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2nd edition

EXAM SUCCESS

The law student's guide to mastering
revision and exams

EMILY FINCH AND STEFAN FAFINSKI

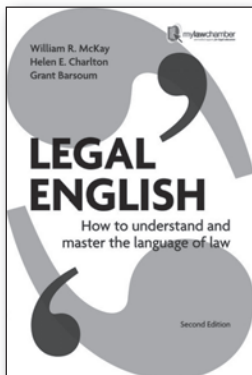
'I think this book is essential for law students. I would want all first years to read this within their first week and take it with them throughout.'

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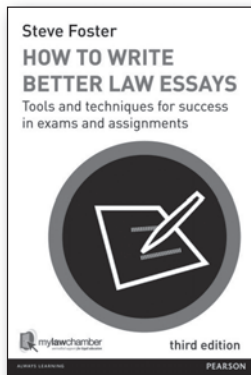
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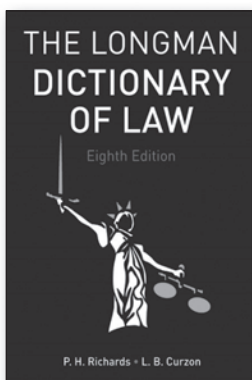
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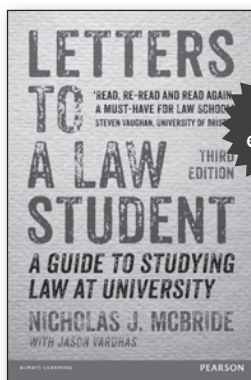
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ALWAYS LEARNING

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EXAM SUCCESS

The law student's guide
to mastering revision
and exams

2nd edition

Emily Finch

Senior Lecturer in Law, University of Surrey

Stefan Fafinski

Research Associate, Oxford Internet Institute

PEARSON

PEARSON EDUCATION LIMITED

Edinburgh Gate
Harlow CM20 2JE
United Kingdom
Tel: +44 (0)1279 623623
Web: www.pearson.com/uk

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Supporting resources

Visit the *Law Express: Exam Success* **companion website at www.pearsoned.co.uk/lawexpress** to find valuable student learning material, including:

- Sample essay plans and problem question answers with examiner comments
- Downloadable revision calendars to help you plan and maintain your revision schedule
- A learning style test to help you discover how you learn best
- A list of marking criteria to see what examiners are really looking for
- A downloadable exam checklist of essential things to remember before the exam
- Printable versions of the topic maps and checklists from the book
- Video clips featuring students sharing their own personal experiences
- Instructions for doing a time audit, with suggestions for eliminating time-wasting habits

Also: The companion website provides the following features:

- Search tool to help locate specific items of content
- E-mail results and profile tools to send results of quizzes to instructors
- Online help and support to assist with website usage and troubleshooting

For more information please contact your local Pearson Education sales consultant or visit **www.pearsoned.co.uk/lawexpress**

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We must also extend our gratitude to the students who participated in the research for the first edition (namely David, Archana, Tom, Emily, Matt, Holly, Eloise, Lauren, Janet, Julianne, Dev and Will). They gave us some very honest and frank insights into the views of students facing law exams today. We have collected a new batch of student experiences to share in this new edition, and are especially grateful to the following:

Samuel Coppard – LLB, University of Birmingham
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Héloïse Brittain – LLB Law with Criminology, University of Portsmouth

Further thanks go to the anonymous lecturers whose comments on this (and the previous) edition are also used throughout the book.

In an unusual departure, Stef would like to thank Mr Patrick McKenna, consultant spinal surgeon at the wonderful Circle Reading hospital, for his recent dramatic intervention that means that putting together this new edition has been (physically) pain-free.

Finally, we must thank our friends. We always do and they've kind of come to expect it now.

Emily and Stef
June 2013

Publisher's acknowledgements

Our thanks go to all reviewers who contributed to the development of this text, including students who participated in research and focus groups which helped to shape the series format.

Introduction

The *Law Express* series is designed to help you revise effectively on a subject-by-subject basis. However, students who used the series also told us that they needed a separate book (in a similar style to *Law Express*) dealing with revision and exams *specifically for law students*. Undergraduate law students are faced with a large burden of reading and memory work, probably more so than any other discipline. Many find it difficult to process all of this information successfully at exam time. Law exam results in the first and second year are also taken into account by law firms when deciding which graduates to take on, both for work placements and training contracts. Examination assessment is still the preferred method of assessment for law degrees, and many universities are moving away from coursework assessment as a result of increasing problems with plagiarism. Therefore there is a heavy burden to succeed in exams facing the majority of law students, combined with a real need for support in how to perform in exams.

