

ANSWERING PROBLEM QUESTIONS

weak arguments, so you should remember that you are not looking for the 'right' answer but for the conclusion that is likely to be reached based upon which argument is the strongest.

Take the following factors into account when reaching a conclusion:

- **There are three different levels of conclusion:** (a) a conclusion for each subissue; (b) a cumulative conclusion that draws upon each of these to reach a conclusion for each issue; and (c) an overall conclusion to the problem question. This should outline the liability of the party or parties for each issue that was raised by the question. In essence, the end conclusion is a summary of your findings.
- **Make sure that your final conclusion is consistent with your earlier discussion.** It would be unfortunate if, in the early stages of the essay, you concluded that Brian had given sufficient warning of the dangers posed by feeding the horses only to state in your final conclusion that he was liable for the injury sustained by Gladys. Thorough checking once the answer is complete should help you to spot any inconsistencies.
- **Do not be afraid to reach an 'it depends' conclusion.** As stated earlier, it is not always a case of finding the right answer but of exploring the possibility of liability, so it is perfectly acceptable to reach a conclusion that says 'it seems that Brian may be liable for the injury sustained by Gladys but this depends upon whether his notices are regarded as adequate warning of the dangers inherent in feeding the horses'. Making a note of the contingencies will strengthen your answer.
- **Do provide an overall conclusion.** Given the constraints of the word limit, students are sometimes tempted to stop writing after dealing with the final issue and leave the marker to pick out the conclusions for each issue that are distributed throughout the answer. This is poor practice and will weaken your answer. The question will require that you discuss someone's liability and your conclusion should always provide a concise and focused answer to the question posed, so it is important that you draw together all the strands of your argument here.

15.7 Tips for success in problem questions

There are a range of points to bear in mind that will help you to strengthen your problem-solving technique.

15.7.1 Follow the instructions

This is an obvious but frequently overlooked point. If the instructions tell you to discuss the liability of a particular party and to consider liability in a particular area of law, this is all that you should cover in your answer. There is no credit available for discussing other issues that are raised on the facts but which are excluded by the instructions.

For example, if a problem stated that Tom had smashed his way into David's house and injected him forcibly with a lethal dose of heroin and you were asked to discuss Tom's liability for homicide offences, there would be no point whatsoever in establishing that Tom is liable for criminal damage to David's door, or considering whether the injection constituted a battery or assault occasioning actual bodily harm—David is dead, so there is no point in discussing non-fatal offences against the person!

TIPS FOR SUCCESS IN PROBLEM QUESTIONS

Consideration of irrelevant issues will not give you any marks and it will weaken the quality of your answer because it will either cost you words that could be used to discuss a relevant issue (in a piece of coursework) or time that could be devoted to a relevant issue (in an examination).

Students sometimes think that discussing points that are outside the scope of the instructions will attract additional credit from the marker, particularly if this means covering an area of law that is not covered on the course syllabus, because this will demonstrate their research skills. This is generally not the case, so avoid the temptation to do this and concentrate on the instructions that you have been given and the areas of law covered on your syllabus.

Similarly, if a question is broken down into parts and subparts such as (a), (b)(i), (b)(ii), etc., then you must make sure that you answer the question in the same order and label the parts of your answer accordingly. Do not make up and impose your own structure. This will make your marker's life difficult, since marking schemes may give a total number of marks for each part answer and presume that the structure set out in the question will be followed. Your aim is to make your marker's task as easy as possible, so, quite simply, if there is a structure in the question, then you must follow it.

15.7.2 Get to the point

Be careful not to write lengthy introductions to problem questions that simply restate the facts given. For instance, look at the following introduction:

The following is an essay that uses three statutes: the Offences against the Person Act 1861, the Theft Act 1968 and the Criminal Attempts Act 1981, to interpret criminal liability for the fictional characters involved in a hypothetical scenario. The scenario involves a young man (Adrian) taking his Uncle Ben's sports car to drive to his mother in the hospital, and having a road accident on the way. The accident is witnessed by a bystander—Claire—who invites Adrian into her cottage, where he attempts to steal two of her Japanese miniatures. Meanwhile, a local gang-member—Den—attempts to break into Ben's house . . .

As you can see, this sets out some relevant law and then recites the facts of the question. It also uses 102 words. There is very little credit to be gained in restating material from the scenario without application of the relevant law: it is also a waste of words which could be better used in application and analysis.

15.7.3 Methodical approach

If you follow the guidance given in this chapter, you should be able to work through each of the issues in turn in a methodical manner. This should ensure that you do not miss any important issues and that your answer is thorough and systematic. These are essential features of a strong answer. Students are often tempted to 'jump in' and deal with the most obvious issue first—usually something that they can recall discussing in a seminar or which bears a strong resemblance to a decided case—but this makes the answer weak because you are failing to deal with the other issues that are also raised by the question but may be less obvious, and you are also not demonstrating a thorough and methodical approach to problem solving.

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15.7.4 Check and polish the final answer

You should never submit the first draft of your answer. It is important that you take the time to check every aspect of the answer prior to submission: the formatting, spelling, and grammar, the referencing and, of course, the accuracy of the content. Try to leave sufficient time before submission to have a break from the answer and come back to read it with fresh eyes otherwise it is all too easy to read what you think you have written rather than what you have actually written, so mistakes could be overlooked. It might help to read your answer on paper rather than on the computer screen as mistakes can seem more visible in print.

You will find more detailed guidance on writing skills in chapter 10 and referencing in chapter 12 that will help you to ensure that you submit a well-written and thoroughly referenced piece of work.



Practical exercise

- *Reflect upon the guidance provided in this chapter and use it to evaluate an answer to a problem question that you have written either as part of your coursework or in preparation for a seminar. Make a list of its strengths and weaknesses to identify areas where improvement can be made in subsequent pieces of work. As the chapter on study skills suggests, reflecting on your own work can be an excellent way to improve your performance. However, if you would like to use the points raised in this chapter to evaluate answers written by others, have a look at the Online Resource Centre where there is a practical evaluation and marking exercise that you might find useful.*



CHAPTER SUMMARY

Finding the issues

- Take time to analyze the facts of the problem question in terms of the parties and events so that you know 'who has done what to whom' as this provides a good basis for structuring your answer
- Break an issue down into a series of subissues so that each can be considered in turn. It is essential that the issues are sliced up into manageable chunks, so that the law can be stated and applied to the facts

Stating the law

- Start by consulting a textbook to ensure that you have a clear understanding of the area of law but make sure that you move on to consider case law as this will ensure that your answer has sufficient depth of understanding
- Provide concise and abstract statements of the law that can be applied to the facts. Avoid reams of descriptive detail such as lengthy explanations of the facts of cases
- Make sure that there is some supporting authority—either statute or case law—for each statement of law that is made
- Remember to look at both sides of the argument for complicated issues. It may be necessary to search for cases that give alternative outcomes or different definitions of key words or phrases