

AS LAW P1 2021-2024

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Answer **three** questions.

- 1** Compare the role of barristers and solicitors. Assess the extent to which these roles have changed since the Courts and Legal Services Act 1990. [25]
- 2** The ideas for Acts of Parliament can come from a variety of sources.
Evaluate the role of judges, public opinion and pressure groups in law-making. [25]
- 3** Describe the allocation and trial processes of fast-track and multi-track cases. Assess the extent to which the reforms proposed by Lord Woolf in 1996 have been achieved. [25]
- 4** In England and Wales there were over 275 000 stop and search incidents in 2017–2018.
Describe the powers of the police to stop and search. Assess the extent to which stop and search is successful in preventing and detecting crime. [25]
- 5** Describe the function of the Crown Prosecution Service (CPS). Discuss the extent to which the CPS has been successful. [25]
- 6** When interpreting statutes, judges use the literal, golden and mischief rules.
Describe these rules and assess how effective they are in helping judges to perform this task. [25]

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Cambridge International AS & A Level

LAW

9084/11

Paper 1

May/June 2021

MARK SCHEME

Maximum Mark: 75

Published

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**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

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From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
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2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
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3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
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This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Compare the role of barristers and solicitors. Assess the extent to which these roles have changed since the Courts and Legal Services Act 1990. Indicative Content Responses may include: Roles: Barristers: independent practice, employed by CPS, businesses, local government, civil service, Bar Council, Inns of Court, chambers, clerk role, tenancy, advocacy, specialisation, opinions, cab rank rule, Solicitors: partnerships, sole practitioners, CPS, local authorities, government departments, Law Society, general practice, advising clients, writing letters, contracts, wills, conveyancing, some advocacy. Evaluation and changes in roles: Candidates should discuss the premise of the CLSA 1990 which essentially allowed solicitors who have completed a Certificate of Advocacy to have rights of audience in all courts, Access to Justice Act 1999, Bar Direct, Alternative Business Structures Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the role and/or organisation of barristers and/or solicitors and/or makes reference to the evaluative issues in very general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the difference in role and/or organisation of barristers and/or solicitors, but this is unlikely to have any illustration and little or no reference to the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the role and organisation of the two professions, but this may not be balanced. Candidates who look at only one profession will not be able to achieve Band 4. There will be reference to detail on the role of each profession, how the profession works and the way it interacts with the public as well as detail on the areas of law covered. At the upper end of the band there may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the role and organisation of barristers and solicitors with good levels of detail and statutory authority where relevant. Stronger responses may include details of complaints which can be credited. Candidates will address the evaluative components of the question (as in Band 4) in some detail, discussing the reforms of the 1990s and beyond.	25

Question	Answer	Marks
2	The ideas for Acts of Parliament can come from a variety of sources. Evaluate the role of judges, public opinion and pressure groups in law-making. Indicative Content Responses may include: Candidates may start with an introduction about why law reform is needed: changes in society, changes in technology, response to events, media influence or changes in government. Judges: use of precedent and statements within judgements e.g. R v R, Law Reform (Year and a Day Rule) Act 1996, Offences Against the Person Act 1861. Public opinion: euthanasia, Diane Pretty Case, Hunting Act 2004. Pressure groups: sectional groups e.g. Law Society, BMA, Trades Unions, cause groups e.g. Greenpeace, Amnesty International, Fathers for Justice. Evaluation – Judges: constitutional position, cannot consult experts, deals with only the case before them. Public opinion: e-petitions, private members' bills. Pressure Groups: can be successful, may use illegal tactics. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the contribution of judges and/or public opinion and/or pressure groups to law creation and/or makes reference to the evaluative issues in very general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the contribution of judges and/or public opinion and/or pressure group to law creation, but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail and very little reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation, with some illustration, of the contribution of judges, public opinion and pressure groups to law creation, but this may not be balanced or have wide-ranging illustration at the lower end of the band. Stronger responses may give higher levels of detail and example and offer some detail on the evaluative issues within the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the contribution of judges, public opinion and pressure groups to law creation, with good levels of illustration and explanation. Candidate evaluates the issues within the question well, covering the effectiveness and success of all three areas and draws well-informed conclusions on their effectiveness.	25

Question	Answer	Marks
3	Describe the allocation and trial processes of fast-track and multi-track cases. Assess the extent to which the reforms proposed by Lord Woolf in 1996 have been achieved. Indicative Content Responses may include: Candidates may introduce their answer by talking briefly about the Civil Procedure Rules and their introduction after a report by Lord Woolf. Fast-track: disputes of £10 000 to £25 000. PI cases over £1000 and up to £25 000 also dealt with. DJ sends out allocation questionnaire, makes decision. Strict timetable, case heard within 30 weeks. Trial by CJ or DJ, open court, formal process, hearing limited to one day, limited expert witnesses. Multi-track: cases over £25 000 or complex cases under this amount. If starts in CCt likely to be tried there. Can be sent to HCt if claim over £100 000. CJ, case management, timetables, possibility of ADR. Candidates may talk about the Divisions of the High Court and their respective roles – whilst this is not wholly relevant, it could be regarded as relevant if it relates to the track allocation. Reforms: previous process slow, complex, expensive. Now more settlements before court, less delay, better management, Jackson Report in 2011 highlighted still costly, need for more dispute resolution. Candidates may look in detail here at the LASPO Act 2012 for the law relating to legal funding, though this should not be in so much detail that the candidate diverts to an answer on legal funding. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the allocation and trial processes of one or both types of case and/or evaluates the effectiveness of the civil justice system in very general terms. Band 3 [7–12 marks] Candidate offers basic references to the allocation and trial processes of one or both types of case, perhaps focused on factual aspects such as the financial and legal complexity points alongside the formality and structure of trial processes and/or some general assessment of the effectiveness system after the Woolf reforms in terms of areas such as expense, delay, reform and legal aid. Band 4 [13–19 marks] Candidate gives a reasonable account of the allocation and trial processes of both types of case and good assessment of the effectiveness of the civil justice system. At the upper levels of the band there will be more detail on the processes, perhaps with examples. The evaluation will include more developed discussion relating to examples. To reach higher marks, all parts of the question need to be dealt with in detail showing good critical awareness. Band 5 [20–25 marks] Very good detail on the allocation and trial processes of both types of case and good assessment of the effectiveness of the civil justice system with high levels of accuracy, citation and critical awareness.	25

Question	Answer	Marks
4	In England and Wales there were over 275 000 stop and search incidents in 2017–2018. Describe the powers of the police to stop and search. Assess the extent to which stop and search is successful in preventing and detecting crime. Indicative Content Responses may include: Candidates may introduce the Police and Criminal Evidence Act 1984 and the reasons for its introduction – that is, to prevent miscarriages of justice and to enable the police to be accountable. Ss1–7 PACE 1984, Code of Practice A, s23 Misuse of Drugs Act 1971, s44 Terrorism Act 2000, s60 Criminal Justice and Public Order Act 1994. Public place, reasonable grounds, not based on personal factors, prohibited articles, giving name and police station, unlawful searches, request to remove outer jacket, coat, gloves only, <i>Osman v DPP</i> 1999, <i>Michaels v Highbury Corner Magistrates' Court</i> 2009, voluntary searches. Evaluation: misuse of powers, Best Use of Stop and Search Scheme 2014, reduction of use in 2014–2015, effectiveness of stop and search, arrest rate after stop and search 14%. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the police powers of stop and search and/or evaluates the effectiveness in very general terms. Band 3 [7–12 marks] Candidate gives a basic description of the police powers of stop and search. There is unlikely to be any detail or citation of statute, codes or case examples. The evaluative aspect of the question is unlikely to be considered in any depth. Band 4 [13–19 marks] Candidate gives a reasonable description of the police powers of stop and search. At the upper end of the band, there may be references to PACE and the relevant codes, perhaps with some illustration using case law. Candidate makes attempts to address the evaluative component of the question. Band 5 [20–25 marks] Candidate gives a very good description of the police powers of stop and search with good citation of statute, codes and case law. Stronger responses may link to statistics showing a relationship between stop and search frequency and arrest. Candidate clearly addresses the evaluative component of the question drawing logical and reasoned conclusions.	25

Question	Answer	Marks
5	Describe the function of the Crown Prosecution Service (CPS). Discuss the extent to which the CPS has been successful. Indicative Content Responses may include: Functions: Prosecution of Offences Act 1985, Code for Crown Prosecutors, charging, evidential test (candidates may give examples here of reliable and unreliable evidence – examples would be expected for the higher bands), public interest test (candidates may expand on some of these points and explain them in more detail, there are around seven questions in the Public Interest test so candidate will look at some or all of them in varying amounts of detail), preparation of prosecution cases, Code of Practice for Victims 2020, prosecuting in court. Evaluation: prevention of miscarriages of justice (Guildford and Birmingham cases) discontinuation of cases, failure to prosecute, inefficiency, expense. Candidates may support these points with some statistics or reference to the Glidewell report which was a report into the effectiveness of the CPS, published in 1999, though there are also more recent press releases outlining the efficiencies or otherwise of the CPS. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the organisation function of the CPS and/or makes reference to the evaluative issues in very general terms. Band 3 [7–12 marks] Candidate gives a basic but generally accurate description of the organisation and function of the CPS. There may be brief mention of detail, but this may be superficial and poorly described. There is likely to be very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the organisation and function of the CPS, but this may not be wide-ranging or detailed. Candidate can describe the criteria used in prosecution decisions. Stronger responses may begin to address the evaluative issues and discuss some cases as examples of miscarriages of justice prior to the creation of the CPS but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the organisation and function of the CPS with detailed description of the prosecution criteria and use of cases to illustrate this. Candidate considers the evaluative issues concerning miscarriages of justice in some detail, drawing well-reasoned conclusions.	25

Question	Answer	Marks
6	When interpreting statutes, judges use the literal, golden and mischief rules. Describe these rules and assess how effective they are in helping judges to perform this task. Indicative Content Responses may include: Candidates may introduce their answer by giving a brief introduction to why we need statutory interpretation and the problems judges face when interpreting statutes. <i>Literal Rule</i>, R v Judge of City of London Court 1892, Whiteley v Chappell 1868, LNER v Berriman 1946. <i>Golden Rule</i>, Re Sigsworth 1935, Adler v George 1964, Jones v DPP 1962. <i>Mischief Rule</i>, Heydon's Case 1584, Smith v Hughes 1960, Eastbourne BC v Stirling 2000, RCN v DHSS 1981 Evaluation: <i>Literal rule</i>: follows words used, respects judges' role, easier to know what law is, but leads to absurdity, act may be unclear. <i>Golden Rule</i>: respects words in act, escape route from Literal rule, but limited in use, unpredictable. <i>Mischief rule</i>: promotes purpose of law, lets judges fill in the gaps, produces just result but risks judicial law making, leads to uncertainty. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the named approaches to interpretation, but goes no further. No illustration by way of case law. There may be limited points of evaluation but these are not developed. Band 3 [7–12 marks] Candidate gives a brief but generally accurate description of the named approaches. There may be brief mention of other tools of interpretation, but these may be superficial and poorly described. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. Candidates who do not use any case law may not achieve more than 12 marks. Band 4 [13–19 marks] Candidate gives a reasonable description of named approaches to interpretation, but may not have wide-ranging case or example illustration at the lower end of the band. Stronger responses may begin to address the evaluative issues of the power of the judiciary within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the named approaches, with detailed and wide-ranging illustrations. Candidate evaluates the issues lack of predictability dependant on approaches, covering the differing effects of the various approaches in particular and drawing well-reasoned conclusions.	25



Cambridge International AS & A Level

LAW

9084/12

Paper 1 Structure and Operation of the English Legal System

May/June 2021

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1** Whilst walking around the town centre, Police Constable (PC) Ali receives a message over his radio: a woman aged around 20 and carrying a large backpack has been seen running from the scene of a robbery. PC Ali sees Jenny, who fits this description, running towards him.

Explain the powers of stop and search which PC Ali has in this situation. Assess whether these powers are adequate to allow the police to prevent crime. [25]

- 2** Describe the role of the Law Commission. Assess the success of the Law Commission since its creation in 1965. [25]

- 3** The English system of precedent is capable of demonstrating flexibility.

Describe how the Court of Appeal and the Supreme Court can depart from previous decisions. Assess the significance of these courts in allowing precedent to be flexible. [25]

- 4** Describe the role of the jury in both civil and criminal cases. Discuss any reforms which have been suggested to improve the jury system. [25]

- 5** When deciding whether to grant bail, there is a conflict between the protection of the public and the rights of someone who has not yet been tried by a court.

Describe the court's power to grant bail. Discuss whether it is ever justifiable to remand a suspect in custody before trial. [25]

- 6** Describe the concept of judicial independence from the legislature, the executive and political bias. Discuss why judicial independence is considered to be of such importance. [25]

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The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Whilst walking around the town centre, Police Constable (PC) Ali receives a message over his radio: a woman aged around 20 and carrying a large backpack has been seen running from the scene of a robbery. PC Ali sees Jenny, who fits this description, running towards him. Explain the powers of stop and search which PC Ali has in this situation. Assess whether these powers are adequate to allow the police to prevent crime. Indicative Content Responses may include Ss1–7 PACE 1984, Code of Practice A, Misuse of Drugs Act 1971, Terrorism Act 2000, public place, reasonable grounds, not based on personal factors, prohibited articles, giving name and police station, unlawful searches, request to remove outer jacket, coat, gloves only, Osman v DPP1999, Michaels v Highbury Corner Magistrates' Court 2009, voluntary searches. Evaluation: Police and Criminal Evidence Act 1984 and the reasons for its introduction, to prevent miscarriages of justice and to enable the police to be accountable, misuse of powers, Best Use of Stop and Search Scheme 2014, reduction of use in 2014–2015, effectiveness of stop and search, arrest rate after stop and search 14%. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the police powers of stop and search and/or makes very basic references to the scenario and/or the evaluative aspect of the question in very general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the police powers of stop and search. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed. The evaluative aspect of the question is unlikely to be considered in any detail. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the police powers of stop and search. At the upper end of the band, there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes attempts to address the evaluative component of the question Band 5 [20–25 marks] Candidate gives a very good explanation of the police powers of stop and search with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the evaluative component of the question.	25

Question	Answer	Marks
2	Describe the role of the Law Commission. Assess the success of the Law Commission since its creation in 1965. Indicative Content Responses may include: Law Commissions Act 1965, review, reform, codification, consolidation, repeal, consultation process, reports, scoping papers, draft bills. Evaluation: successes, less successful periods, criminal code, candidates may include recent examples and current projects to demonstrate knowledge of the current work of the Law Commission. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the role of the Law Commission and may offer fragments of information, but with no real detail and/or make reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of role of the Law Commission but this is likely to be weak and poorly described, with little or no supporting citation. There is unlikely to be any discussion of detail and very little reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the role of the Law Commission but may not have wide-ranging illustration. Stronger responses may begin to address both and offer some example of successful LC reforms and begin to address the evaluative issues within the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the work of the Law Commission with good levels of illustration. Candidate evaluates the issues within the question well, drawing well-reasoned conclusions.	25

Question	Answer	Marks
3	The English system of precedent is capable of demonstrating flexibility. Describe how the Court of Appeal and the Supreme Court can depart from previous decisions. Assess the significance of these courts in allowing precedent to be flexible. Indicative Content Responses may include: Court of Appeal; Young v Bristol Aeroplane 1944, Williams v Fawcett 1986, Rickards v Rickards 1989, R v Cooper 2011, human rights cases, Re Medicaments 2001, R v Gough 1993, Criminal Division. Supreme Court; London Street Tramways v LCC 1898, R v Smith 1961, Criminal Justice Act 1967, Practice Direction 1966, Addie v Dumbreck 1929, BRB v Herrington 1972, Conway v Rimmer 1968, Jones v Secretary of State for Social Services 1972, Re Dowling 1967, Pepper v Hart, R v Shivpuri 1986, Anderton v Ryan 1985, distinguishing Merritt v Merritt 1971, Balfour v Balfour 1919. Evaluation: Lord Denning and the Court of Appeal, attempts to widen the ability of the CA to avoid SC rulings, willingness of SC to use the statement, effect on certainty, responsiveness to social change, use of distinguishing as an alternative. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate may make general reference to the concepts with little relevance to the question. Candidates may make brief reference to the ability of the CA/SC to effect change and/or refer to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the way in which the CA and/or SC use their powers to depart from precedent. These are, however, likely to be superficial and poorly described and have little or no case citation as example. There is unlikely to be any discussion of detail and little reference to the evaluative aspect of the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the way in which the CA and SC use their powers to depart from precedent. Stronger responses will go on to illustrate this with a range of case law and example, but this may be limited. Candidates may also consider distinguishing with appropriate case citation in support. Candidates may address some of the evaluative issues concerning the abilities of the courts to depart from precedent and relate this to the question. Band 5 [20–25 marks] Candidate gives a very good detailed description of the way in which the CA and the SC use their powers to depart from precedent (as in Band 4) with good levels of illustration and explanation. Candidate clearly links the powers of departure in these courts to the question and presents a logical and reasoned discussion.	25

Question	Answer	Marks
4	Describe the role of the jury in both civil and criminal cases. Discuss any reforms which have been suggested to improve the jury system. Indicative Content Responses may include: Criminal role: Juries Act 1974, listens to evidence, retires to jury room, elects foreperson, discusses in private, returns verdict of guilty or not guilty, may give majority verdict, 10–2 or 11–1 since 1967, R v Pigg 1983. Civil role: s69 Senior Courts Act 1981, s66 County Courts Act 1984, right to a jury in defamation, false imprisonment, malicious prosecution and fraud cases, can be requested in personal injury cases, Ward v James 1966, Singh v London Underground 1990. Evaluation and reforms: trial by single judge, panel of judges, judge and lay assessors, changes in age limits, removal of civil jury ability to assess damages, widening of potential pool of jurors, requiring educational level, candidates here may discuss the reasons why reforms may be needed. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the role of the jury in civil and/or criminal cases but with no real detail or accuracy. There may be reference to the evaluative issues, but expressed only in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the role of the jury in civil and/or criminal cases. This is, however, likely to be superficial and poorly described. There is unlikely to be any detailed evaluative content beyond limited and unfocussed advantages and disadvantages which do not directly address the command in the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the role of the jury in civil and criminal cases with some useful detail, example, and where appropriate, statutory authority. Stronger responses will attempt to include some evaluative content but at the lower end of this band this content may be vague and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good description of the role of the jury in civil and criminal cases with good levels of illustration. Candidate will address the evaluative component well, presenting clear focused and supported arguments for and against reform and drawing logical and well-informed conclusions.	25

Question	Answer	Marks
5	When deciding whether to grant bail, there is a conflict between the protection of the public and the rights of someone who has not yet been tried by a court. Describe the court's power to grant bail. Discuss whether it is ever justifiable to remand a suspect in custody before trial. Indicative Content Responses may include: Bail Act 1976, reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses), factors considered (seriousness of offence, character of defendant, defendant's record, strength of evidence), sureties, appeals, conditions, restrictions on bail where the offence is murder, manslaughter, rape, restrictions for adult drug users, appeals against refusal of bail. Evaluation: protection of public, prevention of further crime, interference with evidence or witnesses, danger of flight, but balancing this with the imprisonment of a person not yet found guilty of an offence. Candidates may cite statistics. Note: Court bail is the focus of the question, not police bail. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of bail, but with no real detail or accuracy and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the concept of bail. This is, however, likely to be superficial and poorly described. Candidate may introduce some attempts at evaluation, but this is likely to be informal and lacking in legal detail. Band 4 [13–19 marks] Candidate gives a reasonable description of bail with some useful detail, statutory reference and example. Stronger responses will attempt to include some analysis, but at the lower end of the band this may be limited and lacking in detail or reasoned argument. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of bail, with good levels of illustration (including references to statutes and perhaps high profile cases of reoffending on bail). Stronger responses will address the evaluative issues and draw reasoned and logical conclusions.	25

Question	Answer	Marks
6	Describe the concept of judicial independence from the legislature, the executive and political bias. Discuss why judicial independence is considered to be of such importance. Indicative Content Responses may include Senior judges not involved in Parliamentary law making, creation of the Supreme Court in 2009, cannot be dismissed by the government, s3 Constitutional Reform Act 2005, Lord Chancellor or ministers must not seek to influence judicial decisions, creation of Ministry of Justice, use of judicial review of government decisions, R v Home Secretary ex p Fire Brigades Union 1995, CCSU v Minister for the Civil Service 1984, AG v Guardian Newspapers 1987, DPP v Hutchinson 1990, human rights cases, Human Rights Act 1998, H v Mental Health Review Tribunal 2001, recent Brexit challenges. Evaluation: rule of law, Montesquieu separation of powers, checks and controls between executive, legislature and judiciary Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of judicial independence but with no detail or accuracy and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the concept of judicial independence. This is likely to be superficial and poorly described. Candidate may introduce some commentary on the evaluative issues but this is likely to be informal and lacking in legal detail. Band 4 [13–19 marks] Candidate gives a reasonable description of judicial independence with some useful detail and example, perhaps considering independence from legislative function, the executive and from political influence. Stronger responses will attempt to include some evaluative content. Band 5 [20–25 marks] Candidate gives a very good description of judicial independence (as in Band 4) with very good levels of illustration. Candidates are able to demonstrate clear understanding of the issues and include reasoned evaluative commentary. Stronger responses will include consideration of the position of the Lord Chancellor, separation of powers and recent reforms in depth, drawing reasoned conclusions.	25



Cambridge International AS & A Level

LAW

9084/13

Paper 1 Structure and Operation of the English Legal System

May/June 2021

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1** Leo has been convicted of assault in the Magistrates' Court. He maintains his innocence and wishes to appeal.

Describe the different ways in which Leo can appeal. Assess the problems which he might experience when making an appeal. [25]

- 2** Describe the function of the Crown Prosecution Service (CPS). Discuss the main criticisms of this service. [25]

- 3** The Common Law and Equity courts were combined by the Judicature Acts 1873–1875.

Describe how Equity has developed since then. Assess the extent to which Equity is still a separate source of law. [25]

- 4** Describe how a jury in a criminal case is selected. Assess whether this process successfully removes potential jurors who may be unsuitable to fulfil the role. [25]

- 5** Juhena has been charged with the theft of expensive jewellery from a shop in London. She lives with her husband and their seven-year-old child in rented accommodation nearby. She also owns a property in France. She has complied with bail given to her for a previous conviction for fraud.

Explain the factors that might be considered when deciding whether or not to grant bail to Juhena. Justify whether it is ever appropriate to grant bail to someone charged with an offence. [25]

- 6** Describe the rights protected by the Human Rights Act 1998, using examples from case law. Assess how effective the Act has been in protecting these rights. [25]



Cambridge IGCSE™

LAW

9084/13

Paper 1

May/June 2021

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2021 series for most Cambridge IGCSE™, Cambridge International A and AS Level components and some Cambridge O Level components.