This book is a companion to the *Law Express* series. Our aim in writing it was to provide a guide to exam success in law and to help all students achieve their personal best. It will allow you to assess and address your particular weaknesses in revising, preparing for and succeeding in law exams, and delivers tips, techniques and strategies to enable you to significantly improve your abilities and performance in time to make a difference. It focuses on particular concerns facing law students, such as what cases should be memorised and how; how to handle problem questions; how best to use statute books and materials allowed into the exam hall; how to tackle different types of examination papers and how to select questions to answer from the paper. After the first chapter, which looks at different types of law exam and invites you to reflect upon your personal learning style, the book is split into two parts, the first dealing with the process of revision and the second dealing with the exam itself. Throughout the book you will also find quotations from real students and lecturers, expressing their views from either side of the exam process.

We do rely on feedback to keep our books useful and relevant, so do please contact us if you think that there are particular parts that are superfluous, missing or just not to your liking. Of course, you can get in touch to tell us you like it as well! Since we wrote the first edition, we've gone online. You can contact us via our website at www.finchandfafinski.com or follow us on Twitter at [@FinchFafinski](https://twitter.com/FinchFafinski).

We hope that you find our guide to exam success in law useful and, on the assumption that you have acquired the book because you have law exams approaching, we wish you the very best of luck.

Emily and Stef

Guided tour

on describing the subject matter of the question and do too little – sometimes nothing at all – to engage with the line of discussion required by the question.

EXAM TIP

If the question presents a viewpoint or invites an opinion (even if it is only by using the word 'Discuss'), then you should do precisely that. Do not simply write all that you know on the topic, but show that you can engage with the question by designing your line of argument to present this stance, remembering to take account of opposing views where appropriate. This will, in turn, demonstrate a greater level of critical analysis, which is a key criterion on which performance is assessed.

Problem questions

A problem question is a hypothetical set of facts that gives rise to a legal dispute that requires that you give advice to one or more party about the viability of their claim or the

Exam tips – Feeling the pressure? These boxes indicate how you can improve your exam performance and your chances of getting those top marks!

but there is less uniformity about highlighting and the use of sticky notes to mark pages.

■ **A selection of leading cases and relevant articles.** These will help you to gain a greater depth of understanding of the topics that you revise and the ability to incorporate these sources in your answer will impress your examiners (see the comment below). If you find it difficult to identify key cases and useful reading, you might find it helpful to look at the Law Express series, which highlights this information for you.

Lecturer viewpoint

I'm always impressed when I read an exam paper that specifically refers to points made by particular judges in a leading case, or when the student has made good use of an argument put forth by an academic. It says to me 'This is someone who has gone the extra mile and put some real effort into gaining knowledge of this topic.' And, of course, knowledge of those points enables the student to engage with the issues in greater depth and to demonstrate a greater degree of critical analysis, which, in turn, leads to better marks.

Lecturer viewpoint – Ever wonder what your examiner is thinking? Get the inside scoop and hear straight from those who know about achieving exam success!

The student who completed this time audit had estimated that he only spent four minutes of the two-hour period doing things other than his revision. His reaction to the discovery that he had actually spent 32 minutes doing various other things was one of surprise:

STUDENT EXPERIENCE

I can't believe I spent that much time fiddling about. I actually thought that I'd worked solidly all the two hours. My guess for time wasted was four minutes, so I'm really shocked that it was more than half an hour. The thing is that you don't feel like you're wasting time when you're doing these things. I just answer texts without knowing I'm doing it and I honestly thought that it took me less than a minute to make a cup of coffee. Checking my email was a bit unnecessary; I can't believe I did it at all, let alone doing it twice. I'm going to turn my phone and computer right off next time I revise.

Tom

Student experience – Don't go it alone! Learn from the experiences of other students who have been there and offer thoughtful insights into what works and what to avoid.

Try this – Use the suggestions in these boxes for practical ways to get the most out of your study time.

Examples – See how to apply the techniques and strategies from the book to your own revision and exam performance in these illustrated examples.

To find out more – Find chapter-related resources available online that you can use to enhance your revision sessions, including sample questions and answers, revision calendars, an exam checklist, and more!

accuracy after a period of learning your notes and test how much you can remember a day or a week after revising the topic.

✓ **Try this**

Make quizzes of varying levels of difficulty. For example, you might start with a quiz that asks general questions about a topic such as occupiers' liability and then take a more specific focus with a quiz that looks at a particular issue such as liability to trespassers and then finish with a far more testing quiz that asks ten questions about a specific case such as *Keown v. Coventry Healthcare Trust* that deals with the extent of liability to child trespassers.

