

A short guide to help you construct the perfect response to one of the most difficult types of questions that law students have to face.

How to Answer Problem Questions

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Introduction – Starting at the End

Problem questions are unlike almost any other type of exam or coursework that most people will have to complete in their academic lives so the format can be a daunting prospect for even final year law students.

So why are you tested in this way?

Well, in maths or the sciences there is almost always a single right answer; $2+2=4$. In law that is not the case and people go to court precisely to argue about what the right answer might be. To be more accurate they actually pay lawyers a lot of money to understand their situation and apply their knowledge of the law to get the outcome they want. It doesn't matter whether a lawyer is overseeing the sale of a piece of property or a multimillion-dollar international business merger, that principle and that approach to working remains the same: understand the predicament that the client is in, discover what they want to achieve and use the law as a means to get there.

That is the skill you are being asked to apply in the problem question but many people struggle to put all of this together. Sometimes a person will know the law back-to-front but not understand how it applies to the real world while others will immediately know the answer but do not have a comprehensive grasp of the law.

If you are reading this guide then it is because you have already been to www.uklawweekly.com and have probably watched many of the videos on www.youtube.com/marcuscleaver. Along with your own hard studying this means that you already have a good grasp of the law and so this guide is going to focus on how to show off that knowledge as you apply it to a factual scenario.

The last line of any problem question is always 'Advise X' and that represents both the start and end point for your response. Even when you are taking a deep dive into some of the finest nuances of case law the one thing that should be present at the back of your mind should be 'How does this relate to the advice that I need to give to X?'

Getting Started

Here's the truth: problem questions are long.

An essay question might only be a couple of lines but a problem question can often run for an entire page of A4. In an exam when it is you vs. the clock this can be an intimidating prospect and, to save on time, a lot of students will just dive straight in and start writing.

That is a false economy. Sure, they might end up writing more words than anyone else in the exam hall but imagine if the part of the question where the most marks are available is right at the end. If they don't realise this until they get to it the chances are that they won't have allotted enough time to give a full answer.

Don't fall into that trap!

If you have an hour to answer the question that does not mean that you are expected to spend the entirety of that hour scribbling away in a desperate bid to write more than anyone else. Your tutors know this and will have designed the question so that it does not require the full hour to write a response. They expect you to spend some time to carefully read the question and consider your response before diving in.

I have done enough invigilation to know that the students who worry us the most are the one who start writing before they have barely even opened the paper. Don't think of it as a failing if you aren't the first one to put pen to paper; instead regard it as a skill to be honed. You aren't going to panic because you have done your revision and will put quality over quantity. What you hand in at the end won't be the scrawlings of a desperate student but rather the finely structured and carefully thought out considerations of a future lawyer.

Even if you get a problem question in a coursework assignment that only means that you have more time to prepare the perfect response but how should that preparation begin?

Read through the entire question without writing anything down.

This sounds simple but it is so tempting to start jotting a few notes down in the margin. The time for that will come but for now it is important to just take the whole scenario in without becoming fixated on one or two particular elements. Doing this simple thing will give you an appreciation for the task ahead and also allows you to become familiar with the scenario.

It also means that you won't miss anything. Imagine a scenario where Abdul is negotiating the sale of his violin with Beatrice. A law student will already be thinking about offer; acceptance; consideration; intention to create legal relations; but what if I told you that later on in the scenario we find out that Abdul had already agreed a price with Chanda by email? All of a sudden the student who started writing straight away has wasted half of the exam describing a contract that doesn't actually exist while you are picking up a first class grade for your in-depth analysis of the postal rule in the age of the Internet.

Without sounding overly dramatic the difference between a bare pass and a first really can end up being an extra 30 seconds of reading time.

The Groundwork

Now is the time to start getting down to business.

You are going to read the question again but this time take notes. I find it useful to annotate the question but if you find that makes things a bit too messy then write your notes down on a separate piece of paper.

There are two things that you should be on the lookout for:

The Parties

Who are the parties in the scenario? In some questions this might only be two people but it might be that five or six people are involved in one scenario and they all have a role to play.