This document consists of **11** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Leo has been convicted of assault in the Magistrates' Court. He maintains his innocence and wishes to appeal. Describe the different ways in which Leo can appeal. Assess the problems which he might experience when making an appeal. Indicative Content Responses may include: Appeal to the Crown Court: D only, if a guilty plea only appeal against sentence, if not guilty plea can appeal against conviction and sentence, D has right to appeal, no leave needed, rehearing at Crown Court, judge & 2 magistrates, can confirm, reverse decision, can also vary conviction in some cases, can confirm increase or decrease sentence. If a point of law is involved, Crown Court can allow an appeal by way of case stated to QBD of High Court. Appeal by way of case stated to QBD: only by D against a conviction or P against an acquittal, not for sentence. QBD can reverse, vary or confirm the decision or remit to Magistrates' Court on a point of law, magistrates set out the case, panel of 2 or 3 High Court Judges, occasionally a Court of Appeal judge. Further appeal to Supreme Court from QBD possible, only if point of law involved. Leave needed. Evaluation: about 12 000 appeals to Crown Court each year, less than half are successful. Only about 100 case stated appeals each year. Both types expensive and time consuming, hard if D is imprisoned. Lack of legal funding. Delay. Possibility of an ordered re-trial. Application to scenario. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of appeal and/or makes reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the routes of appeal, perhaps using just a diagram. There may be brief mention of difficulties but there is unlikely to be any developed discussion. Band 4 [13–19 marks] Candidate gives a reasonable description of the routes of appeal. Stronger responses may include details of grounds of appeal and begin to address the analytical issues of the question but at the lower end of the mark band this may be limited and unfocussed on the question. Candidates who do not acknowledge the scenario in their responses may achieve no more than 15 marks. Band 5 [20–25 marks] Candidate gives a very good and detailed description of the routes of appeal. Candidate addresses the analytical aspects of the question and offers well-reasoned arguments and conclusions.	25

Question	Answer	Marks
2	Describe the function of the Crown Prosecution Service (CPS). Discuss the main criticisms of this service. Indicative Content Responses may include: Functions: Prosecution of Offences Act 1985, Code for Crown Prosecutors, charging, evidential test (candidates may give examples here of reliable and unreliable evidence – examples would be expected for the higher bands), public interest test (candidates may expand on some of these points and explain them in more detail, there are around seven questions in the Public Interest test so candidate will look at some or all of them in varying amounts of detail), preparation of prosecution cases, Code of Practice for Victims 2005, prosecuting in court. Evaluation: prevention of miscarriages of justice (Guildford and Birmingham cases). Candidates may also make reference to support offered by the CPS to victims of crime, coronavirus support and support to victims of sexual offences, discontinuation of cases, failure to prosecute, inefficiency, expense. Candidates may support these points with some statistics or reference to the Glidewell report which was a report into the effectiveness of the CPS, published in 1999, though there are also more recent press releases outlining the efficiencies or otherwise of the CPS. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the function of the CPS and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the function of the CPS. There may be brief mention of detail, but this may be superficial and poorly described. There is likely to be very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the function of the CPS, but this may not be wide-ranging or detailed. Candidate can explain the criteria used in prosecution decisions. Stronger responses may begin to address the evaluative issues and discuss some criticism of the CPS but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the function of the CPS with detailed description of the prosecution criteria and use of cases to illustrate this. Candidate considers the evaluative issues concerning criticisms of the CPS in some detail, with supporting citation, drawing well-reasoned conclusions.	25

Question	Answer	Marks
3	The Common Law and Equity courts were combined by the Judicature Acts 1873–1875. Describe how Equity has developed since then. Assess the extent to which Equity is still a separate source of law. Indicative Content Responses may include: Very brief history, maxims use since JA, Berry v Berry 1929, Leaf v International Galleries 1950, D&D Builders v Rees 1965, Chappell v Times Newspapers 1975 (candidates may not necessarily consider all maxims listed, those that are considered should be accompanied by an explanation and a supporting case), remedies in use since JA (with supporting case law), Kennaway v Thompson 1980, Warner Bros v Nelson 1937, Wolverhampton Corporation v Emmons, Grist v bailey, Craddock v Hunt, Mareva Compania v International Bulk Carriers 1975, Anton Piller KG v Manufacturing Processes 1976, use of injunctions in domestic violence and employment law, deserted wives equity, Matrimonial Homes Act 1967, use of mortgages and trusts in 20th and 21st century, new concepts, Central London Properties Ltd v High Trees House Ltd 1947, modern use of super injunctions. Evaluation: equity now works alongside common law, no longer separate courts/judges; equity still takes precedence where conflict, equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of equity and/or refers to the evaluative issues in general terms. There may also be vague and unsupported statements concerning fairness. Band 3 [7–12 marks] Candidate gives a basic description of the development of equity in the 20th century and beyond. There may be a brief mention of remedies and/or maxims and/or concepts, but this may be superficial and poorly focussed on the question. There is unlikely to be any discussion of detail or citation and very little, if any, reference to the analytical issues within the question. NB Candidates who focus unnecessarily on the historical development prior to 1873 may not be credited above 10 marks as the focus of the command is on the post-1873 development. Band 4 [13–19 marks] Candidate gives a reasonable description of the development of equity since 1873 (remedies/concepts/maxims) but these may not have wide-ranging detail or citation at the lower end of the band. Stronger responses may be able to link this to modern needs and the way equity works alongside common law, but at the lower end of the mark band this may be limited and unfocussed on the question.	25

Question	Answer	Marks
3	Band 5 [20–25 marks] Candidate gives a very good description of the development of equity and the remedies/concepts/maxims (as in Band 4). Candidate is able to clearly link these to the concept of modern use and the way equity works alongside common law.	

Question	Answer	Marks
4	Describe how a jury in a criminal case is selected. Assess whether this process successfully removes potential jurors who may be unsuitable to fulfil the role. Indicative Content Responses may include: Juries Act 1974, Criminal Justice Act 2003, Criminal Justice and Courts Act 2015, qualifications, age, electoral roll, residence, no mental disorder, not disqualified by criminal convictions or lack of capacity, may be excused or deferred, vetting Ex P Brownlow 1980, R v Mason 1980, ABC Trial 1978, challenge to array; Romford Case 1993, R v Fraser 1987, R v Ford 1989, for cause; R v Wilson: R v Sprason 1995, stand by; AG's Guidelines 1988. Evaluation: those with weak English, homeless people not on roll, deaf and blind jurors, legal professionals who can now sit on a jury, unwilling jurors, rationale behind the removal of those with lack of capacity or convictions, effectiveness of challenge and vetting, use of discretionary excusals, allowing legal professionals to sit on juries, recent examples of this. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the selection process for jurors, but with little accurate detail and vague evaluative comment. Band 3 [7–12 marks] Candidate gives a basic description of the selection of jurors with some detail and/or refers to the evaluative issues in general terms. Band 4 [13–19 marks] Candidate gives a reasonable description of selection of jurors perhaps including qualification, disqualification, eligibility, excusal, and challenge and vetting. At the upper end of the mark band, candidates may include some case and statute citation to support their explanation. Some attempt to link to the analytical component of the question and discuss whether the processes are effective in removing bias. Band 5 [20–25 marks] Candidate gives a very good description of the selection of jurors including qualification, disqualification, eligibility, excusal, and challenge and vetting. Candidate includes appropriate citation of cases and statute to support their answer. Candidate discusses the validity of using these processes to remove bias and draws well-reasoned conclusions.	25

Question	Answer	Marks
5	Juhena has been charged with the theft of expensive jewellery from a shop in London. She lives with her husband and their seven-year-old child in rented accommodation nearby. She also owns a property in France. She has complied with bail given to her for a previous conviction for fraud. Explain the factors that might be considered when deciding whether or not to grant bail to Juhena. Justify whether it is ever appropriate to grant bail to someone charged with an offence. Indicative Content Responses may include: Bail Act 1976, reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses), factors considered (seriousness of offence, character of defendant, defendant's record, strength of evidence), sureties, appeals, conditions, restrictions on bail where the offence is murder, manslaughter, rape, restrictions for adult drug users, appeals against refusal of bail. Evaluation: protection of public, prevention of further crime, crime committed by those on bail, with examples, if possible, interference with evidence or witnesses, danger of flight, but balancing this with the imprisonment of a person not yet found guilty of an offence, application to scenario. Amendments made by the Criminal Justice Act 2003 and the Legal, Sentencing and Punishment of Offenders Act 2012 which seek to protect the public. Candidates may cite some of the amendments here – for example, s19 Criminal Justice Act 2003 says that bail should not be granted to someone who has tested positive for Class A drugs and the offence is one which is related to drugs. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the concept of bail, but with no real detail or accuracy and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the concept of bail. This is, however, likely to be superficial and poorly explained. Candidate may introduce some attempts at application and/or address the evaluative issues but this is likely to be informal and lacking in legal detail. Band 4 [13–19 marks] Candidate gives a reasonable explanation of bail with some useful detail, statutory reference and example. Stronger responses will attempt to include some application to the scenario concerning the reasons for allowing or refusing bail (type of offence, lack of violence, previous history, community ties etc.) and link this to a reasoned response to the question. Some candidates may include reference to both police and court bail. Candidate offers a limited attempt at the evaluative element of the question. However, at the lower end of the band, this may be vague and lacking in detail or reasoned argument.	25

Question	Answer	Marks
5	Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of bail, (as in Band 4) with good levels of illustration (including references to statutes and perhaps high-profile cases of reoffending on bail) and explanation. Stronger responses will address the application and evaluation issues and draw reasoned and logical conclusions.	

Question	Answer	Marks
6	Describe the rights protected by the Human Rights Act 1998, using examples from case law. Assess how effective the Act has been in protecting these rights. Indicative Content Responses may include: European Convention on Human Rights incorporated into English law by the Human Rights Act 1998; Art. 2 right to life, Art. 3 freedom from torture, Art. 4 slavery, Art. 5 right to liberty and a fair trial, Sander v UK 2000, Art. 6 fair hearing within a reasonable time, Hanif v UK 2012, Art. 7 not to be found guilty of an action which was not a crime at the time, Art. 8 right to privacy, Nicklinson 2014, Douglas v Hello! Ltd 2001, Hatton v UK 2001, Art. 9 right to freedom of thought and religion, Art. 10 freedom of expression, Art. 11 right to peaceful assembly, Art. 12 right to marry, Art. 14 all rights should exist without discrimination. Evaluation: effectiveness in cases listed above, effect of HRA on statutory interpretation, R v A and the preference for a more purposive interpretation, Re Medicaments 2001, Mendoza v Ghaidan 2002, declarations of incompatibility H v Mental Health Tribunal 2001, A v S of S for the Home Department 2004, remedial orders B & L v UK 2006, impact on precedent s2 HRA Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the HRA but is unlikely to include any detail beyond general aims/articles and/or makes reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the HRA and its effect on the protection of the rights of the citizen in the UK. There is unlikely to be any detail beyond brief citation of Articles or sections of the act. Candidates may do little more than rehearse the rights protected by the act. The evaluative aspect of the question is unlikely to be considered in much detail. Candidates who do not include case law may achieve no more than 10 marks. Band 4 [13–19 marks] Candidate gives a reasonable description of the HRA and its impact on citizens. At the upper end of the band, there may be good examples drawn from case law and detail on the relevant articles. At the upper end of the band, the candidate makes attempts to address the evaluative component of the question. Band 5 [20–25 marks] Candidate gives a clear description of the HRA with good citation of the act/articles (as in Band 4) and a wide range of relevant case law. Candidate clearly addresses the evaluative component of the question.	25

Cambridge International AS & A Level

LAW

9084/11

Paper 1 Structure and Operation of the English Legal System

October/November 2021

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

2

Answer **three** questions.

- 1** Describe the qualifications and training required for lay magistrates. Assess whether they are adequately prepared for their role. [25]
- 2** Explain the types of alternative dispute resolution (ADR) available to the public for the solution of disputes. Assess whether disputes are better resolved by ADR or in the courts. [25]
- 3** The use of delegated legislation has both advantages and risks.
Describe the types of delegated legislation. Assess whether the controls on its use are adequate. [25]
- 4** Bella has been arrested on suspicion of committing murder and taken to her local police station.
Explain how Bella should be detained and treated at a police station. Assess whether the law adequately protects her rights in this situation. [25]
- 5** Compare the education and training of barristers and solicitors. Assess whether they are adequately prepared for their roles. [25]
- 6** Explain why Equity was needed when custom and common law had already developed. Assess the continued need for Equity today. [25]



Cambridge International AS & A Level

LAW

9084/11

Paper 1

October/November 2021

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

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This document consists of **10** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial.

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules.

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue.

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Describe the qualifications and training required for lay magistrates. Assess whether they are adequately prepared for their role. Indicative Content Responses may include – six key qualities, ages, live near local justice area, 26 half days a year, no serious criminal convictions, undischarged bankrupts, members of the armed forces and those whose work is incompatible with the role. Not appointed if health means that duties cannot be carried out. Training supervised by Magisterial Committee of Judicial College, carried out in local areas by clerk or through local universities, 30 courses run each year, provides bench books and good practice guides. Introductory training, on organisation administration and role, key skills, knowledge, attend court to observe, visits, mentors, for first two years. Appraisal. Evaluation: unqualified in law, qualifications ensure links with community, tries to prevent bias, training gives experience and advice from established magistrates, visits allow understanding, legal training ensures competence. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the qualifications and/or training of lay magistrates but with no real detail or accuracy and/or reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic account of the qualifications and/or training of the lay magistrate. This is, however, likely to be superficial and poorly explained and authority is unlikely. Any evaluative content is likely to be vague and unfocussed. Band 4 [13–19 marks] Candidate gives a reasonable description of the qualification and/or training with some useful detail, example and perhaps some case or statutory citation. Better responses will attempt to include some evaluative content addressing the question, but this may be vague and lacking in reasoned argument concerning the question. Candidates would be unlikely to achieve more than 13 marks if they restrict their discussion to only qualification or training. Band 5 [20–25 marks] Candidate gives a very detailed description of both qualification and training with good levels of citation, illustration and explanation. Candidate will address the evaluative component well, presenting well-reasoned arguments and drawing logical and well-informed conclusions.	25

Question	Answer	Marks
2	Explain the types of alternative dispute resolution (ADR) available to the public for the solution of disputes. Assess whether disputes are better resolved by ADR or in the courts. Indicative Content Responses may include – Negotiation: individuals or solicitors. Mediation: neutral 3rd party, compromise, seeks to discover common ground, formalised settlement conferences, commercial mediation services, Centre for Dispute Resolution, West Kent Independent Mediation Service. Conciliation: neutral 3rd party, similar to mediation but plays active role and suggests grounds for compromise. Arbitration: Arbitration Act 1996, dispute solved by someone other than a judge, Scott v Avery clauses, panel of arbitrators chosen by parties, can be very formal like a court, binding decision. Evaluation: Negotiation – private, quick and cheap, can take time, parties need to be able to agree, not binding. Mediation – private, parties can control and can choose type of mediation, need not be overly formal, only suitable if parties cooperate. Conciliation – private, in commercial situations outcome need not be strictly legal, makes it easier for companies to continue in business, less adversarial than court, but may not resolve issue. Arbitration – private, parties choose arbitrators, time and place, but more formal, can be more expensive, no legal aid, binding outcome, limited appeals. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the idea of ADR. There will be no coherent or detailed explanation of the various types. There may be reference to the evaluative issues in general terms. Band 3 [7–12] Candidate gives a basic explanation of some of the different types of ADR and the circumstances in which each type would be used. Candidates can demonstrate some limited understanding on why it can provide a better solution than using the courts. Band 4 [13–19] Candidate gives a reasonable explanation of most of the different types of ADR and the circumstances in which each type may be used. Candidates include some discussion of the various merits of each type and a comparison to the use of the courts, but at the lower end of the band this may be generic and not focussed on the question. Band 5 [20–25] Candidate gives a clear explanation of all the different types of ADR and the circumstances in which each type would be used. Candidate offers clear and informed links to the evaluative component of the question and presents a reasoned argument and conclusion. Note: Discussion of tribunals cannot be credited.	25

Question	Answer	Marks
3	The use of delegated legislation has both advantages and risks. Describe the types of delegated legislation. Assess whether the controls on its use are adequate. Indicative Content Responses may include – Orders in council: created by Queen & Privy Council, emergency situations, Civil Contingencies Act 2004, brings acts into force, transfers responsibilities between government departments. Statutory instruments: made by government ministers, over 3000 each year, LARRA 2006. Bylaws: local authorities concerning specific areas, also public corporations. Controlled by Parliament: consultation, repeal, scrutiny committees, affirmative and negative resolutions. Judicial control: judicial review, locus standi, substantive ultra vires Ex p Fire Brigades Union 1995, procedural ultra vires Aylesbury Mushrooms 1972, unreasonableness Strickland v Hayes BC 1896. Evaluation: Advantages – that the controls exist to prevent misuse of powers. Adequacy of Controls – consultation may not take place, repeal still leaves law to be made, committees cannot look at all DL, affirmative resolution rare and takes Parliamentary time, negative resolution allows DL to slip through unchallenged, judicial review complex and expensive to challenge. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic description and definition of delegated legislation. Candidates are unlikely to offer any illustration. Evaluative issues may be referred to in general terms and may not focus on the effectiveness of the controls. Band 3 [7–12] Candidate gives a generally accurate description of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weak. There may be mention of the controls but the evaluative aspect of the question may be generic and not focussed on the controls themselves. Band 4 [13–19] Candidate gives a good description, with illustration, of the three main types of delegated legislation. Reference to controls may be included, but may not have wide-ranging illustration at the lower end of the band. Better responses may link evaluation to the need for controls over the use of such powers and discuss the effectiveness of these controls. Band 5 [20–25] Candidate gives a clear and very detailed description of the three types of DL, with good levels of illustration. Candidates explain the controls and the need for them clearly and in some detail, evaluate the issues within the question well and draw well informed conclusions.	25

Question	Answer	Marks
4	Bella has been arrested on suspicion of committing murder and taken to her local police station. Explain how Bella should be detained and treated at a police station. Assess whether the law adequately protects her rights in this situation. Indicative Content Responses may include – PACE 1984, Code of Practice C, E, right to have someone informed, role of custody officer, s56 PACE, right to legal advice, R v Samuel 1988, R v Grant 2005, interviews, cautioning, recording R v Halliwell 2012, appropriate adult, R v Aspinall 1999, prevention of oppression s76 PACE, exclusion of evidence s78 PACE, searches, fingerprints, body samples, ss54, 55 and 61 PACE, right to silence CJPO Act 1994. Evaluation: Commentary on the effectiveness of these protections and discussion of cases, reference to scenario. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the law concerning those who have been detained at the police station but is unlikely to include any detail or any reference to authority. There may be little reference to the scenario within the question and any reference to the evaluative issues may be in general terms. Band 3 [7–12] Candidate gives a basic explanation of the law concerning those detained at the police station. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed and the evaluative aspect of the question is unlikely to be considered in any detail. Band 4 [13–19] Candidate gives a reasonable explanation of the law concerning those detained at the police station. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes some attempts to address the evaluative component of the question. Band 5 [20–25] Candidate gives a very good explanation of the law concerning those detained at the police station with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the evaluative component of the question and draws well-argued conclusions.	25

Question	Answer	Marks
5	Compare the education and training of barristers and solicitors. Assess whether they are adequately prepared for their roles. Indicative Content Responses may include – Barristers: normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. Solicitors: normally law degree, non-law GDL, LPC, recognised training, professional skills course, admitted to Law Society, name added to roll. Non-graduate route CILEX. Evaluation: Barristers: Law degree/GDL gives good foundation in law, BPTC concerns essential skills such as case preparation and opinion writing as well as advocacy, membership of Inns allows trainees to meet senior judges and barristers, pupillage is 'on the job training' and requires continuing education. Solicitors: as above re degree/GDL, LPC teaches essential skills such as interviewing, advocacy and negotiation, recognised training gives 'on the job' experience and includes a skills course. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic comparison of the education and training of solicitors and/or barristers. Candidates are unlikely to offer any illustration and reference to the evaluative issues may be offered only in general terms. Band 3 [7–12 marks] Candidate gives a basic comparison of the education and training of solicitors and/or barristers, but this is unlikely to have any illustration and little or no reference to evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable comparison of the education and training of solicitors and barristers but the two elements may not be balanced. There will be reference to training pathways and this may be linked to the roles of the professions. There may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question. Band 5 [20–25 marks] Candidate gives a very good comparison of the education and training of solicitors and barristers, with good levels of detail and statutory authority where relevant. Candidate clearly addresses the evaluative components of the question and draws well-reasoned conclusions.	25

Question	Answer	Marks
6	Explain why Equity was needed when custom and common law had already developed. Assess the continued need for Equity today. Indicative Content Responses may include – account of the development of custom and common law, modern use of maxims, <i>Berry v Berry</i> 1929, <i>Leaf v International Galleries</i> 1950, <i>D&C Builders v Rees</i> 1965, <i>Chappell v Times Newspapers</i> 1975, modern use of remedies, <i>Kennaway v Thompson</i> 1980, <i>Warner Bros v Nelson</i> 1937, <i>Mareva Compania v International Bulk Carriers</i> 1975, <i>Anton Piller KG v Manufacturing Processes</i> 1976, use of injunctions in domestic violence and employment law, deserted wives equity, use of mortgages and trusts in 20th and 21st century, new concepts, <i>Central London Properties Ltd v High Trees House Ltd</i> 1947. Evaluation: problems with custom and common law, equity still takes precedence where conflict, maxims still used today, range of equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the concept of equity, but goes no further and/or makes reference to evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the development of common law, custom and equity. There may be brief mention of concepts, maxims or remedies, but these may be superficial, poorly explained and not well linked to the question. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the development of common law, custom and equity. Better responses may begin to address the evaluative issues of the modern use of Equity within the question, using maxims, concepts and remedies as illustration but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the development of common law, custom and equity with detailed and wide-ranging illustration. Candidate evaluates the issues of modern use within the question well, using maxims, concepts and remedies as illustration.	25



Cambridge International AS & A Level

LAW

9084/12

Paper 1 Structure and Operation of the English Legal System

October/November 2021

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1 Tatleen has been charged with the theft of £2000 from her place of work. Theft is a triable either way offence.

Explain the pre-trial process for Tatleen after she has been charged. Discuss the issues she should consider when deciding on a venue for trial. [25]

- 2 Describe the training of lay magistrates and their role in both civil and criminal cases. Assess whether the training ensures effective lay personnel. [25]

- 3 Describe the process through which a Bill must pass to become an Act of Parliament. Discuss the extent to which this process leads to the creation of effective laws. [25]

- 4 The rules of precedent mean that law is static and cannot change.

Explain how precedent works. Assess the accuracy of the statement above. [25]

- 5 In 2018, research showed that 29% of judges were female.

Describe the recruitment and appointment processes for the judiciary. Assess whether these processes can improve diversity in the judiciary. [25]

- 6 Describe the routes of appeal open to both prosecution and defence against conviction and sentence in the Crown Court. Assess the effectiveness of this process in achieving justice. [25]



Cambridge International AS & A Level

LAW

9084/12

Paper 1

October/November 2021

MARK SCHEME

Maximum Mark: 75

Published

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(for point-based marking)****1 Components using point-based marking:**

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The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial.

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules.