This method of revision can be particularly effective if you are working with other students (see Chapter 4). This is because there can be a tendency only to ask questions on material that you have understood; if you have not grasped a particular point, it is very hard to ask

Example: Condensed notes

You should aim to reduce the size of your notes on each topic as your revision progresses; as you remember more, you should write less. This example shows how the main statutory provisions and cases in theft that originally covered several pages can be reduced to a list of points and key cases.

Notes on the elements of theft in criminal law

Theft defined in section 1 Theft Act 1968.

Section 2 – **dishonesty** (negative definition, subjective)

- (a) belief that he has right in law to property
- (b) belief in owner's consent
- (c) belief owner cannot be found

Ghosh test: ordinary standards of reasonable and honest people.

Section 3 – **appropriation**: assumption of the rights of the owner

This, in turn, means that certain styles of learning may work better for you than others, so it is helpful to understand your personal favoured learning styles.

To find out more . . .

Visit the Companion Website, where you will find a test that you can take to find out your own intelligence profile. It will only take a few minutes to complete and it will give you an idea of where your strengths lie so that you can devise a revision strategy that is best suited to your particular learning patterns. Remember though that no-one has one learning style to the exclusion of all others. This test is designed to give you a steer towards a revision strategy that may work well for you, but you should not be afraid to try out the different techniques that you will find in this book to see what actually works for you. There can always be some deviation between theory and reality!

Guided tour of the companion website



Practical resources are available to download. Print your own **exam checklist** and **revision calendar!**



Use the **learning styles test** prior to your revision to discover your particular learning patterns and devise an effective revision strategy tailored to your strengths.



Use the **list of marking criteria** to understand what your examiner is looking for and to evaluate your own practice answers.



Sample problem question answers and **essay plans** are available for you to critique and put your exam technique into practice. **Examiner comments** give you the inside perspective on how to earn top marks.



Find examples of the **revision activities and strategies** outlined in the book for you to try. Prepare for exam success!



Find instructions for doing a **time audit** and suggestions for eliminating your worst time-wasting habits.



Watch **video clips** featuring students sharing their personal experiences and hard-won advice for facing exams with confidence.

All of this and more can be found when you visit
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1

Law exams and you

Revision checklist

Topics covered in this chapter:

- Understanding the purpose of exams
- Types of law exams: open and closed book, seen and unseen exams
- Different types of questions: essays, problems, case notes, short answer questions
- Individual learning styles and their impact on revision

Introduction

The first step towards achieving success in exams is to understand their purpose. Once you appreciate what it is that exams are designed to test, you will be able to tailor your revision to ensure that you enter the exam room equipped to produce answers that satisfy the requirements of the exam and impress your examiners. This chapter starts by explaining the purpose of exams and moves on to outline the different formats of exam that you might encounter and the types of question that may arise, with tips on how to tackle them. The final section of this chapter explains the different types of intelligence that exist and how this might affect the way that you approach revision.

The purpose of exams

The easiest way to explain the purpose of exams as a method of assessment is to draw an analogy with two unrelated situations: a medical examination and a sporting event.

The purpose of a medical examination is for the doctor to assess whether the patient has a particular condition and, if so, how far it has developed. In other words, it establishes the presence and extent of a disease. Similarly, the purpose of an exam is to determine the presence and extent of the candidate's legal knowledge.

A parallel can be drawn between exams and a big sporting event. After months of preparation, competitors/students are tested to see which of them is able to produce the most impressive performance under pressure. This allows competitors/students to be ranked in order of the quality of their performance.

In essence, then, the purpose of the exams is to determine how much each student knows about each particular area of law to enable the university to make a distinction between students on the basis of their knowledge and ability.

However, many students do not understand the value of exams as a method of assessment:

STUDENT EXPERIENCE

I hate exams. I can't see the point of them. All you do is memorise things from a book and regurgitate them in the exam. It isn't a test of knowledge, just of memory and that is pointless because solicitors and barristers aren't expected to remember the law; they just look it up. They're also unfair because most students end up with much worse marks than they do for their coursework.

Matt

This quotation sums up three of the commonest criticisms that students make about the use of exams as a method of assessment in law:

- Exams are a test of memory rather than a means of measuring knowledge.
- Their emphasis on the ability to memorise the law is irrelevant to the reality of legal practice.
- Exams are more challenging and result in lower marks for most students.

Although these views are commonly held, they are inaccurate, as will be explained in the sections that follow.

Memory *versus* knowledge

Exams are not designed to be a test of memory: their purpose is to test knowledge. The brain processes and stores information differently, depending upon whether or not it has been understood. If you understand an area of law, it is stored in the brain as knowledge where it takes up less room and can be more easily retrieved than law which has not been understood but which has been committed to memory. This means that students who have memorised law that they do not understand have far fewer resources to draw upon in the exam than students who have understood the law and have far more detailed knowledge stored in their brain.