Of particular importance is the person who you are asked to advise so make sure that you keep a close eye out for them and their involvement in the scenario.

Sometimes the identity of a party is not always obvious. It might be a company, the police or some other public authority.

The Relevant Facts

Each sentence in a problem question is relevant in some way to the case before you. Even if it does not look that way at first there is no such thing as useless information. Imagine the following sentence in a problem question:

“Andriy was walking in the town centre when he was approached by a charity worker.”

This is mostly just setting the scene but that doesn't mean there isn't a lot of information that we can already get from this sentence:

One of the parties

A public setting

Presumably don't know each other?

Another party? Acting on behalf of a charity

“Andriy was walking in the town centre when he was approached by a charity worker.”

In the end you should be able to say at least one thing about every sentence in the scenario and often a lot more.

If things get complicated you might find it useful to also draw up a timeline of events and possibly even a timeline for each character. This will help make sure that you don't miss anything later on and a chronological approach in your answer is often the most sensible.

Your Plan

The notes that you have just completed will not only prove to be a useful reference point as you come to write your answer but will hopefully also jog your memory of the legal topics that you have been learning about.

Most problem questions will cover a number of these topics and your next step is to make a list of them alongside the key principles, areas of dispute and cases that you want to cover.

This is also an opportunity to establish a structure for your response. Start off with an introduction and a conclusion. For the main body I would recommend simply trying to stick to the structure of the problem question as this will ensure that you don't accidentally miss an area out as you are working through. For bigger topics you should break these down like I do in my videos: start with the basic principles and then work up to the more detailed and complex points.

Now you are in the perfect position to write a structured response that covers the legal points in a way that they can be applied to the scenario. There is only one more thing left to do.

Your time or word count is a limited resource and you have to make sure that you spend it wisely. An hour in an exam or 2,500 words for a coursework can feel quite intimidating but actually disappears sooner than you might think. Part of your plan should be to make sure that you allocate that resource wisely.

To do this effectively, next to every topic in your plan you should note down how long or how much of your word count you will spend on it. It might be tempting to simply split things up equally so for five topics you would divide your time or word count by five but that is not always appropriate. Instead think about the main dispute that the person in the scenario is facing and make sure that your emphasis is there. That, after all, will be where the most marks are available!

As an example, imagine an Equity & Trusts problem question where the main dispute is around a series of resulting trusts. You might want to cover some of the basic principles of trusts such as the three certainties but it simply doesn't make sense to spend as much time on that as you will on the main issue. You might have revised the three certainties and there is a temptation to show off that knowledge to the examiner but the truth is that is not where the marks are.

Writing Your Response

Introduction

The introduction to your answer should not be very long and rarely more than a single paragraph. In terms of a word count this might be between 100-150 words.

All you are doing in this paragraph is telling the reader what you are going to be covering in the answer such as:

- The names of legal topics in dispute that you will be covering
- That you will be analysing those topics in a balanced way to include not only arguments that favour the person/people you are advising but also possible counter-arguments that person/people might face
- That you will also provide advice for the person/people including their prospect of success in any legal action

If there is one thing and one thing only that you take from this guide, let it be this: **do not** repeat the facts of the scenario in your introduction. The marker probably wrote the scenario and even if they did not they are familiar enough with the question to not have to read it again. If you do this they will skip past it without reading and you will have wasted a great deal of your time/word count. That's not a great first impression!

The Main Body (IRAC)

If you have been studying law for a while the chances are that you will already have come across the IRAC formula in some form or another. It is basically a really great way to structure every single paragraph of your response so that you make sure that you don't go off track and cover both the law and its application to the scenario.

So what does it stand for?

- I – Issue
- R – Rule
- A – Application
- C – Conclusion

Let's break each of those elements down further so that you too can construct the perfect main body paragraph in your answer.

Issue

This is where you pick out an issue from the facts of the case that you want to apply the law to. If your plan follows the structure of the scenario then your first issue will normally be the first sentence or so that attracts your interest as a law student.

Say for example a problem question opens with this sentence:

Arianna was trying to sell her sofa and put an advert on the Internet offering it for £100.