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

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OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Tatleen has been charged with the theft of £2000 from her place of work. Theft is a triable either way offence. Explain the pre-trial process for Tatleen after she has been charged. Discuss the issues she should consider when deciding on a venue for trial. Indicative Content Responses may include – Bail, Bail Act 1976, mode of trial, plea before venue, s. 176, Anti-Social Behaviour, Crime and Policing Act 2014, Magistrates' jurisdiction, s19 Magistrates Court Act 1980, s19(4) Magistrates Court Act 1980, defendants election. Evaluation: Crown Court: more formal, legal representation, better chance of acquittal, may take longer to get to trial, benefit if remanded in custody. Magistrates Court: quicker process, level of publicity, less chance of acquittal, lower maximum sentence, refers to scenario. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidates may make some confused references to criminal courts and/or reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the courts and processes involved. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail and very little reference to the situation set out within the question or the evaluative issues. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the courts involved and identifies the courts and processes involved with some useful detail. Better responses may begin to address the evaluative issues within the question, but this may be limited at the lower end of the band. Candidates who make no reference to the scenario may gain no more than 13 marks. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the process (as described in Band 4) with good levels of illustration and explanation. Candidate considers the issues of choice of venue within the question well, and draws well informed conclusions, making good reference to the scenario.	25

Question	Answer	Marks
2	Describe the training of lay magistrates and their role in both civil and criminal cases. Assess whether the training ensures effective lay personnel. Indicative Content Responses may include – Civil: non-payment of council tax, non-payment of TV licenses, appeals from refusal of licences for the sale of alcohol by the local authority, licences for betting and gaming establishments, family court concerning adoption orders and proceedings under the Children Act 1989. Criminal: trying summary and TEW cases, preliminary hearings for indictable cases, bail, remand hearings, youth court, hearing appeals in the Crown court. Training: supervised by Magisterial Committee of Judicial College, carried out in local areas by clerk or through local universities, 30 courses run each year, provides bench books and good practice guides. Introductory training, on organisation administration and role, key skills, knowledge, attend court to observe, visits, mentors, for first two years. Appraisal. Evaluation: unqualified in law, qualifications ensure links with community, tries to prevent bias, training gives experience and advice from established magistrates, visits allow understanding, legal training ensures competence. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the training and/or role of magistrates in criminal and/or civil cases. There may be reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic outline of the training and/or civil and/or criminal role but this may not have wide range or accuracy. There is unlikely to be any consideration of the evaluative component of the question beyond simplistic points of advantages/disadvantages. Band 4 [13–19 marks] Candidate gives a reasonable description of the role of magistrates in civil and criminal cases and the training process. Candidates at the upper end of the band may make an attempt at a discussion of the evaluative component of the question, explaining how training may remove the problems of amateurism. Band 5 [20–25 marks] Candidate gives a very good description of the role of magistrates in civil and criminal cases. Candidate gives very good levels of detail on the training of magistrates. Candidates will offer clear and informed evaluation of the problems of using unqualified magistrates in civil and criminal cases.	25

Question	Answer	Marks
3	Describe the process through which a Bill must pass to become an Act of Parliament. Discuss the extent to which this process leads to the creation of effective laws. Indicative Content Responses may include – House of Commons, House of Lords, Public Bills, Private Bills, Private members' Bills, 1st reading, 2nd reading, Committee stage, Report stage, 3rd reading, same process in HL, Royal Assent. Evaluation: long process, acts often over elaborate, internal structure of acts illogical, hard to find law, language used but does pass through scrutiny and is created by elected representatives in HC. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the process in Parliament, but goes no further and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the process in Parliament, including all of the stages with no detail or some of the stages with very little detail. There may be limited and undeveloped points of evaluation. Band 4 [13–19 marks] Candidate gives a reasonable description of the process in Parliament including all of the stages with some detail, or most of the stages with good detail. Better responses may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good description of the process in Parliament including all of the stages with good levels of detail. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	25

Question	Answer	Marks
4	The rules of precedent mean that law is static and cannot change. Explain how precedent works. Assess the accuracy of the statement above. Indicative Content Responses may include – ratio, obiter, binding, original and persuasive precedents, law reporting, hierarchy of courts, position of Supreme Court and Court of Appeal, distinguishing, overruling and reversing, all with relevant case examples. Evaluation: ability of SC to overrule previous decisions, desirability of these changes, ability of CA to avoid previous decisions and the limitations imposed by Young, Lord Denning's attempt to free CA from binding effect of SC decisions, effectiveness and desirability of distinguishing. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of precedent, but with no real detail or accuracy. Candidate may make brief reference to concept of judicial law-making, but this may be under-developed and list-like. There may be reference to the evaluative issues in very general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the workings of precedent. These are, however, likely to be superficial and poorly explained and bear little relevance to the question. There is unlikely to be any discussion of detail or examples to illustrate the answer and little developed reference to the evaluative aspect of the question concerning the ability to change. Candidates who do not use any case examples may gain no more than 12 marks. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the concepts of precedent with some useful detail and example. Candidate may consider ratio, obiter and the position of the various courts with reference to the ability to develop law. Better responses will illustrate this with a range of case law and example, but this may be limited. Candidate may address some of the evaluative issues concerning the freedom of judges to make/change law and relate these to this question. Band 5 [20–25 marks] Candidate gives a very good explanation of the concepts of precedent (as in Band 4) with good levels of illustration and explanation. Candidate clearly links the evaluative aspect of the question and presents a logical and reasoned argument.	25

Question	Answer	Marks
5	In 2018, research showed that 29% of judges were female. Describe the recruitment and appointment processes for the judiciary. Assess whether these processes can improve diversity in the judiciary. Indicative Content Responses may include – Constitutional Reform Act 2005, Crime & Courts Act 2013, Judicial Appointments Commission, judicial qualities, qualifications, Courts & Legal Services Act 1990, Tribunals, Court and Enforcement Act 2007, processes for Justices of the Supreme Court, Lords Justices of Appeal, High Court Judges, and inferior judges. Evaluation: process now more open, solicitors now potentially able to reach higher levels of judiciary, posts advertised, people from outside the judiciary may apply (practising law, teaching law or acting as mediators, arbitrators, etc.), women and those from BME increasingly becoming judges at all levels. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the recruitment and appointment processes of the judiciary but with no real detail or accuracy and or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a brief account of the recruitment and appointment procedures for the judiciary. This is, however, likely to be superficial and poorly explained. Candidate may introduce some commentary on the evaluative issues but this is likely to be informal and lacking in legal detail. Band 4 [13–19 marks] Candidate gives a reasonable description of the recruitment and appointment procedures for the judiciary with some useful detail and example. Candidates may compare the new procedure with the older process. Better responses will attempt to include some evaluative content concerning the type of people chosen, but this may be vague and lacking in detail or reasoned argument. Some better responses may be able to discuss the differences in appointment between the superior and inferior judiciary. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the appointment of the judiciary with good levels of illustration. Candidates are able to demonstrate clear understanding of the issues and including reasoned evaluative commentary making use of the statistics given. Candidates will appreciate the difference in appointment for different levels of judiciary. Better responses may include consideration of the position of the Lord Chancellor and the separation of powers.	25

Question	Answer	Marks
6	Describe the routes of appeal open to both prosecution and defence against conviction and sentence in the Crown Court. Assess the effectiveness of this process in achieving justice. Indicative Content Responses may include – Criminal Appeal Act 1995. Defendant: conviction, sentence, leave to appeal from CA, granted if conviction is unsafe, effect of HRA 1998, new evidence, CA can allow appeal and quash conviction, can vary conviction, can uphold conviction, can reduce sentence, can order retrial. Double jeopardy rules. Prosecution: appeals against acquittal only of jury ‘nobbling’ or new and compelling evidence, removal of double jeopardy Criminal Justice Act 2003 for serious offences only, can refer a point of law (Attorney General’s Reference Criminal Justice Act 1972), appeals against lenient sentence s36 Criminal Justice Act 1988. P and D may appeal further to Supreme Court (SC) only if the case is certified as involving a point of law of general public importance, with leave. Evaluation: Defendant, leave difficult to obtain, few appeals are successful even if leave granted, hard to arrange appeal if D is in prison or is of limited means, retrials now more common, Prosecution, increase in appeals concerning lenient sentencing. In general a function of a just system to allow a second hearing. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of appeal and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a brief but generally accurate description of the paths and grounds of appeal for prosecution and/or defence, perhaps naming some relevant courts. This may be presented in rather a generic way, with little detail or development, or focus on the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the routes and grounds of appeal for prosecution and/or defence. Better responses may begin to address the specific issues of grounds and routes in more detail and deal with both prosecution and defence issues, but at the lower end of the mark band this may be limited and unfocussed on the evaluative aspect of the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the grounds for and routes of appeal for both prosecution and defence. Candidate clearly addresses the evaluative aspect of the question.	25



Cambridge International AS & A Level

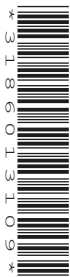
LAW

9084/13

Paper 1 Structure and Operation of the English Legal System

October/November 2021

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1 Describe the qualifications and training required for lay magistrates. Assess whether they are adequately prepared for their role. [25]
- 2 Explain the types of alternative dispute resolution (ADR) available to the public for the solution of disputes. Assess whether disputes are better resolved by ADR or in the courts. [25]
- 3 The use of delegated legislation has both advantages and risks.
Describe the types of delegated legislation. Assess whether the controls on its use are adequate. [25]
- 4 Bella has been arrested on suspicion of committing murder and taken to her local police station.
Explain how Bella should be detained and treated at a police station. Assess whether the law adequately protects her rights in this situation. [25]
- 5 Compare the education and training of barristers and solicitors. Assess whether they are adequately prepared for their roles. [25]
- 6 Explain why Equity was needed when custom and common law had already developed. Assess the continued need for Equity today. [25]



Cambridge International AS & A Level

LAW

9084/13

Paper 1

October/November 2021

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the October/November 2021 series for most Cambridge IGCSE™, Cambridge International A and AS Level components and some Cambridge O Level components.

This document consists of **10** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial.

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules.

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue.

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Describe the qualifications and training required for lay magistrates. Assess whether they are adequately prepared for their role. Indicative Content Responses may include – six key qualities, ages, live near local justice area, 26 half days a year, no serious criminal convictions, undischarged bankrupts, members of the armed forces and those whose work is incompatible with the role. Not appointed if health means that duties cannot be carried out. Training supervised by Magisterial Committee of Judicial College, carried out in local areas by clerk or through local universities, 30 courses run each year, provides bench books and good practice guides. Introductory training, on organisation administration and role, key skills, knowledge, attend court to observe, visits, mentors, for first two years. Appraisal. Evaluation: unqualified in law, qualifications ensure links with community, tries to prevent bias, training gives experience and advice from established magistrates, visits allow understanding, legal training ensures competence. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the qualifications and/or training of lay magistrates but with no real detail or accuracy and/or reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic account of the qualifications and/or training of the lay magistrate. This is, however, likely to be superficial and poorly explained and authority is unlikely. Any evaluative content is likely to be vague and unfocussed. Band 4 [13–19 marks] Candidate gives a reasonable description of the qualification and/or training with some useful detail, example and perhaps some case or statutory citation. Better responses will attempt to include some evaluative content addressing the question, but this may be vague and lacking in reasoned argument concerning the question. Candidates would be unlikely to achieve more than 13 marks if they restrict their discussion to only qualification or training. Band 5 [20–25 marks] Candidate gives a very detailed description of both qualification and training with good levels of citation, illustration and explanation. Candidate will address the evaluative component well, presenting well-reasoned arguments and drawing logical and well-informed conclusions.	25

Question	Answer	Marks
2	Explain the types of alternative dispute resolution (ADR) available to the public for the solution of disputes. Assess whether disputes are better resolved by ADR or in the courts. Indicative Content Responses may include – Negotiation: individuals or solicitors. Mediation: neutral 3rd party, compromise, seeks to discover common ground, formalised settlement conferences, commercial mediation services, Centre for Dispute Resolution, West Kent Independent Mediation Service. Conciliation: neutral 3rd party, similar to mediation but plays active role and suggests grounds for compromise. Arbitration: Arbitration Act 1996, dispute solved by someone other than a judge, Scott v Avery clauses, panel of arbitrators chosen by parties, can be very formal like a court, binding decision. Evaluation: Negotiation – private, quick and cheap, can take time, parties need to be able to agree, not binding. Mediation – private, parties can control and can choose type of mediation, need not be overly formal, only suitable if parties cooperate. Conciliation – private, in commercial situations outcome need not be strictly legal, makes it easier for companies to continue in business, less adversarial than court, but may not resolve issue. Arbitration – private, parties choose arbitrators, time and place, but more formal, can be more expensive, no legal aid, binding outcome, limited appeals. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the idea of ADR. There will be no coherent or detailed explanation of the various types. There may be reference to the evaluative issues in general terms. Band 3 [7–12] Candidate gives a basic explanation of some of the different types of ADR and the circumstances in which each type would be used. Candidates can demonstrate some limited understanding on why it can provide a better solution than using the courts. Band 4 [13–19] Candidate gives a reasonable explanation of most of the different types of ADR and the circumstances in which each type may be used. Candidates include some discussion of the various merits of each type and a comparison to the use of the courts, but at the lower end of the band this may be generic and not focussed on the question. Band 5 [20–25] Candidate gives a clear explanation of all the different types of ADR and the circumstances in which each type would be used. Candidate offers clear and informed links to the evaluative component of the question and presents a reasoned argument and conclusion. Note: Discussion of tribunals cannot be credited.	25

Question	Answer	Marks
3	The use of delegated legislation has both advantages and risks. Describe the types of delegated legislation. Assess whether the controls on its use are adequate. Indicative Content Responses may include – Orders in council: created by Queen & Privy Council, emergency situations, Civil Contingencies Act 2004, brings acts into force, transfers responsibilities between government departments. Statutory instruments: made by government ministers, over 3000 each year, LARRA 2006. Bylaws: local authorities concerning specific areas, also public corporations. Controlled by Parliament: consultation, repeal, scrutiny committees, affirmative and negative resolutions. Judicial control: judicial review, locus standi, substantive ultra vires <i>Ex p Fire Brigades Union</i> 1995, procedural ultra vires <i>Aylesbury Mushrooms</i> 1972, unreasonableness <i>Strickland v Hayes</i> BC 1896. Evaluation: Advantages – that the controls exist to prevent misuse of powers. Adequacy of Controls – consultation may not take place, repeal still leaves law to be made, committees cannot look at all DL, affirmative resolution rare and takes Parliamentary time, negative resolution allows DL to slip through unchallenged, judicial review complex and expensive to challenge. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic description and definition of delegated legislation. Candidates are unlikely to offer any illustration. Evaluative issues may be referred to in general terms and may not focus on the effectiveness of the controls. Band 3 [7–12] Candidate gives a generally accurate description of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weak. There may be mention of the controls but the evaluative aspect of the question may be generic and not focussed on the controls themselves. Band 4 [13–19] Candidate gives a good description, with illustration, of the three main types of delegated legislation. Reference to controls may be included, but may not have wide-ranging illustration at the lower end of the band. Better responses may link evaluation to the need for controls over the use of such powers and discuss the effectiveness of these controls. Band 5 [20–25] Candidate gives a clear and very detailed description of the three types of DL, with good levels of illustration. Candidates explain the controls and the need for them clearly and in some detail, evaluate the issues within the question well and draw well informed conclusions.	25

Question	Answer	Marks
4	Bella has been arrested on suspicion of committing murder and taken to her local police station. Explain how Bella should be detained and treated at a police station. Assess whether the law adequately protects her rights in this situation. Indicative Content Responses may include – PACE 1984, Code of Practice C, E, right to have someone informed, role of custody officer, s56 PACE, right to legal advice, R v Samuel 1988, R v Grant 2005, interviews, cautioning, recording R v Halliwell 2012, appropriate adult, R v Aspinall 1999, prevention of oppression s76 PACE, exclusion of evidence s78 PACE, searches, fingerprints, body samples, ss54, 55 and 61 PACE, right to silence CJPO Act 1994. Evaluation: Commentary on the effectiveness of these protections and discussion of cases, reference to scenario. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the law concerning those who have been detained at the police station but is unlikely to include any detail or any reference to authority. There may be little reference to the scenario within the question and any reference to the evaluative issues may be in general terms. Band 3 [7–12] Candidate gives a basic explanation of the law concerning those detained at the police station. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed and the evaluative aspect of the question is unlikely to be considered in any detail. Band 4 [13–19] Candidate gives a reasonable explanation of the law concerning those detained at the police station. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes some attempts to address the evaluative component of the question. Band 5 [20–25] Candidate gives a very good explanation of the law concerning those detained at the police station with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the evaluative component of the question and draws well-argued conclusions.	25

Question	Answer	Marks
5	Compare the education and training of barristers and solicitors. Assess whether they are adequately prepared for their roles. Indicative Content Responses may include – Barristers: normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. Solicitors: normally law degree, non-law GDL, LPC, recognised training, professional skills course, admitted to Law Society, name added to roll. Non-graduate route CILEX. Evaluation: Barristers: Law degree/GDL gives good foundation in law, BPTC concerns essential skills such as case preparation and opinion writing as well as advocacy, membership of Inns allows trainees to meet senior judges and barristers, pupillage is ‘on the job training’ and requires continuing education. Solicitors: as above re degree/GDL, LPC teaches essential skills such as interviewing, advocacy and negotiation, recognised training gives ‘on the job’ experience and includes a skills course. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic comparison of the education and training of solicitors and/or barristers. Candidates are unlikely to offer any illustration and reference to the evaluative issues may be offered only in general terms. Band 3 [7–12 marks] Candidate gives a basic comparison of the education and training of solicitors and/or barristers, but this is unlikely to have any illustration and little or no reference to evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable comparison of the education and training of solicitors and barristers but the two elements may not be balanced. There will be reference to training pathways and this may be linked to the roles of the professions. There may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question. Band 5 [20–25 marks] Candidate gives a very good comparison of the education and training of solicitors and barristers, with good levels of detail and statutory authority where relevant. Candidate clearly addresses the evaluative components of the question and draws well-reasoned conclusions.	25

Question	Answer	Marks
6	Explain why Equity was needed when custom and common law had already developed. Assess the continued need for Equity today. Indicative Content Responses may include – account of the development of custom and common law, modern use of maxims, <i>Berry v Berry</i> 1929, <i>Leaf v International Galleries</i> 1950, <i>D&C Builders v Rees</i> 1965, <i>Chappell v Times Newspapers</i> 1975, modern use of remedies, <i>Kennaway v Thompson</i> 1980, <i>Warner Bros v Nelson</i> 1937, <i>Mareva Compania v International Bulk Carriers</i> 1975, <i>Anton Piller KG v Manufacturing Processes</i> 1976, use of injunctions in domestic violence and employment law, deserted wives equity, use of mortgages and trusts in 20th and 21st century, new concepts, <i>Central London Properties Ltd v High Trees House Ltd</i> 1947. Evaluation: problems with custom and common law, equity still takes precedence where conflict, maxims still used today, range of equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the concept of equity, but goes no further and/or makes reference to evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the development of common law, custom and equity. There may be brief mention of concepts, maxims or remedies, but these may be superficial, poorly explained and not well linked to the question. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the development of common law, custom and equity. Better responses may begin to address the evaluative issues of the modern use of Equity within the question, using maxims, concepts and remedies as illustration but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the development of common law, custom and equity with detailed and wide-ranging illustration. Candidate evaluates the issues of modern use within the question well, using maxims, concepts and remedies as illustration.	25



Cambridge International AS & A Level

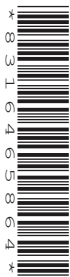
LAW

9084/11

Paper 1 Structure and Operation of the English Legal System

May/June 2022

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

2

Answer **three** questions.

- 1 Explain the types of sentence which are available to a judge when sentencing a young offender. Assess which of these types of sentence might be **most** appropriate to encourage the offender to rehabilitate. [25]
- 2 Describe how Parliament creates Acts of Parliament. Assess the advantages and disadvantages of this method of law-making. [25]
- 3 Explain the role of the jury in both civil and criminal cases. Assess the extent to which jurors may be influenced by their personal feelings or opinions. [25]
- 4 Explain the most common equitable maxims and remedies. Assess whether they are still relevant to society today. [25]
- 5 Describe the composition of the Judicial Appointments Commission (JAC) and its role in selecting inferior judges. Assess whether the JAC ensures that the best candidates are selected. [25]
- 6 After charge, but before trial, an individual can be remanded on bail by the court.

