  You must use correct grammar and spelling, but, equally importantly, your reasoning must be well structured, your conclusions must follow from this, and you should not include irrelevant material.  **How should I present my coursework?**  You need to take care to ensure that your coursework is logically structured, well written and neatly presented.  The exact format and style will depend on the module being taken. You will find general guidance on writing your coursework and some specific advice for writing an essay or a problem based report at the end of these guidance notes. Further guidance will also be given in the individual modules.  **Can I ask a tutor for help with my coursework?**  Your coursework is your own unaided work and tutors are not permitted to give guidance on research sources or content.
* **Coursework writing guidance:**

**Further guidance and examples on coursework writing 1. Structure, contents and layout of coursework**Your coursework (essay or report) should use:

*   headings, to organise the main body of your text clearly;
*   **footnotes to enable the reader to check the authority of the propositions in**  **your main text; and**
*   a bibliography, detailing all sources referred to in the text and/or used in your research.  We recommend you use OSCOLA (the Oxford University Standard for Citation of Legal Authorities) for citing/referencing all material used in your Coursework. The Library offer resources and guidance on the use of OSCOLA in your coursework.  **Full details and online tutorials on referencing using OSCOLA can be found at: www.law.ox.ac.uk/oscola**. **Please note that your references must be expressed sufficiently clearly that any reader of the work could check them easily.**  We suggest you use the following basic structure:
*   List of contents
*   Main body
*   Bibliography
*   ***List of Contents***  The list of contents should list any headings and sub-headings which you use, together with the correct page numbers. The page numbers will have to be added after the coursework has been word-processed and the page numbers are known.  The list of contents is not included in the word limit.
*   ***Main body Headings***  You should structure your coursework using headings, sub-headings and sub sub- headings etc, **as appropriate** using a consistent system for dividing headings from sub-headings from sub sub-headings etc.  Take care to ensure that:
	+ -  the headings reflect the content to which they refer;
	+ -  the headings are consistent in style, font and format, including “level”; and
	+ -  any numbering used is consistent.
	+ For example:

**REPORTING OBLIGATIONS Enterprise and Regulatory Reform Act 2013**

***The new reporting regime Obligations on disclosure of ratio of pay to performance Extent of disclosure obligation***

**Companies (Miscellaneous Reporting) Regulations**

***Introduction of employee ratio Extension to large private companies***

**IMPACT OF DISCLOSURE AND STAKEHOLDER CONTROL**

**Institutional reports on impact of disclosure Ability of Stakeholders to challenge Executive Pay**

Words used in headings are included in the word limit.

***Footnotes***

The footnote element means that citations appear in the footnotes in your coursework as you work. Footnotes should be at the bottom of the relevant page, and not at the end of the main body of the essay. Most of the modern word- processing packages allow footnotes to be inserted automatically, with an option to place at the bottom of the relevant page. A footnote can be inserted in Microsoft Word by clicking on *Insert Footnote* from the *Reference*s tab.

Below are some guidelines on how best to construct your footnotes.

o **Capitalize major words**You should capitalize all major words in the title of all sources

o **Footnote placement**You should place a footnote at the end of a sentence, unless it needs to within the sentence for the sake of clarity, in which case place it directly after the word or phrase to which it relates.

o **Punctuation**OSCOLA uses very little punctuation. You should not use full stops after abbreviations or initials in author’s names. *For example*, use WLR not W.L.R or JG Fleming, not J.G.

o **Full stops and semi-colons**When citing a single source always place a full stop at the end of the foot note. Ifcitingtwoormorethansourcesinthesamefootnote,separatethem with a semi-colon ‘;’ and place a full stop at end of the last reference.

Where more than one sources is cited place them in a logical order, for example, if citing case reports place in order of **authority** or for other sources by chronology. Similarly if citing primary and secondary sources for a single proposition, put the primary sources before the secondary ones.

o **Use of italics**

Italicise party names and foreign words and phrases but not quotations. Always provide a translation immediately afterwards in brackets or in a footnote. Do not italicize words that are in common usage in legal English, such as obiter dicta and ratio decidendi.

o **Use of brackets**Law reports may be references, the year may be enclosed in square **[]** or round brackets **()**. The majority of modern law reports along with neutral citations use square brackets.