Students often equate memory and knowledge, thinking that the ability to remember and reproduce accurate statements of the law is a method of demonstrating knowledge. However, examiners are looking for answers that show understanding of the law, rather than answers that are made up of points that have been memorised. Understanding is expressed by an ability to explain the law in your own words and to use it in a flexible way to respond to the requirements of the question. Students who are relying on memorised information tend to struggle to produce answers with either of these characteristics.

Lecturer viewpoint

There is a qualitative difference between answers based on understanding of the law and those that are made up of a series of memorised points. The latter attract very little credit. What we are looking for is reasoned analysis and application of the law to the particular question: that shows that students know how to *use* it rather than just know what it *is*.

So although the importance of remembering the law that you have learned might make it seem as if exams are all about memory, this is not the case. Do not use memorisation as a substitute for knowledge. The two things are very different and the distinction is highly visible to examiners.

Academic law *versus* law in practice

Whilst it is true that lawyers in practice are not expected to work from memory, it is important to remember that a law degree is not designed to prepare students for practice or to replicate the conditions in which solicitors and barristers work. The academic study of the law is intended to provide a general grounding in the law and, as in other academic subjects, exams are used as one of the main methods of assessment.

Although law is studied as an academic discipline at undergraduate level, the use of exams as a method of assessment makes a positive contribution to equipping students to enter into legal practice. One of the key pedagogic justifications for the use of unseen exams (that is, exams where the questions are not released to students prior to their entry into the exam room) is that it stimulates and motivates student learning across the entire syllabus of any particular subject. In other words, students do not know what topics will be examined so the sensible approach to revision to ensure preparedness for the exam is to revise a significant proportion of the material covered in each module. By way of comparison, assessment by coursework requires a sustained focus on a single topic, so does not promote breadth of knowledge in the same way as assessment by exam.

Exams *versus* coursework

Many students do find that they receive lower marks for exams than for coursework. This should not be taken to mean that exams are harder than coursework, but that each method of assessment sets out to test different things and students generally tend to be better at meeting the objectives of coursework. Most students seem to prefer coursework to exams.

STUDENT EXPERIENCE

I prefer coursework to exams. With coursework, you are able to complete the work with the resources to hand at your own leisure and the grade you receive is the grade you deserve. With exams, you could have revised for many weeks or months but then panic on the day and not do as well as you could have – therefore your potential is not reflected as well.

Samuel

I prefer exams to coursework. I'm better at exams but I'm not sure why!

Nancy

I used to think that I was much better at coursework than exams as my marks were about 10–15 per cent better in coursework. Then I realised that the way that I approached exams was wrong so I made a lot of changes to the way that I revised and now my marks are pretty much the same for exams and coursework.

Louise

There would be no point in having two methods of assessment if coursework and assessment had the same objectives and tested students in the same way.

■ Types of law exam

The sections that follow will introduce the various types of exam that you might encounter and provide some guidance on how to adapt your approach to revision to suit their requirements.

Seen and unseen exams

The most usual method of assessment in undergraduate law is the unseen paper. This is an exam in which students do not have any advance knowledge about the topics that will be examined and the questions that will be asked about them. This can be distinguished from a seen exam (also known as a pre-release paper) in which the paper is given to students prior to the exam to enable them to prepare with full knowledge of the questions.

Preparing for a seen exam

Clearly, the business of revising for an exam will differ dramatically, depending upon whether you are preparing for a seen or unseen paper. Knowledge of the questions prior to the exam facilitates targeted revision and enables students to focus their attention on the topics that are certain to appear on the paper. Students preparing for a seen exam paper not only have an opportunity to tailor their revision to the content of the exam but are also able to carry out research and plan their answers. All that is required is that this information is retained until the exam, as it is generally the case that materials are not permitted in the exam room. A final point to remember about a seen exam paper is that the examiners will expect a higher standard of answer as students have had advance knowledge of the questions.

Preparing for an unseen exam

By contrast, preparation for an unseen paper is speculative and necessitates that students revise more topics than there are questions to be answered to ensure that they will be able to answer the required number of questions. A student who revises four topics in preparation for an unseen exam paper that requires that four questions are answered runs a risk of being caught out if one (or more) of their topics does not come up on the paper or the question asked about the topic is one that they cannot tackle.

Open and closed book exams

The most usual method of assessment in undergraduate law is the closed book exam. In this style of exam, students are not permitted to take any materials into the exam room to consult when preparing their answers (except in some cases – but not all – a statute book). By contrast, students sitting an open book exam are permitted to take materials into the exam room and use these in preparing their answers. This may be a single book determined by the examiner, your own choice of one book or you may have the option of