Explain how a court makes this decision and what conditions might be imposed. Assess the extent to which the granting of bail to an individual charged with a crime imposes risks on society. [25]



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May/June 2022

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

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This document consists of **10** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Explain the types of sentence which are available to a judge when sentencing a young offender. Assess which of these types of sentence might be most appropriate to encourage the offender to rehabilitate. Indicative Content Responses may include – YO all offenders under 21, various provisions for those under 18, 16 and 14. Custodial sentences: YOI, offenders from 16 to 20, minimum 21 days, if YO becomes 21, transferred to adult prison; Detention & Training orders, Crime & Disorder Act 1998, minimum 4 m, maximum 24 m, half in custody, half in community, offenders aged 12 to 21, but if u15 only persistent offenders, offence to breach order; 1Detention for serious crimes courts can detain for longer periods, 10–13 year olds only if crime carries max sentence of 14 years, or is indecent assault on a woman s14 Sexual Offences Act 1956, 14–17 year olds also for causing death by careless driving under influence; detention at HM Pleasure offender 10–17 if convicted of murder. Youth Rehabilitation Order: Criminal Justice and Immigration Act 2008 mix and match of orders; activity, supervision, unpaid work, curfew etc. Discharges: usually for first time offenders. Referral Orders: involves Youth Offending Team. Parental responsibility: parents can be bound over if they agree. Evaluation: linking each type of sentence to how effective/desirable it might be for rehabilitation. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the sentences available but with no detail. There may be very limited points of evaluation but these are not developed. Band 3 [7–12 marks] Candidate gives a brief but generally accurate explanation of the types of available sentences. However, these lack detail and candidate fails to link sentences to rehabilitation with any consistency. Band 4 [13–19 marks] Candidate gives a reasonable explanation of relevant sentences. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the relevant available sentences. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	25

Question	Answer	Marks
2.	Describe how Parliament creates Acts of Parliament. Assess the advantages and disadvantages of this method of law-making. Indicative Content Responses may include – Green Paper, White paper, House of Commons, House of Lords, Public Bills, Private Bills, Private members' Bills, 1st reading, 2nd reading, Committee stage, Report stage, 3rd reading, same process in HL, Royal Assent. Evaluation: long process, acts often over elaborate, internal structure of acts illogical, hard to find law, language used but does pass through scrutiny and is created by elected representatives in HC Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the process in Parliament but goes no further and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic description of the process in Parliament, including all of the stages with no detail or some of the stages with very little detail. There may be limited and undeveloped points of evaluation. Band 4 [13–19 marks] Candidate gives a reasonable description of the process in Parliament including all of the stages with some detail, or most of the stages with good detail. Better candidates may address the evaluative aspect of the question, but at the lower end of the mark band this may be limited and unfocussed. Band 5 [20–marks] Candidate gives a very good description of the process in Parliament including all of the stages with good levels of detail. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	25

Question	Answer	Marks
3	Explain the role of the jury in both civil and criminal cases. Assess the extent to which jurors may be influenced by their personal feelings or opinions. Indicative Content Responses may include Criminal Role; Juries Act 1974, listens to evidence, retires to jury room, elect foreperson, discussion in private, returns verdict of guilty or not guilty, may give majority verdict, 10–2 or 11–1 since 1967, <i>R v Pigg 1983</i>. Civil role; s69 Senior Courts Act 1981, s66 County Courts Act 1984, right to a jury in defamation, false imprisonment, malicious prosecution and fraud cases, can be requested in personal injury cases, <i>Ward v James 1966</i>, <i>Singh v London Underground 1990</i>. Evaluation – May be biased, effect of media, <i>R v Taylor & Taylor 1993</i>, <i>R v West 1996</i>, use of social media, <i>R v Karakaya 2005</i>, unwillingness of jurors to act, psychological impact of evidence, lack of remuneration, lack of understanding, racial bias, <i>Sander v UK 2000</i>, civic duty, true cross section, perverse decisions/ jury equity, <i>Randle & Pottle 1991</i>, jury secrecy, <i>R v Mirza 2004</i>, issues of damages awards in civil cases, problems with technicalities in civil cases <i>Ward v James 1966</i>, <i>Singh v London Underground 1990</i>, use of vetting/challenge to avoid bias. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the role of the jury in civil and/or criminal cases but with no real detail or accuracy. There may be reference to the evaluative issues but expressed only in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the role of the jury in civil and/or criminal cases. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed evaluative content beyond limited and unfocussed advantages and disadvantages which do not directly address the command in the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the role of the jury in civil and criminal cases with some useful detail, example, and where appropriate, statutory authority. Better candidates will attempt to include some evaluative content but at the lower end of this band this content may be vague and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the role of the jury in civil and criminal cases with good levels of illustration and explanation. Candidate will address the evaluative component well, presenting clear, focused and supported evaluation of the role and drawing logical and well-informed conclusions.	25

Question	Answer	Marks
4	Explain the most common equitable maxims and remedies. Assess whether they are still relevant to society today. Indicative Content Responses may include – very brief history (little credit). Maxims: <i>Berry v Berry</i> 1929, <i>Leaf v International Galleries</i> 1950, <i>D&D Builders v Rees</i> 1965, <i>Chappell v Times Newspapers</i> 1975. Remedies: injunctions: <i>Kennaway v Thompson</i> 1980, <i>Warner Bros v Nelson</i> 1937, can be served by internet now, super injunction, freezing orders: <i>Mareva Compania v International Bulk Carriers</i> 1975, search orders: <i>Anton Piller KG v Manufacturing Processes</i> 1976, use of injunctions in domestic violence and employment law, specific performance, rectification, rescission. Candidates may also include: deserted wives' equity, Matrimonial Homes Act 1967, promissory estoppel: <i>Central London Properties Ltd v High Trees House Ltd</i> 1947. Evaluation: equity now works alongside common law, no longer separate courts/judges; equity still takes precedence where conflict, equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of equity and/or refers to the evaluative issues in general terms. There may also be vague and unsupported statements concerning fairness Band 3 [7–12 marks] Candidate gives a basic explanation of remedies and/or maxims, but this may be superficial and poorly focussed on the question. There is unlikely to be any discussion of detail or citation and very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of remedies and maxims, but these may not have wide ranging detail or citation at the lower end of the band. Better candidates may be able to link this to modern needs and the way equity works today alongside common law, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good explanation of remedies/maxims (as in Band 4). Candidate is able to clearly link these to the idea of modern use.	25

Question	Answer	Marks
5	Describe the composition of the Judicial Appointments Commission (JAC) and its role in selecting inferior judges. Assess whether the JAC ensures that the best candidates are selected. Indicative Content Responses may include – JAC created by Constitutional Reform Act 2005 to administer the recruitment of judges. Composition: 6 lay members, 5 judges, 1 barrister, 1 solicitor, 1 magistrate, 1 tribunal member. Role: appointments made on merit, JAC selects over 500 people a year, advertises selection exercises on website, JAC assesses merit and selects candidates for appointment, must consult LCJ and another judge of equivalent experience before recommending appointment, looks for judicial qualities; intellectual capacity, personal qualities, ability to deal fairly, authority and communication skills, efficiency, of good character, <i>R v Graham Stuart Jones v JAC 2014</i>. For lower court appointments process separate from executive Crime & Courts Act 2013, LC powers transferred to LCJ. Evaluation: process now more open, solicitors now potentially able to reach higher levels of judiciary, posts advertised, people from outside the judiciary may apply (practising law, teaching law or acting as mediators, arbitrators, CILEX lawyers, etc.), women and those from BME increasingly becoming judges at all levels. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the role and/or composition of the JAC but with no real detail or accuracy and/or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a brief description of the role and/or composition of the JAC. This is, however, likely to be superficial and poorly explained. Candidate may introduce some commentary on the evaluative issues, but this is likely to be informal and lacking in detail. Band 4 [13–19 marks] Candidate gives a reasonable description of the role and composition of the JAC with some useful detail and example. Better candidates will attempt to include some evaluative content concerning the type of people chosen, but this may be vague and lacking in detail or reasoned argument. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the role and composition of the JAC with good levels of illustration and explanation. Candidate demonstrates clear understanding of the issues and including reasoned evaluative commentary.	25

Question	Answer	Marks
6	After charge, but before trial, an individual can be remanded on bail by the court. Explain how a court makes this decision and what conditions might be imposed. Assess the extent to which the granting of bail to an individual charged with a crime imposes risks on society. Indicative Content Responses may include – Bail Act 1976, reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses), factors considered (seriousness of offence, character of defendant, defendant's record, strength of evidence), sureties, appeals, conditions, restrictions on bail where the offence is murder, manslaughter, rape, restrictions for adult drug users, appeals against refusal of bail. Evaluation: The danger of the imprisonment of a person not yet found guilty of an offence, balancing this with protection of public, prevention of further crime, interference with evidence or witnesses, danger of flight etc. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the concept of bail, but with no real detail or accuracy and/or refers to the evaluative issues in general terms Band 3 [7–12 marks] Candidate gives a basic explanation of the concept of bail. This is, however, likely to be superficial and poorly explained. Candidate may introduce some attempts to address the evaluative issues, but this is likely to be informal and lacking in legal detail. Band 4 [13–19 marks] Candidate gives a reasonable explanation of bail with some useful detail, and perhaps statutory reference and example. Better candidates will attempt to include the reasons for allowing or refusing bail (type of offence, lack of violence, previous history, community ties etc.) and link this to a reasoned response to the question. Candidate offers a limited attempt at the evaluative element of the question. However, at the lower end of the band this may be vague and lacking in detail or reasoned argument. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of bail, (as in band 4) with good levels of illustration (including references to statutes and perhaps high-profile cases of reoffending on bail) and explanation. Better candidates will address the evaluative with balanced and well-reasoned arguments.	25



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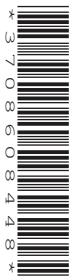
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1 hour 30 minutes



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INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

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2

Answer **three** questions.

- 1 Describe how an unsuccessful claimant in a civil case might appeal. Assess the difficulties in making such an appeal. [25]
- 2 Magistrates are selected to fulfil an important function in both civil and criminal cases.

Explain how magistrates are selected and their function within the court system. Assess how far it is true to say that they represent their community. [25]
- 3 Judges use any of the three common law rules of interpretation they choose when interpreting statutes.

Explain these rules and assess which might be the **most** effective. [25]
- 4 Fred is not satisfied with how a holiday company has responded to his complaint.

Explain **two** methods of alternative dispute resolution (ADR) that Fred might use. Assess which of these methods of ADR would be **most** useful to Fred. [25]
- 5 Delegated legislation can be controlled by both the courts and parliament.

Outline the different types of delegated legislation. Assess the effectiveness of the controls that may be applied to delegated legislation. [25]
- 6 Explain how the Crown Prosecution Service (CPS) makes the decision to charge and prosecute in criminal cases. Assess whether the CPS fails to prosecute or discontinues prosecution in too many cases. [25]



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Paper 1

May/June 2022

MARK SCHEME

Maximum Mark: 75

Published

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Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

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OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Describe how an unsuccessful claimant in a civil case might appeal. Assess the difficulties in making such an appeal. Indicative Content Responses may include – <u>From County Court:</u> Part 52 Civil Procedure Rules, Fast track cases; if dealt with by DJ appeal heard by CJ, if dealt with by CJ appeal heard by HCJ. Multi track cases; heard in County Court right of appeal to High Court. Small claims; since October 2000 same as for fast track. Where first appeal heard by CJ or HCJ, further appeal to CA, only exceptional cases s55 Access to Justice Act 1999. <u>From High Court:</u> appeal to CA, rarely 'leapfrog' appeal direct to SC Administration of Justice Act 1969, as amended Criminal Justice & Courts Act 2015. <u>Further appeals:</u> From CA to SC only with leave, possibly also to ECJ by Article 267 referral. Evaluation – expense, time, need for legal advice, in commercial issues making it hard to trade in the future, need for leave to appeal. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of civil appeals with little detail or undermined by error. There may be some unfocused evaluative comment. Band 3 [7–12 marks] Candidate gives a basic description of the civil appeal pathways from civil trial but the explanations are limited and superficial. Some general statements concerning difficulties may be evident, but they may be weak and confused. Band 4 [13–19 marks] Candidate gives a reasonable description of the appeal pathways from civil trial and grounds of appeal. Candidate makes an attempt to make a link with the evaluative component of the question and to discuss the problems. Band 5 [20–25 marks] Candidate gives a clear description of routes of appeal with good levels of detail. Candidates make clear and informed links to the evaluative component of the question.	25

Question	Answer	Marks
2	Magistrates are selected to fulfil an important function in both civil and criminal cases. Explain how magistrates are selected and their function within the court system. Assess how far it is true to say that they represent their community. Indicative Content Responses may include – six key qualities, ages, live near local justice area, 26 half days a year, no serious criminal convictions, undischarged bankrupts, members of the armed forces and those whose work is incompatible with the role. Not appointed if health means that duties cannot be carried out, Local Advisory Committees, application, first and second interviews, names submitted to Senior Presiding Judge, appointment <i>Criminal role:</i> Summary trials, preliminary hearings for other types of offence, youth court, warrants, bail, remand hearings, sentencing, and appeal in Crown Court. <i>Civil Role:</i> Non-payment of council tax, non-payment of TV licenses, appeals from LA refusal of licenses for sale of alcohol, licenses for betting and gaming. Use of Justices' Clerk Evaluation: Appointed from the community, good male/female balance, live locally, but 'middle aged, middle class', professional, often retired Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the selection and/or role of lay magistrates but with no real detail or accuracy and/or reference to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic account of the selection and/or role of the lay magistrate This is, however, likely to be superficial and poorly explained and authority is unlikely. Any evaluative content is likely to be vague and unfocussed. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the selection and role with some useful detail and example. These elements may not be balanced. Better candidates will attempt to include some evaluative content addressing the question, but this may be vague and lacking in reasoned argument concerning the question. Candidates would be unlikely to achieve more than 13 marks if they if they restrict their discussion to only selection or role	25

Question	Answer	Marks
2	Band 5 [20–25 marks] Candidate gives a very detailed explanation of both selection and training with good levels of citation, illustration and explanation. Candidate will address the evaluative component well, presenting well-reasoned arguments and drawing logical and well-informed conclusions.	

Question	Answer	Marks
3	Judges use any of the three common law rules of interpretation they choose when interpreting statutes Explain these rules and assess which might be the most effective. Indicative Content Responses may include – <i>Literal Rule</i>, R v Judge of City of London Court 1892, Whiteley v Chappell 1868, LNER v Berriman 1946. <i>Golden Rule</i>, Re Sigsworth 1935, Adler v George 1964, Jones v DPP 1962. <i>Mischief Rule</i>, Heydon's Case 1584, Smith v Hughes 1960, Eastbourne BC v Stirling 2000, RCN v DHSS 1981, Evaluation: <i>Literal rule</i>: follows words used, respects judges' role, easier to know what law is, but leads to absurdity, act may be unclear. <i>Golden Rule</i>: respects words in act, escape route from Literal rule, but limited in use, unpredictable. <i>Mischief Rule</i>: promotes purpose of law, lets judges fill in the gaps, produces just result but risks judicial law making, leads to uncertainty. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the common law rules of interpretation but goes no further. No illustration by way of case law. There may be limited points of evaluation, but these are not developed. Band 3 [7–12 marks] Candidate gives a brief but generally accurate explanation of common law rules of interpretation. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. A response which uses no case law is unlikely to be awarded more than 12 marks. Band 4 [13–19 marks] Candidate gives a reasonable explanation of common law rules of interpretation but may not have wide ranging case or example illustration at the lower end of the band. Better candidates may begin to address the evaluative issues within the question, but at the lower end of the mark band this may be limited and unfocussed on the question.	25

Question	Answer	Marks
3	Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of common law rules of interpretation, with detailed and wide-ranging illustrations. Candidate evaluates the issues concerning each of the approaches, covering the differing effects of the various approaches in particular and drawing well-reasoned conclusions. Candidate should come to a conclusion as to which rule is the most effective and may discuss the purposive approach as a modern alternative to the three implied in the question.	

Question	Answer	Marks
4	Fred is not satisfied with how a holiday company has responded to his complaint. Explain <u>two</u> methods of alternative dispute resolution (ADR) that Fred might use. Assess which of these methods of ADR would be most useful to Fred. Indicative Content Responses may include – <u>Negotiation</u>; individuals or solicitors. <u>Mediation</u>; neutral 3rd party, compromise solution, formalised settlement conference, Centre for Dispute Resolution. <u>Conciliation</u>; neutral 3rd party, similar to mediation but plays active role and suggests grounds for compromise. <u>Arbitration</u>; Arbitration Act 1996, dispute solved by someone other than a judge, Scott v Avery clauses, panel of arbitrators chosen by parties, can be very formal like a court, binding decision. Evaluation: <u>Negotiation</u> – Private, quick and cheap, can take time, parties need to be able to agree, not binding. <u>Mediation</u> – Private but only useful if some chance of cooperation, no guarantee of success, cheaper, parties in control, not binding. <u>Conciliation</u> – Private, in commercial situations outcome need not be strictly legal, makes it easier for companies to continue in business, less adversarial than court, but may not resolve issue. <u>Arbitration</u> – Private, parties choose arbitrators, time and place, but more formal, can be more expensive, no legal aid, binding outcome, limited appeals Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the idea of ADR. Candidate may address one and/or two types of the selected ADR methods. There will be no coherent or detailed explanation of the types selected. There may be reference to the evaluative issues in general terms. Band 3 [7–12] Candidate gives a basic explanation of both of the types of ADR selected and the circumstances in which each type would be used. At the lower end of the band this may be unbalanced. Candidate can demonstrate some limited understanding of which might be the best in the situation detailed in the question. Band 4 [13–19] Candidate gives a reasonable explanation of both of the types of ADR selected and the circumstances in which each type may be used. At the lower end of the band this may be unbalanced. Candidate includes some discussion of the various merits of each type and which might be the best in the situation detailed in the question, but at the lower end of the band this may be generic and not focussed on the scenario.	25

Question	Answer	Marks
4	Band 5 [20–25] Candidate gives a clear explanation of both of the types of ADR selected and which might be the best in the situation detailed in the question. Candidate offers clear and informed links to the evaluative component of the question and presents a reasoned argument and conclusion. Candidate needs to be focused on the most appropriate form of ADR for Fred and come to a conclusion. Candidate should also be credited for discussing types that may not be relevant for Fred and reasons why this may be the case.	

Question	Answer	Marks
5	Delegated legislation can be controlled by both the courts and parliament. Outline the different types of delegated legislation. Assess the effectiveness of the controls that may be applied to delegated legislation. Indicative Content Responses may include – Orders in council; created by Queen & Privy Council, emergency situations Civil Contingencies Act 2004, gives legal effect to European Directives, brings acts into force, transfers responsibilities between government departments. Statutory instruments; made by government ministers, over 3000 each year, LARRA 2006. Bylaws; local authorities concerning specific areas, also public corporations. Controlled by Parliament: consultation, repeal, scrutiny committees, affirmative and negative resolutions. Judicial control: judicial review, locus standi, substantive ultra vires, Ex p Fire Brigades Union 1995, procedural ultra vires Aylesbury Mushrooms 1972, unreasonableness Strickland v Hayes BC 1896. Evaluation: Adequacy of Controls – consultation may not take place, repeal still leaves law to be made, committees cannot look at all DL, affirmative resolution rare and takes Parliamentary time, negative resolution allows DL to slip through unchallenged, problem of lack of locus standi, judicial review complex and expensive to challenge. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic outline of delegated legislation. Candidates are unlikely to offer any illustration. Evaluative issues may be referred to in general terms and may not focus on the effectiveness of the controls. Band 3 [7–12] Candidate gives a generally accurate outline of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weak and poorly explained. There may be mention of the controls, but the evaluative aspect of the question may be generic and not focussed on the controls themselves. Band 4 [13–19] Candidate gives a good outline, with illustration, of the three main types of delegated legislation. Reference to controls may be included but may not have wide ranging illustration or explanation at the lower end of the band. Better candidates may link evaluation to the need for controls over the use of such powers and discuss the effectiveness of these controls.	25

Question	Answer	Marks
5	Band 5 [20–25] Candidate gives a clear and very detailed outline of the three types of DL, with good levels of illustration and explanation. Candidates explain the controls and the need for them clearly and in some detail, evaluate the issues within the question well and draw well informed conclusions.	

Question	Answer	Marks
6	Explain how the Crown Prosecution Service (CPS) makes the decision to charge and prosecute in criminal cases. Assess whether the CPS fails to prosecute or discontinues prosecution in too many cases. Indicative Content Responses may include – Decision to prosecute: Prosecution of Offenders Act 1986, Code for Crown Prosecutors, charging. <u>Evidential test</u>: strength of evidence, ‘realistic prospect of conviction’, admissibility of evidence, use of PACE, credibility of witnesses, strength of identification evidence. <u>Public interest test</u>: seriousness of offence, level of culpability, circumstances of victim, harm to victim, suspect under 18, impact on the community, is prosecution a proportionate response, do sources of information need protecting. <u>Threshold test</u>: if full code test not met. Evaluation: discontinuation of cases, duty to review, statistics showing rates of discontinuance, Mirror Group hacking cases, effect on victims, use of private prosecutions. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the criteria for the decision to prosecute by the CPS and/or makes reference to the evaluative issues in very general terms. Band 3 [7–12 marks] Candidate gives a basic but generally accurate explanation of the criteria for the decision to prosecute by the CPS. There may be brief mention of detail, but this may be superficial and poorly explained. There is likely to very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the criteria for the decision to prosecute by, but this may not be wide ranging or detailed. Better candidates may begin to address the evaluative issues and discuss some cases as examples discontinued cases but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the criteria for the decision to prosecute by CPS and use of cases to illustrate this. Candidate considers the evaluative issues concerning discontinued cases in some detail drawing well-reasoned conclusions	25



Cambridge International AS & A Level

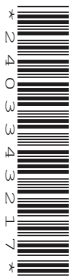
LAW

9084/13

Paper 1 Structure and Operation of the English Legal System

May/June 2022

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

2

Answer **three** questions.

- 1 Explain the different types of delegated legislation and a reason each type is necessary. Assess the disadvantages of delegated legislation. [25]
- 2 It is important in the English legal system that those brought to trial are judged by their peers (people like them).

Explain how jury members and Magistrates are selected. Assess how far it is true to say that they are representative of society. [25]
- 3 Explain the role of tribunals and their structure since the Tribunals, Courts and Enforcement Act 2007. Assess the advantages and disadvantages of the current structure. [25]
- 4 Solicitors and barristers offer legal services to the public.

Explain the differences in their training and role. Assess the extent to which they now do the same jobs. [25]
- 5 Judicial precedent is a major source of law.

Outline the system of judicial precedent. Assess whether it has enabled judges to create and amend law to meet the needs of society. [25]
- 6 Adults who repeatedly offend are a challenge for the criminal justice system.