**Square brackets []** are used where the report series has no consecutive volume numbers and the year is essential for finding the correct volume. *For example*, *Donoghue v Stevenson* is in the 1932 volume of the Appeal Cases, beginning at page 562, which is written [1932] AC 562.

**Round brackets ()** are placed around the year where the legal citation has consecutive volume numbers and the year is not essential for finding the case. *For example,* to find the report cited as (1983) 77 Cr App R 76 you don't need the date because the volume number - 77 indicates where you will find the report.

**Some examples of footnotes for cases, legislation and commentary** o **Cases with a neutral citation (after 2001)**

*Campbell v MGM* [2004] UKHL 22, [2004] 2 AC 457 o **Cases without a neutral citation (before 2001)**

*Case Name* | ([Year]) | Volume | Abbreviation | First Page | (Court) *Donoghue v Stevenson* [1932] AC 562 (HL) o **Legislation**

Act of Supremacy 1558 Shipping and Trading Interests (Protection) Act 1995



*Case Name* | [Year] | Court | Number, | ([Year]) | Volume | Abbreviation | First Page



Acts: short title and year Statutory Instruments: name, year and (after a comma) the SI number.

Penalties for Disorderly Behaviour (Amendment of Minimum Age) Order 2004, SI 2004/3166

o **Books**author, | title | (additional information, | edition, | publisher | year)

Timothy Endicott, Administrative Law (OUP 2009) Gareth Jones, Goff and Jones: The Law of Restitution (1st supp, 7th edn, Sweet & Maxwell 2009)

o **Journals**

The year of publication should be in square brackets if it identifies the volume, in round brackets if there is a separate volume number: Paul Craig, ‘Theory, “Pure Theory” and Values in Public Law’ [2005] PL 440

Alison L Young, ‘In Defence of Due Deference’ (2009) 72 MLR 554

o **Online sources**author, | ‘title’ | (website, publication date) | <url> | date accessed

Sarah Cole, ‘Virtual Friend Fires Employee’ (Naked Law, 1 May 2009) <www.nakedlaw.com/2009/05/index.html> accessed 19 November 2009

If there is no author identified, and it is appropriate to cite an anonymous source, begin with the title in the usual way. If there is no date of publication on the website, give only the date of access.

Footnotes are not included in the word limit. Do not, however, place any analysis (including law, quotes, etc.) in the footnotes. The marker will ignore it. Footnotes are for references only - they should not be used to bypass the word limit.

***Quotations***

Where a quotation will occupy **more than four lines** it should be indented and typed using single line spacing. Only use quotations when the quote supports your analysis. Do not use quotations if the point could be made more clearly in your own words- remember it is *your* analysis which is being assessed. Try not to use quotations that are unnecessarily long.

Quotations are included in the word limit.

author, | ‘title’ | [year] | journal name or abbreviation | first page of article [OR] author, | ‘title’ | (year) | volume | journal name or abbreviation | first page of article

 ***Bibliography***

All works which you have actually read should be included in the bibliography, as well as any other sources used in the course of the research. References to other sources you have not read should be restricted to footnotes (see above).

We recommend you use OSCOLA (the Oxford University Standard for Citation of Legal Authorities) for citing/referencing all material used in your coursework. Full details and online tutorials on referencing using OSCOLA can be found at: www.law.ox.ac.uk/oscola. Further guidance can also be found on the Library page http://library.law.ac.uk/ or contact your Centre Library staff for details of referencing workshops.

Everything listed in the footnotes should be listed in a comprehensive bibliography located at the end of your document. Your bibliography should include all sources consulted as background reading some of which may not have been directly cited within a footnote.

The way that you list citations in a bibliography differs slightly to the way you construct a footnote. A bibliography consists of the following three separate sections:

*   Table of cases
*   Table of legislation
*   **Secondary sources**

 **Table of cases**In the Table of Cases you **should not italicise** case names in the bibliography e.g.

Donoghue v Stevenson [1932] AC 562 (HL)

Cases should be listed in alphabetical order of the first significant word: Cases identifying parties by initial only should be listed under the initial:

Re F (mental patient: sterilisation) ***becomes*** F (mental patient: sterilisation).

 **Table of legislation**Tables of legislation and other tables, such as tables of international treaties and conventions, UN documents, official papers and policy documents, should follow the Table of Cases.

A table of legislation should list every statute cited in the work, with statutory instruments listed separately at the end of the list of statutes.