For anyone who has been studying contract law there is definitely a legal point that could be made here about an invitation to treat and so we have already found our first issue.

This opening part of your paragraph will normally only be a single sentence because you are simply identifying for the reader the part of the scenario you are addressing. As we said with the introduction there are no marks on offer for repeating the question so all we are after is a simple restatement of the situation. Something like this:

Arianna is offering to sell her sofa on the Internet for £100.

Simple and to the point. Very little time wasted.

What if one sentence in the question raises more than one issue? For longer and more complex questions this might be the case.

In these situations don't try and put everything into one paragraph. This will make things more complicated for you and the marker. Shorter paragraphs are better so just try to describe the exact issue in the question that you want to pick out for further analysis.

Rule

The 'rule' is another way of asking 'what is the relevant law in this area?' You have picked out this issue because there is a legal point to be made about it so now is your chance to show off that knowledge of the law whether that be through cases, legislation or other authorities.

This is where a lot of the marks are available.

To go back to our earlier example you might say something like:

This is an example of an invitation to treat. An invitation to treat is an openness to negotiations as seen in cases such as Partridge v Crittenden [1968] and Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd [1953].

Application

Now that we have identified the issue and the relevant law it is time to apply that law to the facts of the scenario. This is the thing that many law students will forget to do but showing that you not only understand the law but also how it is relevant to the scenario is a vital aspect of answering problem questions.

For more complicated questions or where the facts are ambiguous this also represents a chance to explain both sides of the argument. In other words while the law appears to set out clear principles to be followed the actual application of those principles is not always clear and can be something of a grey area.

Fortunately our simple example is much more straightforward:

Arianna's offer to sell her sofa is actually an invitation to treat and represents the commencement of negotiations ahead of the establishment of a contract.

Conclusion

The final part of your paragraph is the conclusion and will generally be quite short because all you are doing is explaining what the application of the law will mean for the person/people that you are advising. Based on your analysis will they be successful and, if so, what remedy will the court apply?

For more complex or nuanced scenarios you will probably not be able to give a definitive answer but that is OK. As long as your conclusion explains why that is the case and offers up alternatives for your client then you will have done all that can be expected of you.

Our own example is at the start of a scenario and so there isn't really an outcome as such for the client at this stage but that shouldn't stop us from drawing some sort of conclusion that we can take forward:

Anyone who responds to the advertisement and is willing to pay £100 is not entitled to the sofa because they are actually making an offer to Arianna that she can either accept or reject.

The Final Stretch

Once you have applied the IRAC structure to each paragraph in the main body of your response you will have successfully covered all of the legal issues that the marker is looking for and also applied them to the scenario at hand.

Well done!

To round off your response you should attempt to write a short conclusion that ties everything you have written together. Like the introduction this shouldn't be too long because you will have already covered the important points in detail throughout the main body.

You should be looking to put together one or two paragraphs (200-250 words) that offer your advice to the relevant person/people and consider what remedies might be available.

Before You Go...

Here are some general tips that didn't quite fit in the rest of this guide:

- Feel free to tweak your plan even as you are answering the question. Oftentimes as you are writing you may recall something that you had forgotten but now want to include. That is fine but don't forget to also adjust your timings accordingly too!
- The paragraphs in your main body will vary in size based on the complexity of the point you are making but try to keep them to about half a page and never over a full side of A4. Paragraphs are a great way to break down the structure of your work so if you think it will be a long one then consider splitting it up in other ways (e.g. putting the 'Rule' and 'Application' text in separate paragraphs).
- Don't be afraid to use journal articles and government reports. Although these are not authoritative they tend to add colour, show your research and can offer a counterpoint for a brief discussion.
- When being asked to advise multiple people you may find it useful to structure your answer by advising each person in turn. If you do so try to avoid repeating some of the basic legal principles for each person as you won't get credit for that.
- Be confident in your conclusions. Many people think that showing both sides of the argument means that they then have to sit on the fence. While you cannot normally be definitive because it will be for a court to decide any legal case, that doesn't mean that you should hold back if the legal authorities all seem to point in one direction.

Thanks very much for reading, here is where you can find me on the rest of the Internet:



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