Explain the aims of a judge when sentencing adults who repeatedly offend. Assess the types of sentence that might meet these aims. [25]



Cambridge International AS & A Level

LAW

Paper 1

MARK SCHEME

Maximum Mark: 75

9084/13

May/June 2022

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2022 series for most Cambridge IGCSE, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

This document consists of **10** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Explain the different types of delegated legislation and a reason each type is necessary. Assess the disadvantages of delegated legislation Indicative Content Responses may include – <u>Types of DL</u> - Orders in council; created by Queen & Privy Council, emergency situations Civil Contingencies Act 2004, gives legal effect to European Directives, brings acts into force, transfers responsibilities between government departments. Statutory instruments; made by government ministers, over 3000 each year, LARRA 2006. Bylaws; local authorities concerning specific areas, also public corporations. <u>Reasons for having it</u> – speed of creation and amendment, detail, locally made laws, expertise, removes burden from parliament. Evaluation: Takes law-making away from democratically elected MPs, sub delegation, large volume makes it hard to discover what present law is, can contain obscure technical wording requiring judges to interpret it, lack of Parliamentary control, Henry VIII clauses, judicial review complex and expensive to challenge. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation and definition of delegated legislation. Candidates are unlikely to offer any illustration. Evaluative issues may be referred to in general terms. Band 3 [7–12] Candidate gives a generally accurate explanation of the three main types of delegated legislation, with some examples or illustration, but this is likely to be weak and poorly explained. There will be some explanation as to why it is needed, but this may not be well linked to each type. The evaluative aspect of the question may be generic and not well focussed on the question. Band 4 [13–19] Candidate gives a good explanation, with illustration, of the three main types of delegated legislation. A good explanation of the need for DL mostly linked to types of DL. There may not be wide ranging illustration or explanation at the lower end of the band. Better candidates may link evaluation to the question Band 5 [20–25] Candidate gives a clear and very detailed explanation of the three types of DL, with good levels of illustration and explanation. A good explanation of the need for DL clearly linked to types of DL. Candidates evaluate the issues within the question and draw well informed conclusions.	25

Question	Answer	Marks
2	It is important in the English legal system that those brought to trial are judged by their peers (people like them). Explain how jury members and Magistrates are selected. Assess how far it is true to say that they are representative of society. Indicative Content Responses may include – <u>Jury</u>: age, electoral roll, residence, not mentally disordered, not disqualified because of criminal offences, not lacking in capacity, challenge, vetting. <u>Magistrate</u>: six key qualities, age, location, commitment, those ineligible or disqualified, (brief) selection process. Evaluation – <u>Jury</u>: random selection, some may seek excusal, homeless or those with no address excluded but bias can be removed by challenge/vetting. <u>Magistrates</u>: self-selecting by application, prevalence of middle/professional classes, narrow age band, may not reflect community, but good male/female balance. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the selection of jurors and/or magistrates but with no real detail or accuracy. No or very generic evaluative content is expected. Band 3 [7–12 marks] Candidate gives a brief account of the selection of jurors and/or magistrates. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed evaluative content. Candidates may not consider both civil and criminal roles. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the selection of jurors and magistrates with some useful detail, example, and where appropriate, statutory authority. Where both are considered, it may not be balanced. Better candidates will attempt to include some evaluative content but at the lower end of the band this may be vague and lacking in detail or reasoned argument. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the selection of jurors and magistrates and with good levels of illustration and explanation. Candidate will address the evaluative component well, dealing with both types of laymen. Candidate will present clear arguments and draw logical and well-informed conclusions.	25

Question	Answer	Marks
3	Explain the role of tribunals and their structure since the Tribunals, Courts and Enforcement Act 2007. Assess the advantages and disadvantages of the current structure. Indicative Content Responses may include – Role: to enforce rights granted through social/welfare legislation. <i>First tier:</i> 7 chambers, social entitlement, health education and social care, war pensions and armed forces, general regulatory, taxation, land property and housing, asylum and immigration, 200 judges, 3600 lay members, employment tribunal operates separately, hear over 600 000 cases each year. <i>Upper tribunal:</i> 4 chambers, administrative appeals, tax and chancery, lands, asylum and immigration. Further appeal to CA/SC. Employment has separate appeal tribunal. Composition: First tier; tribunal judge, sometimes with two lay members with expertise. Both sides given opportunity to put their case, some tribunals more formal (employment). Little funding available, most will present their own case. Evaluation: clearer arrangement of tribunals, cheap, quick, informal, expertise, lack of funding, more formal than other ADR, delay. Band 1 [0 marks] Irrelevant answer Band 2 [1–6 marks] Candidate gives a very basic explanation of the role and/or composition of tribunals but is unlikely to be aware of any reforms. Candidate is unlikely to offer any illustration and little or no reference to the evaluative issues within the question is expected. Band 3 [7–12 marks] Candidate gives a basic and generally accurate explanation of the role and /or composition of tribunals but this is unlikely to have any illustration or detail. Candidate makes some reference to the evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the role and composition of tribunals. Better candidates will be able to explain the new structure of tribunals in some detail and offer examples and illustrations. Candidate will attempt to link to the evaluative component of the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the role and composition of tribunals. Candidate will offer a wide range of examples and illustration and address the evaluative aspect of the question, clearly commenting on the efficacy or otherwise of the new system.	25

Question	Answer	Marks
4	Solicitors and barristers offer legal services to the public. Explain the differences in their training and role. Assess the extent to which they now do the same jobs. Indicative Content Responses may include; <i>Training:</i> Barristers; normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. Solicitors; normally law degree, non-law GDL, LPC, recognised training, professional skills course, admitted to Law Society, name added to roll. Non graduate route CILEX. <i>Role:</i> Barristers; self-employed, chambers, advocacy, specialists in some areas, writing opinions, paperwork. Solicitors; partnerships/government, wills, conveyancing, family issues, contracts, some also have rights of advocacy in court, Courts & Legal Services Act 1990, Access to Justice Act 1999. Evaluation: In practice, few solicitors have higher rights of advocacy, public can now access barristers directly and they can carry out preparatory work, Legal Services Act 2007 allows them to work together Alternative Business Structures, first licences given in 2012 Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the training and role of solicitors and/or barristers. Candidates are unlikely to offer any illustration and reference to the evaluative issues may be offered only in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the training and role of solicitors and/or barristers, but this is unlikely to have any illustration and little or no reference to evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the training and role of solicitors and barristers but the two elements may not be balanced. There will be reference to training pathways and this may be linked to the roles of the professions. There may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the training and role of solicitors and barristers, with good levels of detail and statutory authority where relevant. Candidates will clearly address the evaluative components of the question and draw well-reasoned conclusions.	25

Question	Answer	Marks
5	Judicial precedent is a major source of law. Outline the system of judicial precedent. Assess whether it has enabled judges to create and amend law to meet the needs of society. Indicative Content Responses may include – ratio decidendi, obiter dicta, binding, original, persuasive precedent, relevant examples e.g. Hunter v Canary Wharf 1995, R v R 1991, The Wagon Mound (No1) 1961, R v Howe 1987, R v Gotts 1992, distinguishing, Balfour v Balfour 1919, Merritt v Merritt 1971, Pepper v Hart 1993, hierarchy of courts, Practice Direction 1966, Young v Bristol Aeroplane 1944. Evaluation – judges can use original precedent to create law, various interpretations of ratio/obiter to extend law, Practice Direction to make law more relevant, BRB v Herrington 1972, Miliangos v George Frank 1976, Murphy v Brentwood DC 1990, limited ability for CA to do the same, and Lord Denning's attempt to extend CA powers. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic outline of precedent, but with no real detail or accuracy. Candidates may make brief reference to judges creating and amending law, but these may be underdeveloped and list like. Band 3 [7–12 marks] Candidate gives a brief but generally accurate outline of the workings of precedent. These are, however, likely to be superficial, poorly explained and bear little relevance to the question. There is unlikely to be any discussion of detail or examples of case law to illustrate the answer and little developed reference to the evaluative aspect of the question. Band 4 [13–19 marks] Candidate gives a reasonable outline of the concepts of precedent with some useful detail and example. Candidates may consider ratio, obiter and the position of the various courts with reference to the ability of judges to create and amend law. Better candidates will go on to illustrate this with a range of case law and example, but this may be limited. Candidates may address some of the evaluative issues concerning the ability of judges to create and amend law and relate this to the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed outline of the concepts of precedent (as in Band 4) with good levels of detail and illustration. Candidate clearly links the ability of judges to create and amend law to the question and presents a logical and reasoned argument.	25

Question	Answer	Marks
6	Adults who repeatedly offend are a challenge for the criminal justice system. Explain the aims of a judge when sentencing adults who repeatedly offend. Assess the types of sentence that might meet these aims. Indicative Content Responses may include – Aims: retribution, revenge, denunciation, incapacitation, deterrence, rehabilitation, reparation s142 Criminal Justice Act 2003. Types of sentence: <i>Custodial</i>; s152 criminal Justice Act 2003, mandatory life sentences, discretionary life sentences, fixed term sentences, home detention curfew Crime & Disorder Act 1998, extended determinate sentences, suspended sentences. <i>Community orders</i>; s177 Criminal Justice Act 2003, unpaid work, activity, prohibited activity, curfew, exclusion, residence, mental health, drug rehabilitation, alcohol treatment, supervision requirement, attendance centre requirement. <i>Fines. Discharges</i>; conditional or absolute. <i>Compensation & restitution orders</i>. Evaluation: linking various aims to the appropriate sentences and the potential impact on repeat adult offenders Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the aims of sentencing and/or sentences available but with no detail. There may be very limited points of evaluation, but these are not developed. Band 3 [7–12 marks] Candidate gives a brief but generally accurate explanation of aims of sentencing and/or available sentences. However, these lack detail and candidate does not link aims to sentences with any consistency. There may be a few points of evaluation. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the relevant sentences with some links to the aims of sentencing. Better candidates may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the available sentences and the aims of sentencing. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	25



Cambridge International AS & A Level

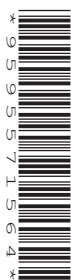
LAW

9084/11

Paper 1 Structure and Operation of the English Legal System

October/November 2022

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1 Before the creation of the Crown Prosecution Service (CPS), most of its functions were carried out by the police.

Explain the functions of the CPS. Assess whether the current system achieves effective results. [25]

- 2 Explain the process of educating and training barristers. Assess whether this process encourages a wider diversity of people to become barristers. [25]

- 3 When judges need to interpret the meaning of a statute, there are rules of language, extrinsic and intrinsic aids and presumptions as tools to help them.

Explain how these tools work. Assess the extent to which they help the task of statutory interpretation. [25]

- 4 Describe the role of the agencies of law reform. Assess how successful they have been in influencing the creation of new law. [25]

- 5 The Criminal Justice Act 2003 sets out the aims of sentencing for adult offenders.

Explain the types of sentences for adult offenders available to a judge. Assess the extent to which each of these types might achieve the aims of sentencing. [25]

- 6 Explain the pre-trial process for defendants after they have been charged with a triable either way offence. Assess the issues defendants should consider when choosing a venue for trial. [25]



Cambridge International AS & A Level

LAW

9084/11

Paper 1

October/November 2022

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the October/November 2022 series for most Cambridge IGCSE™, Cambridge International A and AS Level components and some Cambridge O Level components.

This document consists of **11** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Before the creation of the Crown Prosecution Service (CPS), most of its functions were carried out by the police. Explain the functions of the CPS. Assess whether the current system achieves effective results. Indicative Content Responses may include - Functions: Prosecution of Offenders Act 1986, Code for Crown Prosecutors, charging, decision to prosecute: <i>Evidential test</i>: strength of evidence, 'realistic prospect of conviction', admissibility of evidence, use of PACE, credibility of witnesses, strength of identification evidence. <i>Public interest test</i>: seriousness of offence, level of culpability, circumstances of victim, harm to victim, suspect under 18, impact on the community, is prosecution a proportionate response, do sources of information need protecting. Preparation of prosecution cases, Code of Practice for Victims 2005, prosecuting in court. Evaluation: prevention of miscarriages of justice (Guildford and Birmingham cases), failure to prosecute, discontinuation of cases, duty to review, statistics showing rates of discontinuance, Mirror Group hacking cases, effect on victims, use of private prosecutions, inefficiency, expense. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the function of the CPS and /or refers to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the function of the CPS. There may be brief mention of detail, but this may be superficial and poorly explained. There is likely to be very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the function of the CPS, but this may not be wide ranging or detailed. Candidate can explain the criteria used in prosecution decisions and give examples of reliable and unreliable evidence. Better responses may begin to address the evaluative issues and discuss some criticism of the CPS but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the function of the CPS with detailed explanation of the prosecution criteria and use of cases to illustrate this. Candidate may give examples of reliable and unreliable evidence. Candidate considers the evaluative issues concerning criticisms of the CPS in some detail, with supporting citation, drawing well-reasoned conclusions.	25

Question	Answer	Marks
2	Explain the process of educating and training barristers. Assess whether this process encourages a wider diversity of people to become barristers. Indicative Content Responses may include – Training: normally degree route, non-law degree GDL, BPTC, Inns of court, called to the bar, pupillage. KC: 10 years as barrister or solicitor with advocacy rights, apply, pre 2004 appointed by LC, now independent selection panel, application fee and appointment fee, applicants provide references, interviewed, recommendations to LC. First appointments made in 2006. Evaluation: Education: preference for some chambers for candidates with non-law degree, but this does make qualification period longer. <i>Training</i>; still expensive and time consuming. <i>Diversity</i>; improving, women now half of new entrants to the bar, 33% of members of the Bar now female, BME 13%. <i>Cost</i>; may make it hard for some candidates to access, despite being paid in pupillage. <i>Access</i>; Geographical issues re ‘dining’ and weekend courses KC: since reforms numbers of women and BME appointed has risen, leads to increased diversity in KCs, impact of fusion. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the training of barristers. Candidates are unlikely to offer any illustration and reference to the evaluative issues may be offered only in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the training of barristers, but this is unlikely to have any illustration and little or no reference to evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the training of barristers. There will be some attempts to link to the evaluative components of the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the training of barristers with good levels of detail and statutory authority where relevant. Candidate will clearly address the evaluative components of the question and draw well-reasoned conclusions.	25

Question	Answer	Marks
3	When judges need to interpret the meaning of a statute, there are rules of language, extrinsic and intrinsic aids and presumptions as tools to help them. Explain how these tools work. Assess the extent to which they help the task of statutory interpretation. Indicative Content Responses may include – Intrinsic aids: long title, short title, interpretation sections, preamble, headings, schedules. Extrinsic aids: previous acts on the same topic, historical setting, dictionaries of the time, earlier case law, law reform body reports, international conventions, other jurisdictions, Hansard, Pepper v Hart 1993, Davis v Johnson 1979, Three Rivers District Council 1996. Rules of language: Ejusdem Generis, Hobbs v Robertson 1970, Allan v Emmerson 1944, Expressio Unius, Tempest v Kilner 1846, Noscitur a Sociis, IRC v Frere 1965, Bromley LBC v GLC 1982. Presumptions: Against a change in the common law Leach v R 1912, requirement for <i>mens rea</i> in crime, Sweet v Parsley 1970, the Crown is not bound by any statute, legislation does not apply retrospectively War Crimes Act 1991. Evaluation: Intrinsic aids: of some limited use, preambles now less common, interpretation sections useful, long title may explain the aim of the law. Extrinsic Aids: dictionaries of the time, Hansard more useful to discover the reasons behind the statute. Rules of language: of some limited use but very dependent on statute structure. Presumptions: limited usefulness. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of intrinsic and extrinsic aids and/or rules of language and/or presumptions. There is unlikely to be any detailed citation or evaluative content. There is unlikely to be any case or example citation. Band 3 [7–12 marks] Candidate gives a basic explanation of intrinsic and extrinsic aids and/or rules of language and/or presumptions. This may be supported by limited case or example illustration, but it is unlikely to have much detail or link to the question. Cases may be described rather than used to illustrate. There will be little relevant evaluative content. Band 4 [13–19 marks] Candidate gives a reasonable explanation of rules of language, intrinsic and extrinsic aids and presumptions. Case law and example is used well to illustrate the aids and at the upper end of the mark band links clearly to the evaluative aspect of the question. Band 5 [20–25 marks] Candidate gives a very clear explanation of rules of language, intrinsic and extrinsic aids and presumptions well supported by detailed and relevant case law and example, clearly linked to the evaluative aspects of the question. Candidate is able to draw reasoned conclusions.	25

Question	Answer	Marks
4	Describe the role of the agencies of law reform. Assess how successful they have been in influencing the creation of new law. Indicative Content Responses may include – <i>Law Revision Committee 1934–1939; Law Reform Committee 1952, areas of civil law, Occupiers Liability Act 1957; Criminal Law Revision Committee 1957; crime, Theft Act 1968. Law Commission 1965; Law Commissions Act 1965, review, repeal, Statute Law (Repeals) Acts, codification; Draft Criminal Code 1985, consolidation; Criminal Justice Act 2003; simplification and modernisation of the law. Royal Commissions. Parliament itself.</i> Evaluation: use of examples as above to illustrate successes, some older bodies no longer functioning, LC unsuccessful in creating criminal code, LC some important reforms, Land Registration Act 2002, Fraud Act 2006, Criminal Justice and Courts Act 2015, initially more successful, less successful in 1990s due to lack of parliamentary time and lack of political will. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of law reform. Candidate is unlikely to offer any illustration or mention of specific agencies and no reference to the evaluative issues within the question is expected. Band 3 [7–12 marks] Candidate gives a generally accurate description of some of the law reform agencies (LC, LRC, CLRC) but this is likely to be weak and poorly explained. There is unlikely to be any discussion of detail or example and very little reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description, with illustration, of the law reform agencies (as in Band 3), but at the lower end of the mark band may not have wide ranging illustration. Better candidates may offer some detail on the evaluative issues within the question, but again this may not be wide ranging. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of agency reform with good levels of illustration. Candidate evaluates the issues within the question well, covering the success of the agencies and draws well informed conclusions on their effectiveness. Better candidates may also be credited for discussion of ad hoc reform bodies (Royal Commissions, Inquiries).	25

Question	Answer	Marks
5	The Criminal Justice Act 2003 sets out the aims of sentencing for adult offenders. Explain the types of sentences for adult offenders available to a judge. Assess the extent to which each of these types might achieve the aims of sentencing. Indicative Content Responses may include - Aims: retribution, revenge, denunciation, incapacitation, deterrence, rehabilitation, reparation. Type of sentence: Custodial; s152 criminal Justice Act 2003, mandatory life sentences, discretionary life sentences, fixed term sentences, home detention curfew Crime & Disorder Act 1998, extended determinate sentences, suspended sentences. Community orders; s177 Criminal Justice Act 2003, unpaid work, activity, prohibited activity, curfew, exclusion, residence, mental health, drug rehabilitation, alcohol treatment, supervision requirement, attendance centre requirement. Fines. Discharges; conditional or absolute. Compensation & restitution orders. Evaluation: linking various aims to the appropriate sentences for adult offenders Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the aims of sentencing and/or sentences available but with no detail. There may be very limited points of evaluation but these are not developed. Band 3 [7–12 marks] Candidate gives a brief but generally accurate explanation of aims of sentencing and/or available sentences. However, these lack detail and candidate fails to link aims to sentences with any consistency. There may be a few points of evaluation. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the aims of sentencing with some links to relevant sentences. Better responses may address the evaluative aspect of the question within the question, but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the aims of sentencing and the relevant available sentences. Candidate addresses the evaluative aspect of the question well, with developed arguments and reasoned conclusions.	25

Question	Answer	Marks
6	Explain the pre-trial process for defendants after they have been charged with a triable either way offence. Assess the issues defendants should consider when choosing a venue for trial. Indicative Content Responses may include – Bail, Bail Act 1976, mode of trial, plea before venue, s.176, Anti-Social Behaviour, Crime and Policing Act 2014, magistrates' jurisdiction, s19 Magistrates Court Act 1980, s19 (4) Magistrates Court Act 1980, defendant's election. Evaluation: Crown Court; more formal, legal representation, better chance of acquittal, may take longer to get to trial, benefit if remanded in custody. Magistrates Court; quicker process, more publicity, less chance of acquittal, lower maximum sentence. Band 1 [0 marks] Irrelevant answer Band 2 [1–6 marks] Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidate may make some confused references to criminal courts and/or reference to the evaluative issues in general terms Band 3 [7–12 marks] Candidate gives a basic explanation of the courts and processes involved. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail and very little reference to the evaluative issues. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the courts involved and identifies the courts and processes involved with some useful detail. Better responses may begin to address the evaluative issues within the question, but this may be limited at the lower end of the band. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the process (as described in band 4) with good levels of illustration and explanation. Candidate considers the issues of choice of venue within the question well and draws well informed conclusions.	25



Cambridge International AS & A Level

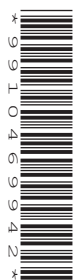
LAW

9084/12

Paper 1 Structure and Operation of the English Legal System

October/November 2022

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **three** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Answer **three** questions.

- 1 Describe the selection process for the jury. Assess how far this process can ensure that those selected as jurors can fulfil their role without bias. [25]
- 2 Explain how Equity developed to solve problems caused by the common law. Assess the extent to which it has been successful in solving these problems. [25]
- 3 Explain the rights granted to citizens by the Human Rights Act 1998. Assess the extent to which this Act has been successful in protecting human rights. [25]
- 4 Describe how a defendant found guilty of a criminal offence in the Magistrates' court might appeal against conviction or sentence. Discuss the factors a defendant might consider when making any appeal. [25]
- 5 Explain the law that governs the treatment of individuals in custody at a police station. Assess whether the law is adequate to protect individuals in these circumstances. [25]
- 6 Explain the role of solicitors and their rights of advocacy. Assess the extent to which changes to their role and rights of advocacy have improved the service they can offer. [25]



Cambridge International AS & A Level

LAW

9084/12

Paper 1

October/November 2022

MARK SCHEME

Maximum Mark: 75

Published

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Generic Marking Principles

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GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

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- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.

Band 1 [0 marks]

The answer contains no relevant material.

Band 2 [1–6 marks]

The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge.

Band 3 [7–12 marks]

The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial

OR

The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules

OR

The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4 [13–19 marks]

Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue

OR

The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5 [20–25 marks]

The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Question	Answer	Marks
1	Describe the selection process for the jury. Assess how far this process can ensure that those selected as jurors can fulfil their role without bias. Indicative Content Responses may include – Juries Act 1974, Criminal Justice Act 2003, Criminal Justice and Courts Act 2015, selected from electoral roll, by computer, qualifications; age, electoral roll, residence, no mental disorder, not disqualified by criminal convictions or lack of capacity, may be excused or deferred, vetting <i>Ex P Brownlow 1980</i>, <i>R v Mason</i>, <i>ABC Trial</i>, challenge to array; <i>Romford Case</i>, <i>R v Fraser 1987</i>, <i>R v Ford</i>, for cause; <i>R v Wilson</i>, <i>R v Sprasson</i>, <i>stand by</i>; <i>AG's Guidelines 1988</i>. Evaluation: those with poor English, homeless not on roll, deaf and blind jurors, legal professionals who can now sit on a jury, unwilling jurors, rationale behind the removal of those with lack of capacity or convictions, effectiveness of challenge and vetting, use of discretionary excusals. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the selection process for jurors, but with little accurate detail and vague evaluative comment. Band 3 [7–12 marks] Candidate gives a basic description of the selection of jurors with some detail and/or refers to the evaluative issues in general terms. Band 4 [13–19 marks] Candidate gives a reasonable description of selection of jurors perhaps including qualification, disqualification, eligibility, excusal, and challenge and vetting. At the upper end of the mark band candidates may include some case and statute citation to support their explanation. Candidate attempts to link to the evaluative component of the question and discuss whether the processes are effective in removing bias. Band 5 [20–25 marks] Candidate gives a very good description of the selection of jurors including qualification, disqualification, eligibility, excusal, and challenge and vetting. Candidate includes appropriate citation of cases and statute to support their answer. Candidate discusses the validity of using these processes to remove bias and draws well-reasoned conclusions.	25

Question	Answer	Marks
2	Explain how Equity developed to solve problems caused by the common law. Assess the extent to which it has been successful in solving these problems. Indicative Content Responses may include – account of the development of common law and equity, modern use of maxims to avoid issues such as unfair decisions, lack of remedies, time lapse, <i>Berry v Berry</i> 1929, <i>Leaf v International Galleries</i> 1950, <i>D&D Builders v Rees</i> 1965, <i>Chappell v Times Newspapers</i> 1975, <i>Kennaway v Thompson</i> 1980, <i>Warner Bros v Nelson</i> 1937, <i>Mareva Compania v International Bulk Carriers</i> 1975, <i>Anton Piller KG v Manufacturing Processes</i> 1976, use of injunctions in domestic violence, employment law and where there was no other relevant remedy, deserted wives equity, use of mortgages and trusts to avoid issues of property transfer, new concepts, <i>Central London Properties Ltd v High Trees House Ltd</i> 1947. Evaluation: problems with common law, equity still takes precedence where conflict, maxims still used today, range of equitable remedies available in all courts, though discretionary, solving the problem of damages alone, now more formal, uses precedent. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the concept of equity, but goes no further and /or refers to evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a basic explanation of the development of common law and equity. There may be brief mention of concepts, maxims, or remedies, but these may be superficial, poorly explained and not well linked to the question. There is unlikely to be any discussion of detail and very little, if any, reference to the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the development of common law, equity. Better candidates may begin to address the evaluative issues of the modern use of Equity within the question, using maxims, concepts, and remedies as illustration but at the lower end of the mark band this may be limited and unfocussed on the question. Band 5 [20–25 marks] Candidate gives a very good explanation of the development of common law and equity with detailed and wide-ranging illustration. Candidate evaluates the issues of modern use within the question well, using maxims, concepts, and remedies as illustration.	25