Legislation should be listed alphabetically with the first significant word of the title, not chronologically by date of enactment.

Cite an Act by its short title and year in roman, using capitals for the major words, and without a comma before the year e.g.

Act of Supremacy 1558 Shipping and Trading Interests (Protection) Act 1995

 **Secondary sources**Located after your primary sources, your bibliography contains full references to all the secondary sources that you have either *consulted but not cited or cited directly*. This section will contain a wide range of sources for example books, journals, newspaper articles, websites, email, letters etc.

All references in each section should be arranged alphabetically by author's surname within each section. Where the author is not known, references should be listed at the beginning, in alphabetical order by the first major word of the title.

Items in bibliographies take the same form as all other citations in OSCOLA, with three exceptions:

o the author’s surname should precede his or her initial(s), with no comma separating them, but a comma after the final initial;

o only initials should be used, and not forenames; and o the titles of unattributed works should be preceded by a double em- dash. Works should be arranged in alphabetical order of author surname, with unattributed works being listed at the beginning of the

bibliography in alphabetical order of first major word of the title. The bibliography is not included in the word limit.

**2. GeneralApproachtoEssaywriting**

* 2.1  Begin by **analysing the question posed in the essay title**. In your essay you should not repeat the terms of the question but should look at each term used in the question and say what you think it means.
* 2.2  You can then move on to **analyse the relevant law**.

2.2.1 Examples of analytical techniques:

As well as demonstrating your knowledge and understanding, you should aim to set out relevant law in a structured way, distinguishing principles from exceptions, and showing how detailed rules are based on principles. As well as “taking apart” the relevant law, and examining each component, you should also show that you can explain the relationship of the parts, as an overall system.

*For example, if you were discussing whether the doctrine of Parliamentary Sovereignty is absolute, you might discuss separately a range of issues (eg grants of independence, the Act of Union, the supremacy of EU law and the effect of the Human Rights Act). To bring the material together you might consider which area posed the greatest threat to the absolute doctrine (EU law). This “ranking” of the weight of arguments is a useful way of concluding an essay.*

It may be appropriate to consider alternative interpretations, for example where the law is controversial you will find secondary sources, such as textbooks or journal articles, useful because they may give alternative interpretations. If it is necessary to your argument, cite the alternatives and give your view.

Another way to show understanding is to explain the purpose of the law. One way of doing this is to show what problem the particular rule is designed to deal with and how the rule provides a solution.

*For example, suppose that you were explaining the requirement that “dispositions” of equitable interests under trusts must be made in writing to satisfy the requirements of S.53(1)(c) LPA 1925. You might consider the standard explanation offered for the existence of this rule ie that it is designed to protect trustees from hidden oral transactions with equitable interests. You might then consider how satisfactory this is as an explanation of the rule since the section does not impose any obligation on the beneficiary, who disposes of his interest, to notify the trustees that he has done so.*

Alternatively you can show how a particular rule fits with other rules, like a piece in a jigsaw.

*For example, suppose that you wished to discuss the 1925 property legislation and the way it dealt with third party interests in land. You might explain the different rules designed to protect third party interests, depending on whether the title to land is registered or unregistered land, contrast their interaction and their differences and discuss the extent to which they are effective.*

2.2.2 Examples of analytical structures:

When you are explaining the law you have a choice of approaches which may include the following:

- a policy-based approach

*For example, suppose that you were discussing the development of the rule of privity of contract and the exceptions to the rule, you might wish to show how legislation such as the Contracts (Rights of Third Parties) Act 1999 has recognised the need to provide a right of action for parties who are not parties to a contract, but who stand to benefit under it.*

- a systematic approach – showing how rules fit together as a system

*For example, suppose that you were discussing damages in contract law, you might wish to discuss the different authorities on the rules on remoteness of damage and how the different definitions reinforce each other.*

- an historical approach – showing how the law has developed

*For example, suppose that you were discussing the way in which the law relating to estates and interests in land has developed - you would inevitably include the historical background to such development ie the way in which land was granted for services under the feudal system.*

- a contextual approach – showing for example how law is based on social, economic, or political circumstances.