Question	Answer	Marks
3	Explain the rights granted to citizens by the Human Rights Act 1998. Assess the extent to which this Act has been successful in protecting human rights. Indicative Content Responses may include – Council of Europe 1949, created European Convention on Human Rights, incorporated into English law by the Human Rights Act 1998, (as Schedule 1 of the Act): Art 2 right to life, Art 3 freedom from torture, Art 4 slavery, Art 5 right to liberty and a fair trial, <i>Sander v UK 2000</i>, Art 6 fair hearing within a reasonable time, <i>Hanif v UK 2012</i>, Art 7 not to be found guilty of an action which was not a crime at the time, Art 8 right to privacy, <i>Nicklinson 2014</i>, <i>Douglas v Hello! Ltd 2001</i>, <i>Hatton v UK 2001</i>, Art 9 right to freedom of thought and religion, Art 10 freedom of expression, Art 11 right to peaceful assembly, Art 12 right to marry. Evaluation: through use of case law illustrating successful use of HRA, effect of HRA on statutory interpretation, <i>Re Medicaments 2001</i>, <i>Mendoza v Ghaidan 2002</i>, declarations of incompatibility <i>H v Mental Health Tribunal 2001</i>, <i>A v S of S for the Home Department 2004</i>, remedial orders <i>B & L v UK 2006</i> Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the creation and content HRA but is unlikely to include any detail beyond general aims/articles and/or refers to the evaluative issues in general terms Band 3 [7–12 marks] Candidate gives a basic explanation of the creation of HRA and its effect on the protection of the rights of the citizen in the UK. There is unlikely to be any detail beyond brief citation of Articles or sections of the act. Candidate may do little more than rehearse the rights protected by the act. The evaluative aspect of the question is unlikely to be considered in much detail. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the creation HRA and its impact on citizens. At the upper end of the band there may be good examples drawn from case law and detail on the relevant articles. At the upper end of the band the candidate makes attempts to address the evaluative component of the question. Band 5 [20–25 marks] Candidate gives a clear explanation of the creation HRA with good citation of the act/articles (as in Band 4) and a wide range of relevant case law. Candidate clearly addresses the evaluative component of the question.	25

Question	Answer	Marks
4	Describe how a defendant found guilty of a criminal offence in the Magistrates' court might appeal against conviction or sentence. Discuss the factors a defendant might consider when making any appeal. Indicative Content Responses may include – Appeals to Crown Court; if plea of guilty, only appeal against sentence, if not guilty plea can appeal against conviction/sentence, no leave needed, rehearing at Crown Court judge + 2 magistrates, confirm, reverse, vary decision, can confirm, increase, or decrease sentence. If on a point of law can be decided by Crown Court or further appeal by way of case stated to QBD. Case stated appeals; On point of law to QBD, can be direct from Magistrates' Court, state case, set out findings of fact and decision, panel of 2/3 High Court Judges in QBD, only by defendant to challenge a conviction, not sentence, can vary, reverse, or remit case to Magistrates' Court. Further appeal to Supreme Court; from QBD, only of certified point of law of general public importance, with leave from QBD or SC, <i>C v DPP 1994</i>. Evaluation: Few appeals are successful, approx. 12 000 per year, appeal allowed in less than half cases, hard to arrange appeal if D is in prison or is of limited means, technical, requires legal advice. In general, a function of a just system to allow a second hearing. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic description of the concept of appeal and/or refer to the evaluative issues in general terms. Band 3 [7–12 marks] Candidate gives a brief but generally accurate description of the paths and grounds of appeal for defence, perhaps naming some relevant courts. This may be presented in rather a generic way, with little detail or development, or focus on the evaluative issues within the question. Band 4 [13–19 marks] Candidate gives a reasonable description of the routes and grounds of appeal for defence. Better candidates may begin to address the specific issues of grounds and routes in more detail and deal with both prosecution and defence issues, but at the lower end of the mark band this may be limited and unfocussed on the evaluative aspect of the question. Band 5 [20–25 marks] Candidate gives a clear and very detailed description of the grounds for and routes of appeal for defence. Candidate clearly addresses the evaluative aspect of the question.	25

Question	Answer	Marks
5	Explain the law that governs the treatment of individuals in custody at a police station. Assess whether the law is adequate to protect individuals in these circumstances. Indicative Content Responses may include – PACE 1984, Codes of Practice C, E, right to have someone informed, s56 PACE, right to legal advice, <i>R v Samuel 1988</i>, <i>R v Grant 2005</i>, interviews, cautioning, recording <i>R v Halliwell 2012</i>, appropriate adult, <i>R v Aspinall 1999</i>, prevention of oppression s76 PACE, exclusion of evidence s78 PACE, searches, fingerprints, body samples, ss54, 55 and 61 PACE, right to silence CJPO Act 1994. Relevant links to Bail Act. Evaluation: Commentary on the effectiveness of these protections and discussion of cases. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6] Candidate gives a very basic explanation of the law concerning those in custody at the police station but is unlikely to include any detail or any reference to authority. Any reference to the evaluative issues may be in general terms. Band 3 [7–12] Candidate gives a basic explanation of the law concerning those in custody at police station. There is unlikely to be any detail or citation of statute, codes or case examples. The evaluative aspect of the question is unlikely to be considered in any detail. Band 4 [13–19] Candidate gives a reasonable explanation of the law concerning those in custody at the police station. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. Candidate makes some attempts to address the evaluative component of the question. Candidate would be unlikely to gain more than 13 marks without reference to relevant acts/codes of practice/cases. Band 5 [20–25] Candidate gives a very good explanation of the law concerning those in custody at the police station with good citation of statute, codes and case law. Candidate clearly addresses the evaluative component of the question and draws well-argued conclusions.	25

Question	Answer	Marks
6	Explain the role of solicitors and their rights of advocacy. Assess the extent to which changes to their role and rights of advocacy have improved the service they can offer. Indicative Content Responses may include – Role; private practice in firms/partnerships/CPS/government departments. May work as sole practitioner. General advice, consumer issues, housing, business, family issues, wills, interviewing clients, writing letters, drafting contracts, conveyancing. May represent clients in court if has rights. Alternative Business Structures (ABS), Legal Services Act 2007 Rights of advocacy; always been able to represent clients in Magistrates' Court and County Court, <i>Abse v Smith 1986</i>, Courts & Legal Services Act 1990, can apply for certificate of advocacy in higher courts, granted if evidence of experience and passes an exam on rules of evidence. Access to Justice Act 1999, in 2015 system of accreditation created to allow work as criminal advocate. Level 1 Magistrates' Court and Crown Court. Level 2 more serious criminal cases at Crown Court with assessment. Can then progress to higher levels by further assessment. Can also be appointed as QC/KC when higher levels achieved. Evaluation: by 2015 only 6500 had higher rights of audience, better for public as can use one lawyer for whole process, but limited numbers. Overlap of professions allows barristers and solicitors to be able to work together in ABS, reduces costs and avoids public having to seek out two types of professional. Band 1 [0 marks] Irrelevant answer. Band 2 [1–6 marks] Candidate gives a very basic explanation of the role and/or rights of advocacy of solicitors. Candidates are unlikely to offer any illustration and no reference to the evaluative issues within the question is expected. Band 3 [7–12 marks] Candidate gives a basic explanation of the role and/or rights of advocacy of the solicitor, but this is unlikely to have any illustration and little or no clear reference to evaluative aspects of the question. Band 4 [13–19 marks] Candidate gives a reasonable explanation of the role and rights of advocacy of solicitors but the two elements may not be balanced. There will be reference to the role of the profession and detail on the acquisition of rights of audience. There may be some reference to statutory authority. There will be some attempts to link to the evaluative components of the question, considering impact on the public. Band 5 [20–25 marks] Candidate gives a clear and very detailed explanation of the role and rights of advocacy of solicitors with good levels of detail and statutory authority where relevant. Candidates will address the evaluative components of the question and draw well-reasoned conclusions.	25



Cambridge International AS & A Level

LAW

9084/11

Paper 1 English Legal System

May/June 2023

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
Section A: answer **all** questions.
Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **one** criminal offence and **one** category of civil law. [2]
- 2 Identify **two** types of case a Magistrate might hear. [2]
- 3 Identify **five** rights of a suspect detained at a police station. [5]
- 4 Describe **two** tracks to which cases might be allocated in the civil courts. [6]
- 5 Discuss the advantages of the selection of judges by the Judicial Appointments Commission (JAC). [10]

Section B

Answer **two** questions.

- 6 Most English law is made through delegated legislation in the form of statutory instruments.
 - (a) Describe how statutory instruments are made and controlled. [10]
 - (b) Discuss the advantages of delegated legislation. [15]
- 7
 - (a) Explain the role of the Law Commission. [10]
 - (b) Assess the effectiveness of the Law Commission. [15]
- 8
 - (a) Describe the different ways in which the prosecution and defence can appeal a decision of the Crown Court. [10]
 - (b) Assess the difficulties for the defence when appealing a decision of the Crown Court. [15]



Cambridge International AS & A Level

LAW

9084/11

Paper 1

May/June 2023

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

This document consists of **14** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Question	Answer	Marks
1	Identify <u>one</u> criminal offence and <u>one</u> category of civil law. AO1 Knowledge and understanding Any one from (criminal): • theft • murder • assault • burglary • robbery. Any one from (civil): • contract • tort • family law • planning law • human rights law. Credit any other relevant response. 1 mark per area accurately identified up to a maximum of 2 marks.	2

Question	Answer	Marks
2	Identify <u>two</u> types of case a Magistrate might hear. AO1 Knowledge and understanding Any two from: • summary trial/triable either way offences • transfer indictable offence for trial • adoption orders and proceedings under the Children Act 1989 • bail hearings • issuing warrants • Youth Court cases • non-payment of Council Tax • family proceedings. Credit any other relevant response. 1 mark per type accurately named up to a maximum of 2 marks.	2

Question	Answer	Marks
3	Identify <u>five</u> rights of a suspect detained at a police station. AO1 Knowledge and understanding Any five from: • time limits • allowing suspect to inform someone of their detention • telling the suspect that they are entitled to free legal advice/contact a solicitor • allowing suspect to consult the Code of Practice • tape recorded interviews • appropriate adult • record kept by custody officer • breaks for rest/sleeping • provision of meals. Credit any other relevant response. 1 mark per element accurately stated up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Describe <u>two</u> tracks to which cases might be allocated in the civil courts. AO1 Knowledge and understanding Any two from: • Small Claims Track – used for disputes under £10 000 except for personal injury cases and housing cases where the limit is usually £1000, heard in the County Court • Fast Track – used for straight forward disputes (for example contract or tort) of £10 000 to £25 000, heard in the County Court. • Multi-Track – cases over £25 000 or for complex cases under this amount. £25 000 to £100 000 heard in the County Court, over £100 000 in the High Court. Credit any other relevant response. 1 mark for naming a track and up to 2 marks for describing the track x 2	6

Question	Answer	Marks																		
5	Discuss the advantages of the selection of judges by the Judicial Appointments Commission (JAC). Table A Use this table to give marks for each candidate response. <table><tr><th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr><tr><td></td><th>Description</th><th>Description</th></tr><tr><td>3</td><td>5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td>4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr><tr><td>2</td><td>3–4 marks - Some analysis. - Some use of relevant examples. </td><td>2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr><tr><td>1</td><td>1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td>1 mark - Limited evaluation with little or relevant evidence. </td></tr><tr><td>0</td><td>0 marks - No creditable content. </td><td>0 marks - No creditable content. </td></tr></table> Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Advantages - appointments made on merit - wide range of membership on the committee - advertises posts available - removes the decision from the Lord Chancellor alone - assesses personal qualities - leads to improved diversity.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks																		
	Description	Description																		
3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.																		
2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.																		
1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.																		
0	0 marks No creditable content.	0 marks No creditable content.																		
	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Most English law is made through delegated legislation in the form of statutory instruments. Describe how statutory instruments are made and controlled. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding - made by ministers/ministerial departments - using powers given by Parent/Enabling Act - Legislative & Regulatory Reform Act 2006 - pre-drafting consultation - repeal of Enabling Act - Delegated Powers Scrutiny Committee - affirmative Resolution - negative resolution judicial review: procedural and substantive <i>ultra vires</i>, unreasonableness.	10
6(b)	Discuss the advantages of delegated legislation. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation - time saving - speed - expertise - flexibility - controls - Parliament can spend time making policy rather than including detail.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the role of the Law Commission. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • created by Law Commission Act 1965 • Law Commission Act 2009 • keeps law under review • aims to codify law • repeals obsolete law • consolidates law, draws all existing provisions together in one Act • simplifies and modernises law • topics referred to LC by Lord Chancellor, or LC may ask government approval to draft reports • LC must report to parliament annually on Government progress in implementing reports • researches areas of law in need of reform • publishes consultation papers • draws up proposals for reform • may create draft bills.	10

Question	Answer	Marks
7(b)	Assess the effectiveness of the Law Commission. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • successes include; UCTA 1977, Criminal Attempts Act 1981, Supply of Goods & Services Act 1982, Occupiers' Liability Act 1984, Land Registration Act 2002, Fraud Act 2006, Corporate manslaughter and Corporate Homicide Act 2007, Criminal Justice & Courts Act 2015 • codification not a success, too big a task, has only codified small areas of law • consolidation more successful • in first 10 years, 85% of suggested proposals enacted by parliament • however, in subsequent years less successful, only 50% success • due to lack of parliamentary time, lack of interest in technical law • more recent improvement but still many reports awaiting legislation • is a special procedure created in 2010 to implement uncontroversial laws – bills to be introduced in House of Lords • LC work important when judges use a purposive approach to interpretation.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Describe the different ways in which the prosecution and defence can appeal a decision of the Crown Court. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding By the defendant; • against conviction or sentence • leave to appeal from Court of Appeal • considered by single judge, can apply to full court if refused • Criminal Appeal Act 1995 – grounds of unsafe conviction or new evidence • CA can allow appeal and quash conviction, can vary conviction to a lesser offence, can decrease sentence or dismiss appeal • CA can order retrial. By the prosecution; • against acquittal – if jury nobbling (Criminal Procedure & Investigations Act 1996) or new & compelling evidence (Criminal Justice Act 2003) only for serious offences where in public interest • double jeopardy • referring a point of law Criminal Justice Act 1972 (does not affect the acquittal) • against sentence – lenient sentencing Criminal Justice Act 1988. Further appeals; • to Supreme Court with leave on point of law • Criminal Cases Review Commission.	10

Question	Answer	Marks
8(b)	Assess the difficulties for the defence when appealing a decision of the Crown Court. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • important in any system to have a route of appeal • need for leave is to filter out cases without merit • limited grounds for appeal, must fit into categories • new evidence must be capable of belief and afford a ground for appeal, plus whether it would have been admissible at trial and why it was not produced at trial • difficult to get leave to appeal – only allowed in 24% of cases • even if appeal granted only 33% successful • unlikely to be allowed to appeal to Supreme Court • CA interpret ‘unsafe’ widely since HRA 1998 • increasing number of retrials ordered since 1989 • possibility of double jeopardy if prosecution appeal • prosecution appeals against lenient sentence often used successfully • difficulty in arranging appeal if imprisoned • need for legal advice • cost • impact of creation of CCRC.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

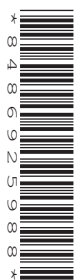
LAW

9084/12

Paper 1 English Legal System

May/June 2023

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
Section A: answer **all** questions.
Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **two** examples of a moral belief. [2]
- 2 Identify **two** roles of a barrister. [2]
- 3 Identify **five** of the stages a bill must go through to become an Act of Parliament. [5]
- 4 Describe the **three** classifications of criminal offences. [6]
- 5 Discuss the disadvantages of using lay people as jurors and magistrates in the criminal justice system. [10]

Section B

Answer **two** questions.

- 6 (a) Explain the powers of the Court of Appeal to depart from an otherwise binding precedent. [10]
 (b) Discuss whether the Court of Appeal should be able to depart from decisions of the Supreme Court. [15]
- 7 (a) Describe the rights of a suspect detained at a police station. [10]
 (b) Discuss the extent to which these rights protect the suspect. [15]
- 8 (a) Explain how inferior judges are selected and appointed. [10]
 (b) Assess the advantages of the processes governing the selection and appointment of inferior judges. [15]



Cambridge International AS & A Level

LAW

9084/12

Paper 1

May/June 2023

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

This document consists of **14** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However, spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Question	Answer	Marks
1	Identify <u>two</u> examples of a moral belief. AO1 Knowledge and Understanding Any two examples from: • not to kill others • not to harm others • not to steal • always tell the truth • do not cheat • do not destroy property. Credit any other relevant response. 1 mark per example accurately identified up to a maximum of 2 marks.	2

Question	Answer	Marks
2	Identify <u>two</u> roles of a barrister. AO1 Knowledge and Understanding Any two from: • representing client in court • drafting advice • writing opinions on cases • drafting documents for court • being employed by the Civil Service • being employed by the CPS. Credit any other relevant response. 1 mark per role accurately named up to a maximum of 2 marks.	2

Question	Answer	Marks
3	Identify <u>five</u> of the stages a bill must go through to become an Act of Parliament. AO1 Knowledge and Understanding Any five from: • First Reading • Second Reading • Committee Stage • Report Stage • Third Reading • Similar procedures in the House of Lords • Royal Assent. 1 mark per stage accurately stated up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Describe the <u>three</u> classifications of criminal offences. AO1 Knowledge and Understanding Any three from: • Summary • Indictable • Triable Either Way. 1 mark for naming a classification and up to 1 mark for describing the classification x 3.	6

Question	Answer	Marks																		
5	Discuss the disadvantages of using lay people as jurors and magistrates in the criminal justice system. Table A Use this table to give marks for each candidate response. <table><tr><th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr><tr><th></th><th>Description</th><th>Description</th></tr><tr><td>3</td><td>5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td>4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr><tr><td>2</td><td>3–4 marks - Some analysis - Some use of relevant examples. </td><td>2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr><tr><td>1</td><td>1–2 marks - Limited analysis - Limited use of relevant examples </td><td>1 mark - Limited evaluation with little or relevant evidence. </td></tr><tr><td>0</td><td>0 marks - No creditable content. </td><td>0 marks - No creditable content. </td></tr></table> Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Magistrates: - not truly representative - prosecution bias - inconsistency in sentencing - reliance on clerk. Jury: - lack of understanding - easily swayed by experienced counsel - perverse decisions - media influence - jury tampering.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis - Limited use of relevant examples	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks																		
	Description	Description																		
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1	1–2 marks - Limited analysis - Limited use of relevant examples	1 mark Limited evaluation with little or relevant evidence.																		
0	0 marks No creditable content.	0 marks No creditable content.																		
	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain the powers of the Court of Appeal to depart from an otherwise binding precedent. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • normally bound by decisions of the Supreme Court • normally bound by own previous decisions • need not follow decisions of the Supreme Court in human rights cases, s.2 Human Rights Act 1998, <i>Re Medicaments</i> (2001). • can distinguish a case, <i>Balfour v Balfour</i> (1919), <i>Merritt v Merritt</i> (1971). • can overrule an earlier case in a lower court <i>Pepper v Hart</i> (1993) • can reverse a case heard on appeal from a lower court • decisions by one division of the Court of Appeal do not bind the other division • need not follow its own previous decision, <i>Young v Bristol Aeroplane Co Ltd</i> (1944) if it is per incuriam, <i>Williams v Fawcett</i> (1986), <i>R v Cooper</i> (2011) • need not follow its own decision if there are conflicting decisions in past Court of Appeal cases • if there is a decision of the Supreme Court which overrules a CA decision, the CA must follow the Supreme Court.	10

Question	Answer	Marks
6(b)	Discuss whether the Court of Appeal should be able to depart from decisions of the Supreme Court. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation For: • Lord Denning's views • Few cases reach the SC. • <i>Schorsch Meier v Henning</i> (1975), <i>Miliangos v George Frank</i> (1976) • <i>Broome v Cassell</i> (1971), <i>Rookes v Barnard</i> (1964) • Wasting money on appeal to CA despite the fact they cannot change precedent • Law more likely to stagnate • Cheaper for decisions to be made at CA level • Leapfrog system already exists from HC to SC. • Use of distinguishing would lead to illogical distinctions. Against: • System of precedent would break down. • Law becomes uncertain. • It would create conflicting precedents for lower courts to choose from • harder for lawyers to advise clients. • Leapfrog can only be used if case involves a point of general public importance. • Judges could choose to distinguish instead.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Describe the rights of a suspect detained at a police station. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and Understanding • Police & Criminal Justice Act 1984 • time limits ss34-46 PACE, Code of Practice C • allowing suspect to inform someone of their detention s56 PACE • telling the suspect that they are entitled to free legal advice/contact a solicitor s 58 PACE, <i>R v Halliwell</i> (2012) • allowing suspect to consult the Code of Practice • tape recorded interviews s53 PACE • statements given under oppression not used in evidence s76 PACE • interview room must be adequately lit, heated and ventilated • right to silence • appropriate adult <i>R v Aspinall</i> (1999) • record kept by custody officer • breaks for rest/sleeping • provision of meals • rules on searches, fingerprints and intimate samples ss54 &55 PACE, s61 PACE, ss62&63 PACE.	10

Question	Answer	Marks
7(b)	Discuss the extent to which these rights protect the suspect. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • Protection is given by law under act and codes of practice. • Time limits prevent suspect being held in custody for unnecessarily long periods of time. • However, time limits may hinder police investigations. • Appropriate adult protects the vulnerable through age or mental incapacity. • Recording of interviews ensures accuracy of evidence and prevents oppressive questioning. • Interview rules also protects suspects from the potential of police fabrication of evidence. • However, may hinder police where informal questioning occurs prior to arriving at the police station <i>R v Halliwell</i> (2012). • Allowing the suspect to inform someone prevents 'disappearance' into the system. • The provision of legal representation ensures the suspect is properly advised. • However, may be long delays for duty solicitors. • Record by custody officer monitors suspects detention. • However about 10% of records have been found to be falsified (Sanders & Bridge research). • Evidence can be excluded if rules not followed and there would be an adverse effect on fairness s76 and s78 PACE.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain how inferior judges are selected and appointed. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • JAC created under Constitutional Reform Act 2005 • selects over 500 people each year • advertises selection exercises on social media and via newsletter. Senior Judges (High Court, Court of Appeal, Supreme Court): • qualifications, application forms & referees • SC; SC Selection Committee • CA & High Court; Selection Panel, application form, interviews • JAC selects candidate and recommends to Lord Chancellor • LC can accept or reject or ask panel to reconsider • power given to LC under delegated legislation.	10
8(b)	Assess the advantages of the processes governing the selection and appointment of inferior judges. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • Historical selection process focussed on Lord Chancellor – ‘secret soundings’. • Secretive and favoured white males • LC a political appointment – potential for bias • LC still involved but power now through DL so can be easily removed by parliament • More focus on judicial qualities and efficiency • Pool of applicants now wider – Tribunals, Court & Enforcement Act 2007 opens judicial posts beyond barristers and solicitors for some levels. • Experience in law may be gained in a variety of ways. • Now applicants can now apply having worked in law for less time (7/10 years previously for lower/senior posts, now 5/7). • Improved diversity in judiciary • Higher percentage of women at both higher and lower levels • Increase in judges from BME backgrounds.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

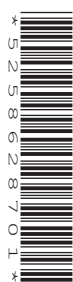
LAW

9084/13

Paper 1 English Legal System

May/June 2023

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

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Section A: answer **all** questions.
Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **two** legal systems used around the world. [2]
- 2 Identify **two** types of precedent. [2]
- 3 Identify **five** roles of a solicitor. [5]
- 4 Describe **two** types of delegated legislation. [6]
- 5 Discuss the advantages of jury trial in the Crown Court. [10]

Section B

Answer **two** questions.

- 6 (a) Describe how the literal rule and purposive approach help judges interpret statutes. [10]
(b) Assess the advantages and disadvantages of both the literal rule and the purposive approach. [15]
- 7 (a) Explain arbitration as an alternative method of dispute resolution. [10]
(b) Discuss the advantages of using arbitration as a way of resolving a civil dispute. [15]
- 8 (a) Describe the qualifications and appointment process for lay magistrates. [10]
(b) Assess whether the training given to lay magistrates is adequate. [15]



Cambridge International AS & A Level

LAW

9084/13

Paper 1

May/June 2023

MARK SCHEME

Maximum Mark: 75

Published

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(for point-based marking)****1 Components using point-based marking:**

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2 Presentation of mark scheme:

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3 Annotation:

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Guidance on using levels-based mark schemes

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The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

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- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Question	Answer	Marks
1	Identify <u>two</u> types of legal systems used around the world. AO1 Knowledge and understanding Any two from: • common law • civil law (codified) • statutory law • customary law • religious law • mixed legal systems. Credit any other relevant response. 1 mark per legal system accurately identified up to a maximum of 2 marks.	2

Question	Answer	Marks
2	Identify <u>two</u> types of precedent. AO1 Knowledge and understanding Any two from: • binding • original • persuasive. Credit any other relevant response. 1 mark per type accurately named up to a maximum of 2 marks.	2

Question	Answer	Marks
3	Identify <u>five</u> roles of a solicitor. AO1 Knowledge and understanding Any five from: • writing letters on behalf of clients • drawing up wills • acting as an executor of a will • dealing with conveyancing • divorce • drafting contracts • representing clients in court • offering advice to clients • duty solicitor in police station. Credit any other relevant response. 1 mark per role accurately stated up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Describe <u>two</u> types of delegated legislation. AO1 Knowledge and understanding Any two from: • statutory instruments – made by government ministers, over 3000 a year, areas relevant to ministers • Orders in Council – made by the Queen and Privy Council, made in emergencies, can bring parts of an act into effect. • bylaws – made by local councils, laws relevant to geographical areas, also made by corporations. 1 mark for naming a type and up to 2 marks for describing the type x 2.	6

Question	Answer	Marks																		
5	Discuss the advantages of jury trial in the Crown Court. Table A Use this table to give marks for each candidate response. <table> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <th></th><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation - public confidence - jury equity - open justice - impartiality - being judged by one's peers - cross section of society - limited excusals - secrecy of the jury room. Credit any other relevant response.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks																		
	Description	Description																		
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2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.																		
1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.																		
0	0 marks No creditable content.	0 marks No creditable content.																		
	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Describe how the literal rule and purposive approach help judges interpret statutes. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Literal: • usually the first rule applied • words given their ordinary meaning • Judge may use a dictionary of the time • <i>LNER v Berriman</i> (1946), <i>Fisher v Bell</i> (1961), <i>Whiteley v Chappel</i> (1868) Purposive: • goes beyond the Mischief rule • judges try to see what Parliament intended • often uses Hansard and Law Commission reports • <i>Magor & St Mellons v Newport Corporation</i> (1950), <i>R (Quintaville) v Secretary of State for Health</i> (2003), <i>Jones v Tower Boot</i> (1997), <i>Cutter v Eagle Star</i> (1998).	10

Question	Answer	Marks
6(b)	Assess the advantages and disadvantages of both the literal rule and the purposive approach. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Literal rule: • assumes Acts are perfectly drafted • words may have more than one meaning (Dangerous Dogs Act 1991) • words may change meaning over time • may give illogical and unfair outcomes • but – does restrict judges' role to merely interpreting Parliament's words. Purposive approach: • makes sense of the law • usually gives a more just result • avoids absurd results • flexible and gives judges some discretion • but – allows judges to go beyond interpretation and possibly be accused of creating law.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain arbitration as an alternative method of dispute resolution. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Arbitration Act 1996 • judgment from someone other than a judge • by mutual agreement made at any time • usually in writing • <i>Scott v Avery</i> clause • court cannot deal with dispute • parties agree on number of arbitrators (s15 Arbitration Act) • can be 2 or 3 or a sole arbitrator • parties can agree how to appoint • Institute of Arbitrators • usually an expert in the field or a lawyer • paper arbitration or oral submissions • may be witnesses • date, time and place agreed by parties • decision is an award, is binding and can be enforced through the courts.	10

Question	Answer	Marks
7(b)	Discuss the advantages of using arbitration as a way of resolving a civil dispute. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • parties can choose their own arbitrator • arbitrators have expertise • saves calling expert witnesses on quality issues • hearing can be at a time and place of parties choosing • more informal and relaxed • private hearings • parties able to continue to work on good terms afterwards • quicker than the courts • often (but not always) cheaper • award is final • award can be enforced by the courts.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Describe the qualifications and appointment process for lay magistrates. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • six key qualities • over 18 and under 65 • in good health • able to attend for 26 half sessions a year • live or work in the local justice area • appointed by Senior Presiding Judge • application form sent to Local Advisory Committee • interview 1 – personal attributes and attitudes to justice • interview 2 – discussion of case studies • Advisory Committee submits names to Senior Presiding Judge • appoints from list.	10

Question	Answer	Marks
8(b)	Assess whether the training given to lay magistrates is adequate. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Training now includes: • national syllabus – more consistent training • drawn up by Magisterial Committee of the Judicial College – expertise • training now structured • over 30 courses run by the College each year • materials provided centrally to aid consistency • introductory training familiarises new Magistrates with the organisation of the Bench • requirement for observation aids understanding of task • personal development log ensures reflection and improvement • mentor helps with understanding the tasks • appraisal assesses progress • extra training available if standards not achieved • practical 'on the job' training and checks understanding • extra training for specific roles i.e. Youth Court, Chairs etc.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

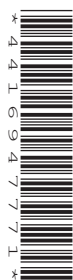
LAW

9084/11

Paper 1 English Legal System

October/November 2023

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
 - Section A: answer **all** questions.
 - Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **one** legal rule and **one** moral belief. [2]
- 2 Identify **two** bodies which regulate solicitors. [2]
- 3 Identify **five** of the key qualities required to become a magistrate. [5]
- 4 Describe the role of **three** civil courts. [6]
- 5 Discuss the advantages of alternative methods of dispute resolution (ADR). [10]

Section B

Answer **two** questions.

- 6 (a) Explain how the influences of political pressure, the media and pressure groups influence Parliament when making law. [10]
 (b) Assess how successful these influences have been on Parliament when making law. [15]
- 7 (a) Explain the use of bail in the criminal justice system. [10]
 (b) Assess whether the use of bail achieves a suitable balance between public safety interests and the rights of a suspect. [15]
- 8 (a) Explain binding, persuasive and original precedent. [10]
 (b) Assess how far the doctrine of precedent limits the development of law. [15]



Cambridge International AS & A Level

LAW

9084/11

Paper 1

October/November 2023

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the October/November 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.

This document consists of **16** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Annotations and their Use

Annotation	Use
✓	Used as an indication of relevant and rewardable content in the body of the answer.
X	Indicates where the content is legally incorrect.
?	Indicates where the response is unclear.
NAQ	Used when the answer or parts of the answer are not answering the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Indicates where a relevant Act of Parliament or statutory authority has been used and to indicate where AO2 Analysis and application has been awarded.
C	Indicates where a relevant piece of legal authority has been used to indicate where AO2 Analysis and application has been awarded.
EVAL	Indicates where the answer has demonstrated AO3 Evaluation.
LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Identify <u>one</u> legal rule and <u>one</u> moral belief. AO1 Knowledge and understanding Legal: • Theft • Robbery • Burglary Moral: • Telling lies • Cheating • Stealing from others. Credit any other relevant response 1 mark per legal/moral rule accurately identified up to a maximum of 2 marks	2

Question	Answer	Marks
2	Identify <u>two</u> bodies which regulate solicitors. AO1 Knowledge and understanding Any two from: • The Law Society • Solicitors Regulation Authority • Legal Ombudsman 1 mark per body accurately named up to a maximum of 2 marks	2

Question	Answer	Marks
3	Identify <u>five</u> of the key qualities required to become a magistrate. AO1 Knowledge and understanding Any five from: • Good character • Understanding and communication • Social awareness • Maturity and sound temperament • Sound judgement • Commitment and reliability. 1 mark per key quality accurately stated up to a maximum of 5 marks	5

Question	Answer	Marks
4	Describe the role of <u>three</u> civil courts. AO1 Knowledge and understanding Any three from: • Magistrates' Court • County Court • High Court – the Divisions count as separate courts. • Court of Appeal • Supreme Court. 1 mark for naming a court and 1 mark for describing the court ×3	6

Question	Answer	Marks																		
5	Discuss the advantages of alternative methods of dispute resolution (ADR). Table A Use this table to give marks for each candidate response. <table border="1"> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <td></td><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: Advantages - Faster - Cheaper - More flexible - Informal - Possible to agree resolutions not available in court - Can maintain business relationships - Arbitration is enforceable in courts.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
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	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain how the influences of political pressure, the media and pressure groups influence Parliament when making law. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Media • Campaigns on issues of the day – dangerous dogs, Snowdrop campaign, • TV and newspaper campaigns – Law for Life organ donation campaign, Don't Carry Don't Kill law regarding knife crime, Upskirting law – Voyeurism Act 2019 • Individual influence – Princess Diana & land mines Political pressure • Manifesto promises • Response to external issues Pressure groups • Sectional – represent work groups/professions, Law Society, BMA, Trades Unions • Cause – to promote a particular cause, environmental groups, Greenpeace, Amnesty, ASH, League Against Cruel Sports, Hunting Act 2004 • Insider groups with access to government officials, lobbyists	10

Question	Answer	Marks
6(b)	Assess how successful these influences have been on Parliament when making law. Use Table C to mark candidate responses to this question. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Pressure groups • Larger groups better supported as represent large section of society • Large groups are wealthy and can carry electoral support at election time, may have direct access to ministers and MPs • Very influential • Well publicised groups can have a big impact • RSPCA - Animal Welfare Act 2006 • One person campaigns • Mary Whitehouse Protection of Children Act 1978 • Jamie Oliver The Education (Nutritional Standards for School Food) (England) Regulations 2007 • Smaller groups influence much less • Less likely to be consulted and less likely to have governmental links • Possess considerable expertise • Biased in favour of their cause • Views held passionately can lead to illegal behaviour - Fathers for Justice. Media • Raise government awareness and inform them of concerns held by public • TV documentary campaigns reach a large number of people • Newspapers can become politicised • Newspapers have an agenda to sell newspapers • Easily whip up a moral panic in the public – News of the World ‘Name and Shame Campaign’. Political • Each party has its proposals for reform ready so that if they are elected, they know what they wish to do • Government has a majority in the House which means that most laws it proposes will be passed – law making is more efficient • If new party elected at next election, they can repeal the laws their predecessors passed • Changes can therefore be costly and open to criticism • Manifesto promises not binding on government.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the use of bail in the criminal justice system. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Bail Act 1976 • Alternative to remand in custody • Granted by police or courts • Reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses) • Factors considered (seriousness of offence, character of defendant, defendants record, strength of evidence) • Sureties • Appeals • If a custodial sentence is not likely s5A Bail Act 1976 as amended • Conditions Criminal Justice & Public order Act 1994 (Police Bail) • Restrictions on bail where the offence is murder, manslaughter, rape • Restrictions for adult drug users. • Concept of Released Under Investigation (RUI) as a new alternative	10

Question	Answer	Marks
7(b)	Assess whether the use of bail achieves a suitable balance between public safety interests and the rights of a suspect. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • The danger of the imprisonment of a person not yet found guilty of an offence • Long term impact if remanded in custody – loss of job, housing, family • Bail allows defendants to retain work • Easier to prepare for trial if not in custody • Use of bail hostels to limit impact • Use of electronic tagging when out on bail • 9% of those in UK prisons are defendants who have not been tried but are remanded in custody • Statistically, 1 in 5 of these will be found not guilty • No compensation for those ultimately found not guilty • Even when defendants found guilty only 1 in 5 given custodial sentences • Protection of public • Prevention of further crime • Prevents interference with evidence or witnesses • Danger of flight • Recent reforms help protect public, Criminal Justice Act 2003 – bail can be denied if defendant tests positive for Class A drug & offence connected to drugs, Coroners & Justice Act 2009, bail decision must be made by a judge in Crown Court if charged with murder.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain binding, persuasive and original precedent. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Binding • From earlier case in higher court (or in some cases the same court) • Hierarchy of courts • Must be followed even if judge does not agree • Facts of second case must be similar to the original case Persuasive • Not binding but judge may choose to follow it • From lower courts – <i>R v R</i> (1991) • Decisions of the Judicial Committee of the Privy Council, <i>The Wagon Mound</i> (1961), <i>Attorney General for Jersey v Holley</i> (2005), <i>R v Mohammed</i> (2005), <i>R v James</i>; <i>R v Karimi</i> (2006) • Statements made obiter dicta, <i>R v Howe</i> (1987) • <i>R v Gotts</i> (1992) • Dissenting judgments • Courts in other countries Original • A point of law which has never been decided before • Reasoning by analogy • <i>Hunter v Canary Wharf Ltd</i> (1995).	10

Question	Answer	Marks
8(b)	Assess how far the doctrine of precedent limits the development of law. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Limits development of law • Rigid hierarchy & rules make development of the law hard • Cases often complex and unclear in ratio • Where distinguishing is used, can be 'hair splitting' and illogical • Judges in lower courts cannot reform law even where it is unclear or in need of reform • Only about 50 cases go to Supreme Court each year (the court with the most ability to develop law) • Court of Appeal very limited in its ability to develop law • Lord Denning's attempt to extend Court of Appeal powers Allows development of law • Judges can use original precedent to create law • Various interpretations of ratio/obiter to extend law • Supreme Court can use Practice Direction to make law more relevant, <i>BRB v Herrington</i> (1972), <i>Miliangos v George Frank</i> (1976), <i>Murphy v Brentwood DC</i> (1990) • Some ability for Court of Appeal to do the same, especially in criminal law and human rights cases <i>Re Medicaments</i> (2001), <i>R v Gough</i> (1993).	15
	AO2	8
	AO3	7

Section A

Answer **all** questions.

- 1 Court trial is an example of justice in the English legal system.
Identify **two** other examples. [2]
- 2 Identify **two** bodies which regulate barristers. [2]
- 3 Identify **five** requirements of a valid stop and search by a police officer. [5]
- 4 Describe **two** appeal routes for a defendant following a trial in the Magistrates' Court. [6]
- 5 Discuss the disadvantages of judicial precedent. [10]

Section B

Answer **two** questions.

- 6 (a) Explain the ways delegated legislation is controlled. [10]
(b) Assess whether these controls are adequate. [15]
- 7 (a) Explain the role of the Law Commission. [10]
(b) Assess to what extent the Law Commission has been successful in its role. [15]
- 8 (a) Explain the qualifications and role of jurors in a criminal trial. [10]
(b) Discuss the disadvantages of using a jury in a criminal trial. [15]



Cambridge International AS & A Level

LAW

9084/12

Paper 1

October/November 2023

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the October/November 2023 series for most Cambridge IGCSE, Cambridge International A and AS Level components, and some Cambridge O Level components.

This document consists of **16** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct.
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities.
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However, spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Annotations and their Use

Annotation	Use
✓	Used as an indication of relevant and rewardable content in the body of the answer.
X	Indicates where the content is legally incorrect.
?	Indicates where the response is unclear.
NAQ	Used when the answer of parts of the answer are not answering the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Indicates where a relevant Act of Parliament or statutory authority has been used and to indicate where AO2 Analysis and application has been awarded.
C	Indicates where a relevant piece of legal authority has been used to indicate where AO2 Analysis and application has been awarded.
EVAL	Indicates where the answer has demonstrated AO3 Evaluation.
LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Court trial is an example of justice in the English legal system. Identify <u>two</u> other examples. AO1 Knowledge and understanding Any two from: • Ability to be represented • Jury of your peers • Rules applied in the same way to all • Appeals system • Unbiased judges • Sentencing offenders • Human Rights Act • Law of Equity • Legal Funding/Legal Aid • Police and Criminal Evidence Act 1984 • ADR Credit any other relevant response, which shows how a wronged party or defendant can get access to justice. 1 mark per example accurately identified up to a maximum of 2 marks.	2

Question	Answer	Marks
2	Identify <u>two</u> bodies which regulate barristers. AO1 Knowledge and understanding Any two from: • Bar Standards Board • Bar Council • Legal Ombudsman • Inns of Court Credit any other relevant response. 1 mark per body accurately named up to a maximum of 2 marks	2

Question	Answer	Marks
3	Identify <u>five</u> requirements of a valid stop and search by a police officer. AO1 Knowledge and understanding Any five from: • Reasonable suspicion • Code A, ss1–7 Police and Criminal Evidence Act 1984 • A clear explanation of the reasons for the Officer's search • What the Officer will be looking for (can include examples) • Warrant card to be produced, if the Officer is not in uniform • Officer must state their name and collar number • Officer must identify the station at which s/he is based • Officer must inform person of their entitlement to a copy of the stop/search record • Officer must specify the legislation under which s/he is searching • Officer must clearly explain that person is being detained for the purpose of a search. Credit any other relevant response. 1 mark per element accurately stated up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Describe <u>two</u> appeal routes for a defendant following a trial in the Magistrates' Court. AO1 Knowledge and understanding Any two from: • Appeal to the Crown Court – automatic right against conviction and/or sentence. • Case Stated Appeals to KBD • Leapfrog appeal to the Court of Appeal • Supreme Court 1 mark for naming a route and up to 2 marks for describing the route x2.	6

Question	Answer	Marks																		
5	Discuss the disadvantages of judicial precedent. Table A Use this table to give marks for each candidate response. <table border="1"> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <td></td><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: - Rigidity - Complexity - Illogical distinctions - Slowness of growth - Difficulty of distinguishing ratio decidendi from obiter dicta - Complex judgments Credit any other relevant response.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
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0	0 marks No creditable content.	0 marks No creditable content.																		
	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain the ways delegated legislation is controlled. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Parliamentary Controls • Pre drafting consultation, <i>Aylesbury Mushroom</i> (1972) • Repeal of enabling act • Delegated powers scrutiny committee • Affirmative Resolution • Negative resolution • Scrutiny Committee • Publicity Judicial review • Substantive ultra vires <i>R v Home Secretary ex parte Fire Brigades Union</i> (1995), <i>Secretary of State for Education ex parte NUT</i> (2000) • Procedural ultra vires <i>Aylesbury Mushroom</i> (1972) • Unreasonableness <i>Strickland v Hayes Borough Council</i> (1896)	10

Question	Answer	Marks
6(b)	Assess whether these controls are adequate. Use Table C to mark candidate responses to this question. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Parliamentary Controls • Pre drafting consultation - not always carried out • Repeal of enabling act – impractical as laws still need to be made • Delegated powers scrutiny committee - no power to amend, not all regulations need to be laid before them • Affirmative Resolution – unusual and takes up Parliamentary time, Parliament cannot amend, only approve, annul or withdraw. • Negative resolution – common but depends on someone seeing the proposal • Scrutiny Committee – more effective, sees all Statutory Instruments but a technical review, can only report back, no power to alter SI. • Publicity – public may not know of existence of DL Judicial review • Can only challenge if locus standi • Expensive and technical • Needs legal advice • No legal aid available • Public may not know DL can be challenged this way	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the role of the Law Commission. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Created by Law Commissions Act 1965 • Keeps law under review • Aims to codify law • Repeals obsolete law • Consolidates law, draws all existing provisions together in one Act • Simplifies and modernises law • Topics referred to LC by Lord Chancellor, or LC may ask government approval to draft reports • Researches areas of law in need of reform • Publishes consultation papers • Draws up proposals for reform • May create draft bills.	10

Question	Answer	Marks
7(b)	Assess to what extent the Law Commission has been successful in its role. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Advantages • Successes include; UCTA 1977, Criminal Attempts Act 1981, Supply of Goods & Services Act 1982, Occupiers' Liability Act 1984, Land Registration Act 2002, Fraud Act 2006, Corporate Manslaughter and Corporate Homicide Act 2007, Criminal Justice & Courts Act 2015 • Consolidation quite successful • In first 10 years, 85% of suggested proposals enacted by parliament • Is a special procedure created in 2010 to implement uncontroversial laws – bills to be introduced in House of Lords • LC work important when judges use a purposive approach to interpretation. Disadvantages • Codification not a success, too big a task, has only codified small areas of law • In recent years less successful, only 50% success • Due to lack of parliamentary time, lack of interest in technical law • Still many reports awaiting legislation.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain the qualifications and role of jurors in a criminal trial. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Qualifications • Juries Act 1974 • Aged between 18 and 76th birthday • Registered as a parliamentary or local government elector • Resident in the UK, Channel Islands or Isle of Man for at least five years since their 13th birthday • Not a mentally disordered person – Mental Health (Discrimination) Act 2013 – if detained or resident on account of a mental disorder in a hospital, under guardianship, subject to a community treatment order or lacking in capacity • Criminal convictions • On bail Role • Listen to evidence • Elect foreman/woman • Decide in secret • Decide on guilty/not guilty • May be a majority decision	10

Question	Answer	Marks
8(b)	Discuss the disadvantages of using a jury in a criminal trial. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • Perverse decisions <i>R v Randle & Pottle</i> (1991) • Secrecy <i>R v Mirza</i> (2004) • Events outside the jury room <i>R v Young</i> (1995) • Extraneous material <i>R v Karakaya</i> (2005) • Racial bias (<i>Sander v UK</i> (2000)) • Media influence <i>R v West</i> (1996), <i>R v Taylor & Taylor</i> (1993) • Use of the internet Criminal Justice & Courts Act 2015 • Lack of understanding, Runciman Commission 1992 • Fraud trials, Roskill Committee 186 • Jury tampering s44 Criminal Justice Act 2003, <i>R v Twomey & others</i> (2009), <i>KS v R</i> (2010) • High acquittal rates • Compulsory nature of jury service • Makes trials slow.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

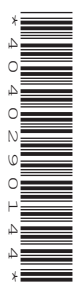
LAW

9084/13

Paper 1 English Legal System

October/November 2023

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
 - Section A: answer **all** questions.
 - Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **one** legal rule and **one** moral belief. [2]
- 2 Identify **two** bodies which regulate solicitors. [2]
- 3 Identify **five** of the key qualities required to become a magistrate. [5]
- 4 Describe the role of **three** civil courts. [6]
- 5 Discuss the advantages of alternative methods of dispute resolution (ADR). [10]

Section B

Answer **two** questions.