*For example, suppose that you were discussing the development of the test of certainty of objects for a discretionary trust - you might explain the way in which such trusts have become increasingly used in a commercial, as opposed to a family context, and the way this has necessitated a change in the test.*

It will be difficult to use all of these approaches in one essay, so choose the one that seems appropriate to you. Have you any prior non-legal knowledge of the area? Which approaches are being used in the textbooks or journals you have read? Whichever approach you use, you are free to introduce non-legal materials (such as Government White Papers) which provide the relevant background.

Your essay should flow and you need to build your argument by making each point follow on from the previous one. Keep referring back to the title to ensure that your arguments are relevant and that you do not drift off the point.

2.2.3 Supporting your analysis:

You will be expected to demonstrate that you have selected your materials (cases, legislation, textbooks, journals) for their relevance to the question, and the argument you are putting forward. Make sure that you explain in the essay why the materials you are considering are relevant to your argument. Try to present them in an orderly way – for example considering primary sources separately from secondary sources, for each issue. Do not be drawn into considering incidental points – only explain a case or statute so far as it is necessary to make your main point. Use the materials to support your argument – do not lose the thread of what you are trying to say.

*For example, if you are discussing a statutory provision which provides that eight listed categories of persons may make an application and only two of those categories are relevant to your discussion, there is no need to cite all eight categories - you can say that the statute “provides, inter alia, that categories x and y” may apply.*

2.3 **Conclusion**

Having developed your arguments you should **draw your essay to a conclusion** which follows logically from your arguments. The job of the conclusion is to provide a final condensed version of the essay’s core argument and it must not contradict the main section of the essay.

**3. General Approach to problem based Report writing**

3.1 **Analyse the client’s objectives and the issues raised in the problem based question**. In your report you do not need to repeat the information given and can reference information sources provided in the question.

Begin by reading all the documents you have been given and start to extract the key facts. Initially you will not have a detailed knowledge of the subject area so may not be able to ascertain the relevance of all of the facts given or be able to identify what further information would be required before advice can be given. However, an initial review should identify the key areas to be researched and the client’s objectives.

As your research progresses you should return to the documentation to check that you have correctly identified the relevant information. To reflect what happens in practice you can expect that some of the facts which have been included in your instructions will not be relevant, it is your job to sift these out. Equally you may identify missing facts which could be relevant, if so, you should point these out. Don’t forget to bear in mind what the client is seeking to achieve, ask yourself what the client’s objectives are in coming to seek advice.

3.2 **Analyse the relevant law and how that can be applied to the identified objectives and the issues**.

It is a good idea to start off with some general headings for each issue identified. The structure can always be adjusted at a later stage if you ascertain the relevance of other information as your research progresses.

**The analytical techniques, outlined above in 2.2.1** in relation to essays, also apply in relation to the creation of a legal report. As with an essay you should set out the relevant law in a structured way, distinguishing principles from exceptions, and showing how detailed rules are based on principles. You should also consider alternative interpretations, include secondary sources to support analysis and consider possible developments in the law. However, on a problem based question it is also important to keep the report directed to the particular issues and objectives identified in the problem based question. Having found, read and digested the law you should go back to the problem and analyse this legally. Don’t be afraid to point out facts which remain unknown, you may need to draw a provisional conclusion on some issues where there is uncertainty. Of course it may not just be the facts which are uncertain, sometimes the law or how it applies will be uncertain, for example due to conflicting decisions.

**The report requires a problem based analytical structure** identifying the issue, applying the law and recommending a course of action. You have to indicate how the rules are applied to the particular facts given and the options available to the client. The client will not usually be interested in the historical background or the policy concerns but it can be useful to set the advice in context, particularly if there is scope to consider the wider business context of the Law of Organisations.

When setting out the law think about how best to prioritise the areas of law you have identified as being relevant. Begin with the law which you submit will provide your client with the best possible chance of achieving their desired outcome and leave the more speculative claims/points to the end of the report.

**As outlined above in 2.2.3** in relation to essays, you will be expected to demonstrate that you have selected your materials (cases, legislation,

textbooks, journals) for their relevance to the question, and in support of the advice you are putting forward. You should explain why the materials you are considering support any statements made.

3.3 **Start your report with a summary of advice**. Unlike a traditional essay, a legal report is usually structured so that the advice following the research and analysis is set out at the start of the report. This is sometimes referred to as an Executive Summary. Although it is placed at the start of the document it should actually be completed when you have concluded your analysis and research.