- 6 (a) Explain how the influences of political pressure, the media and pressure groups influence Parliament when making law. [10]
 (b) Assess how successful these influences have been on Parliament when making law. [15]
- 7 (a) Explain the use of bail in the criminal justice system. [10]
 (b) Assess whether the use of bail achieves a suitable balance between public safety interests and the rights of a suspect. [15]
- 8 (a) Explain binding, persuasive and original precedent. [10]
 (b) Assess how far the doctrine of precedent limits the development of law. [15]



Cambridge International AS & A Level

LAW

9084/13

Paper 1

October/November 2023

MARK SCHEME

Maximum Mark: 75

Published

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- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

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Annotation	Use
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LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Identify <u>one</u> legal rule and <u>one</u> moral belief. AO1 Knowledge and understanding Legal: • Theft • Robbery • Burglary Moral: • Telling lies • Cheating • Stealing from others. Credit any other relevant response 1 mark per legal/moral rule accurately identified up to a maximum of 2 marks	2

Question	Answer	Marks
2	Identify <u>two</u> bodies which regulate solicitors. AO1 Knowledge and understanding Any two from: • The Law Society • Solicitors Regulation Authority • Legal Ombudsman 1 mark per body accurately named up to a maximum of 2 marks	2

Question	Answer	Marks
3	Identify <u>five</u> of the key qualities required to become a magistrate. AO1 Knowledge and understanding Any five from: • Good character • Understanding and communication • Social awareness • Maturity and sound temperament • Sound judgement • Commitment and reliability. 1 mark per key quality accurately stated up to a maximum of 5 marks	5

Question	Answer	Marks
4	Describe the role of <u>three</u> civil courts. AO1 Knowledge and understanding Any three from: • Magistrates' Court • County Court • High Court – the Divisions count as separate courts. • Court of Appeal • Supreme Court. 1 mark for naming a court and 1 mark for describing the court ×3	6

Question	Answer	Marks																		
5	Discuss the advantages of alternative methods of dispute resolution (ADR). Table A Use this table to give marks for each candidate response. <table border="1"> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <td></td><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: Advantages - Faster - Cheaper - More flexible - Informal - Possible to agree resolutions not available in court - Can maintain business relationships - Arbitration is enforceable in courts.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
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	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain how the influences of political pressure, the media and pressure groups influence Parliament when making law. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Media • Campaigns on issues of the day – dangerous dogs, Snowdrop campaign, • TV and newspaper campaigns – Law for Life organ donation campaign, Don't Carry Don't Kill law regarding knife crime, Upskirting law – Voyeurism Act 2019 • Individual influence – Princess Diana & land mines Political pressure • Manifesto promises • Response to external issues Pressure groups • Sectional – represent work groups/professions, Law Society, BMA, Trades Unions • Cause – to promote a particular cause, environmental groups, Greenpeace, Amnesty, ASH, League Against Cruel Sports, Hunting Act 2004 • Insider groups with access to government officials, lobbyists	10

Question	Answer	Marks
6(b)	Assess how successful these influences have been on Parliament when making law. Use Table C to mark candidate responses to this question. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Pressure groups • Larger groups better supported as represent large section of society • Large groups are wealthy and can carry electoral support at election time, may have direct access to ministers and MPs • Very influential • Well publicised groups can have a big impact • RSPCA - Animal Welfare Act 2006 • One person campaigns • Mary Whitehouse Protection of Children Act 1978 • Jamie Oliver The Education (Nutritional Standards for School Food) (England) Regulations 2007 • Smaller groups influence much less • Less likely to be consulted and less likely to have governmental links • Possess considerable expertise • Biased in favour of their cause • Views held passionately can lead to illegal behaviour - Fathers for Justice. Media • Raise government awareness and inform them of concerns held by public • TV documentary campaigns reach a large number of people • Newspapers can become politicised • Newspapers have an agenda to sell newspapers • Easily whip up a moral panic in the public – News of the World ‘Name and Shame Campaign’. Political • Each party has its proposals for reform ready so that if they are elected, they know what they wish to do • Government has a majority in the House which means that most laws it proposes will be passed – law making is more efficient • If new party elected at next election, they can repeal the laws their predecessors passed • Changes can therefore be costly and open to criticism • Manifesto promises not binding on government.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the use of bail in the criminal justice system. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding • Bail Act 1976 • Alternative to remand in custody • Granted by police or courts • Reasons to refuse bail (fail to surrender to custody, commit an offence on bail, interfere with witnesses) • Factors considered (seriousness of offence, character of defendant, defendants record, strength of evidence) • Sureties • Appeals • If a custodial sentence is not likely s5A Bail Act 1976 as amended • Conditions Criminal Justice & Public order Act 1994 (Police Bail) • Restrictions on bail where the offence is murder, manslaughter, rape • Restrictions for adult drug users. • Concept of Released Under Investigation (RUI) as a new alternative	10

Question	Answer	Marks
7(b)	Assess whether the use of bail achieves a suitable balance between public safety interests and the rights of a suspect. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • The danger of the imprisonment of a person not yet found guilty of an offence • Long term impact if remanded in custody – loss of job, housing, family • Bail allows defendants to retain work • Easier to prepare for trial if not in custody • Use of bail hostels to limit impact • Use of electronic tagging when out on bail • 9% of those in UK prisons are defendants who have not been tried but are remanded in custody • Statistically, 1 in 5 of these will be found not guilty • No compensation for those ultimately found not guilty • Even when defendants found guilty only 1 in 5 given custodial sentences • Protection of public • Prevention of further crime • Prevents interference with evidence or witnesses • Danger of flight • Recent reforms help protect public, Criminal Justice Act 2003 – bail can be denied if defendant tests positive for Class A drug & offence connected to drugs, Coroners & Justice Act 2009, bail decision must be made by a judge in Crown Court if charged with murder.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain binding, persuasive and original precedent. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Binding • From earlier case in higher court (or in some cases the same court) • Hierarchy of courts • Must be followed even if judge does not agree • Facts of second case must be similar to the original case Persuasive • Not binding but judge may choose to follow it • From lower courts – <i>R v R</i> (1991) • Decisions of the Judicial Committee of the Privy Council, <i>The Wagon Mound</i> (1961), <i>Attorney General for Jersey v Holley</i> (2005), <i>R v Mohammed</i> (2005), <i>R v James</i>; <i>R v Karimi</i> (2006) • Statements made obiter dicta, <i>R v Howe</i> (1987) • <i>R v Gotts</i> (1992) • Dissenting judgments • Courts in other countries Original • A point of law which has never been decided before • Reasoning by analogy • <i>Hunter v Canary Wharf Ltd</i> (1995).	10

Question	Answer	Marks
8(b)	Assess how far the doctrine of precedent limits the development of law. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Limits development of law • Rigid hierarchy & rules make development of the law hard • Cases often complex and unclear in ratio • Where distinguishing is used, can be 'hair splitting' and illogical • Judges in lower courts cannot reform law even where it is unclear or in need of reform • Only about 50 cases go to Supreme Court each year (the court with the most ability to develop law) • Court of Appeal very limited in its ability to develop law • Lord Denning's attempt to extend Court of Appeal powers Allows development of law • Judges can use original precedent to create law • Various interpretations of ratio/obiter to extend law • Supreme Court can use Practice Direction to make law more relevant, <i>BRB v Herrington</i> (1972), <i>Miliangos v George Frank</i> (1976), <i>Murphy v Brentwood DC</i> (1990) • Some ability for Court of Appeal to do the same, especially in criminal law and human rights cases <i>Re Medicaments</i> (2001), <i>R v Gough</i> (1993).	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

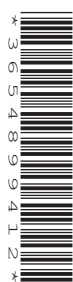
LAW

9084/11

Paper 1 English Legal System

May/June 2024

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
Section A: answer **all** questions.
Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify the **two** divisions of the Court of Appeal. [2]
- 2 Identify **two** types of alternative dispute resolution (ADR). [2]
- 3 Identify **five** sources of persuasive precedent. [5]
- 4 Describe **three** reasons why a judge might excuse or defer a person from serving on a jury. [6]
- 5 Assess the need for society to have both civil and criminal law. [10]

Section B

Answer **two** questions.

- 6 (a) Explain the literal and mischief rules of statutory interpretation. [10]
(b) Assess the extent to which the rules of statutory interpretation prevent judges from making law. [15]
- 7 (a) Explain how the police should make a lawful arrest without a warrant. [10]
(b) Assess the extent to which the law on arrest without a warrant strikes a fair balance between the powers of the police and the rights of the individual. [15]
- 8 (a) Explain how lay magistrates are selected. [10]
(b) Assess the extent to which the selection process ensures that the most suitable people become lay magistrates. [15]

Cambridge International AS & A Level

LAW**9084/11**

Paper 1

May/June 2024

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

Cambridge International is publishing the mark schemes for the May/June 2024 series for most Cambridge IGCSE, Cambridge International A and AS Level and Cambridge Pre-U components, and some Cambridge O Level components.

This document consists of **16** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptions for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c** DO credit answers where candidates give more than one correct answer in one prompt/numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d** DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e** DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities
- f** DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g** DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion)

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Calculation questions:

- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
- If working/explanation is considered essential for full credit, this will be indicated in the question paper and in the mark scheme. In all other instances, the correct answer to a calculation should be given full credit, even if no supporting working is shown.
- Where the candidate uses a valid method which is not covered by the mark scheme, award equivalent marks for reaching equivalent stages.
- Where an answer makes use of a candidate's own incorrect figure from previous working, the 'own figure rule' applies: full marks will be given if a correct and complete method is used. Further guidance will be included in the mark scheme where necessary and any exceptions to this general principle will be noted.

4 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Annotations and their Use

Annotation	Use
✓	Used as an indication of relevant and rewardable content in the body of the answer.
X	Indicates where the content is legally incorrect.
?	Indicates where the response is unclear.
NAQ	Used when the answer of parts of the answer are not answering the question asked.
BOD	Used when the benefit of the doubt is given in order to reward a response.
A	Indicates where a relevant Act of Parliament or statutory authority has been used and to indicate where AO2 Analysis and application has been awarded.
C	Indicates where a relevant piece of legal authority has been used to indicate where AO2 Analysis and application has been awarded.
EVAL	Indicates where the answer has demonstrated AO3 Evaluation.
LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Identify the <u>two</u> divisions of the Court of Appeal. AO1 Knowledge and understanding • Civil division. • Criminal division. 1 mark per division accurately identified up to a maximum of 2 marks.	2
2	Identify <u>two</u> types of alternative dispute resolution (ADR). AO1 Knowledge and understanding Any two from: • Negotiation. • Mediation. • Conciliation. • Arbitration. 1 mark per type accurately identified up to a maximum of 2 marks.	2
3	State <u>five</u> sources of persuasive precedent. AO1 Knowledge and understanding • Courts lower in hierarchy. • Decisions of the Judicial Committee of the Privy Council. • Statements made <i>obiter dicta</i>. • Statements from dissenting judgments. • Decisions of courts in other countries. 1 mark per type accurately stated up to a maximum of 5 marks.	5
4	Describe <u>three</u> reasons why a judge might excuse or defer a person from serving on a jury. AO1 Knowledge and understanding Any three from: • Being too ill to attend court. • Childcare issues. • Essential work. • Suffering from a disability which makes it impossible for the person to sit as a juror. • External examinations. • Holiday booking. • Judge may excuse, for example, if someone is not picked for a particular case. 1 mark for naming a reason and up to 1 mark for describing the reason x3	6

Question	Answer	Marks																		
5	Assess the need for society to have both civil and criminal law. Table A Use this table to give marks for each candidate response. <table> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <th></th><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: Civil law - Used to uphold the rights of individuals. - Action taken by individuals/businesses not the state. - Wide range of application in business and for individuals. - Situations where monetary compensation might be appropriate. - Can also provide practical remedies, i.e. specific performance, injunctions. - Allows society to create structures i.e. marriage, forming contracts etc. - Standard of proof on the balance of probabilities. Criminal Law - Actions taken on behalf of the state rather than the individual. - To maintain law and order. - To protect individuals from harm. - To remove dangerous/harmful individuals from society. - To control behaviour. - May/may not reflect moral beliefs. - Standard of proof beyond reasonable doubt – higher than civil as potential penalties are higher.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks																		
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3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.																		
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1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.																		
0	0 marks No creditable content.	0 marks No creditable content.																		

Question	Answer	Marks
	AO2	6
	AO3	4

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain the literal and mischief rules of statutory interpretation. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding Literal: • Developed in 19th century. • Developed because of increase in amount of statutory law. • Judge gives words their plain, ordinary or dictionary definition. <i>R v Judge of the City of London Court</i> (1892), <i>Whitley v Chappell</i> (1868), <i>LNER v Berriman</i> (1946), <i>Fisher v Bell</i> (1961). Mischief: • Oldest rule. • Comes from <i>Heydon's case</i> (1584). • Court looks at what law was before the act, to discover what 'mischief' it was intended to cover. <i>Coates v CPS</i> (2011), <i>Elliott v Grey</i> (1960)	10

Question	Answer	Marks
6(b)	Assess the extent to which the rules of statutory interpretation prevent judges from making law. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Literal: • Not much creativity allowed. • Assumes acts drafted perfectly. • Words can have more than one meaning. • Can lead to unjust decisions. • But does follow the concept of Parliamentary sovereignty. Golden: • Allows a little creativity. • Can give a more just response. • However, only using the wider approach. • Zander – ‘a feeble parachute’. Mischief: • A lot of judicial creativity possible. • Judges can use Law Commission reports to discover the ‘mischief’. • Can make acts more relevant. • But concerns over judicial law making.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain how the police should make a lawful arrest without a warrant. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding s.24 PACE 1984, as amended by s.110SOCPA 2005 Constable may arrest: • Anyone about to commit an offence. • Anyone in the act of committing an offence. • Constable had reasonable grounds for suspecting is about to commit an offence. • Constable has reasonable grounds for suspecting is committing an offence. • If reasonable grounds for suspecting an offence has been committed may arrest anyone they reasonably suspect of being guilty of it. Reasonable grounds: • To establish name and address. • To prevent physical injury to themselves or any other person. • To prevent loss or damage to property. • To protect a child/vulnerable person. • To allow prompt investigation. • Prevent person disappearing. Must also: • Tell person why they are being arrested. • May use reasonable force. • Caution.	10

Question	Answer	Marks
7(b)	Assess the extent to which the law on arrest without a warrant strikes a fair balance between the powers of the police and the rights of the individual. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Background: - Previously could only arrest for an arrestable offence – which was more restrictive. - Now more powers, mostly based on reasonable belief. - Reason for reform was that previous powers were ‘confusing’ (HO consultation paper <i>Policing: Modernisation of Police Powers to Meet Community Needs</i>) and the new laws were clearer. Powers of police: - Lord Parker CJ ‘A police officer’s duty is to take necessary steps to keep the peace, prevent crime and protect people...or their property’. - Police need a range of powers to do this. - Wide range of instances where this can be justified. - Reasonable suspicion is a protection for the individual. - Can prevent misuse of power. Rights of the individual: - Issues with subjectivity of reasonable suspicion. - Depends on the officer’s own beliefs, constables cannot be instructed to arrest by a senior officer <i>Raissi v Commissioner of Met</i> (2008). - The right to be told why being arrested. - The caution and the right to silence. - Code of Practice G emphasises right to liberty. - Record of arrest required.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain how lay magistrates are selected. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding Selection Process: • Local Advisory Committees. • Advertisements in papers, noticeboards etc. • Matched against occupational/industrial/social groupings. • Application form + 2 referees. • First interview – six key qualities. • Second interview – tests judicial aptitude. • Names submitted to Senior Presiding Judge who appoints.	10

Question	Answer	Marks
8(b)	Assess the extent to which the selection process ensures that the most suitable people become lay magistrates. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Good process because: • Anyone can apply. • Reasonable percentage from minority groups. • Good gender balance. • Attempts to reflect the community. • Live locally. • Aware of local issues. • More representative than judiciary. • Attitudes assessed in first interview. • Practical abilities assessed in second interview. • Will undergo training. However: • Self-selecting. • Fewer people now applying. • Younger people less likely to apply. • Tend to be middle aged – 84% over 50. • Predominantly in managerial positions so can get time off easily. • May not live in problem areas. • Local knowledge lost due to court closures.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

LAW

9084/12

Paper 1 English Legal System

May/June 2024

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
 - Section A: answer **all** questions.
 - Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify **two** bodies which regulate the conduct of barristers or solicitors. [2]
- 2 Identify **two** cases in which the Supreme Court or the House of Lords used the Practice Statement. [2]
- 3 Identify **five** conditions which might be imposed on a defendant who is granted bail. [5]
- 4 Describe **two** types of challenge to potential jurors in the Crown Court. [6]
- 5 Discuss the advantages of using lay magistrates in the criminal justice system. [10]

Section B

Answer **two** questions.

- 6 (a) Explain what is meant by judicial independence. [10]
(b) Assess the extent to which judges are truly independent. [15]
- 7 (a) Explain the intrinsic and extrinsic aids used by judges in statutory interpretation. [10]
(b) Discuss how useful intrinsic and extrinsic aids are in the task of statutory interpretation. [15]
- 8 (a) Explain how civil cases are allocated for trial. [10]
(b) Discuss the extent to which the allocation of cases enables the civil courts to deal with them justly and at reasonable cost. [15]

Cambridge International AS & A Level

LAW**9084/12**

Paper 1

May/June 2024

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

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This document consists of **15** printed pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptions for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

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- the specific skills defined in the mark scheme or in the generic level descriptors for the question
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GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

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- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
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- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

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**Social Science-Specific Marking Principles
(for point-based marking)****1 Components using point-based marking:**

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From this it follows that we:

- a** DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b** DO credit alternative answers/examples which are not written in the mark scheme if they are correct
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2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
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- The mark scheme will show the steps in the most likely correct method(s), the mark for each step, the correct answer(s) and the mark for each answer
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- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
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Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

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Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Annotations and their Use

Annotation	Use
□	Used as an indication of relevant and rewardable content in the body of the answer.
X	Indicates where the content is legally incorrect.
?	Indicates where the response is unclear.
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A	Indicates where a relevant Act of Parliament or statutory authority has been used and to indicate where AO2 Analysis and application has been awarded.
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EVAL	Indicates where the answer has demonstrated AO3 Evaluation .
LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Identify <u>two</u> bodies which regulate the conduct of barristers or solicitors. AO1 Knowledge and understanding Any two from • The Law Society. • Solicitors Regulation Authority. • Bar Council/General Council of the Bar. • Bar Standards Board. • Legal Ombudsman. 1 mark per body accurately identified up to a maximum of 2 marks.	2

Question	Answer	Marks
2	Identify <u>two</u> cases in which the Supreme Court or the House of Lords used the Practice Statement. AO1 Knowledge and understanding Any two from: • <i>British Railways Board v Herrington</i> (1972) (used to overrule <i>Addie v Dumbreck</i>). • <i>Miliangos v George Frank (Textiles) Ltd</i> (1976). • <i>Conway v Rimmer</i> (1968). • <i>R v R&G</i> (2003) (used to overrule <i>R v Caldwell</i>). • <i>Murphy v Brentwood District Council</i> (1990). • <i>Pepper v Hart</i> (1993). • <i>R v Shivpuri</i> (1986.) Credit any other relevant response. 1 mark per case accurately named up to a maximum of 2 marks.	2

Question	Answer	Marks
3	Identify <u>five</u> conditions which might be imposed on a defendant who is granted bail. AO1 Knowledge and understanding Any five from: • Living at a specific address. • Surrendering a passport. • Reporting at regular intervals at a police station. • Getting someone else to stand surety. • Residence in a bail hostel. • Curfew. • Electronic tag. • Not associating with certain people (inc. witnesses). • Drug testing. Credit any other relevant response. 1 mark per condition accurately stated up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Describe <u>two</u> types of challenge to potential jurors in the Crown Court. AO1 Knowledge and understanding Any two from: • Challenge for cause – e.g. knowing the defendant. • Challenge to the array - whole panel challenged for biased selection – as in <i>R v Ford (1989)</i> but no right to a multi racial jury, <i>Romford</i> case. • Prosecution right to ‘stand by’ any juror – <i>AG’s Guidelines 1988</i>. 1 mark for naming a type and up to 2 marks for describing the type x 2.	6

Question	Answer	Marks																		
5	Discuss the advantages of using lay magistrates in the criminal justice system. Table A Use this table to give marks for each candidate response. <table><tr><th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr><tr><td></td><th>Description</th><th>Description</th></tr><tr><td>3</td><td>5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td>4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr><tr><td>2</td><td>3–4 marks - Some analysis. - Some use of relevant examples. </td><td>2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr><tr><td>1</td><td>1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td>1 mark - Limited evaluation with little or relevant evidence. </td></tr><tr><td>0</td><td>0 marks - No creditable content. </td><td>0 marks - No creditable content. </td></tr></table> Indicative content Responses may include: Magistrates: - Wider background than judges. - Good gender balance. - Local. - Cheaper. - Trained. - Have a legal advisor. - Few appeals made. Credit any other relevant response relating to the advantages of magistrates.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
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0	0 marks No creditable content.	0 marks No creditable content.																		
	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain what is meant by judicial independence. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding • No person can be judge in a case where they have an interest <i>Pinochet Case, Howell v Lees Millais (2007)</i>. • <i>Re Medicaments (No2) (2001)</i>. • Independence from the legislature. • Independence from the executive (government) Constitutional Reform Act (2005). • Freedom from pressure – financial independence. • Immunity from suit <i>Sirros v Moore (1975)</i>. • Independence from political bias. • Judicial review. • Human rights role. • Security of tenure meaning that they are ‘safe’ to make any decision.	10
6(b)	Assess the extent to which judges are truly independent. Use Table C to mark candidate responses to this question. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Financial independence • Judicial salaries do not need Parliamentary authorisation. Political independence • Use of the JAC removes the likelihood of political interference (compared to when the Lord Chancellor was both the head of the judiciary and also a member of cabinet). • Judges no longer sit in the House of Lords (since creation of Supreme Court in 2009). • Guaranteed in s3 Constitutional Reform Act 2005. • But judges can be ‘pro establishment’ (Professor Griffiths). • However, examples from judicial review cases shows some even handedness <i>R v HS ex p Fire Brigades Union (1995)</i>, <i>R v S of S ex p World Development Movement (1995)</i>, <i>A and Another v S of S for the Home Department (2004)</i>, <i>DPP v Hutchinson (1990)</i>, <i>AG v Guardian Newspapers Ltd (1987)</i>, <i>R (Miller) v The Prime Minister (2019)</i>.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the intrinsic and extrinsic aids used by judges in statutory interpretation. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding Intrinsic Aids: • Long title. • Preamble. • Headings. • Schedules. • Marginal Notes. • Statements of principles Arbitration Act (1996). • Interpretative sections. Extrinsic Aids: • Previous acts on same topics. • Earlier case law. • Historical setting. • Dictionaries of the time. • Hansard <i>Pepper v Hart</i> (1993). • Reports of Law reform bodies. • International treaties.	10

Question	Answer	Marks
7(b)	Discuss how useful intrinsic and extrinsic aids are in the task of statutory interpretation. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Intrinsic Aids: • Generally, not very helpful in interpretation. • Seldom express Parliament's intention. • Preambles in older acts may be helpful, but uncommon in modern acts. • New approach as shown on Arbitration Act (1996) of detailing principles and including an interpretative section more useful. Extrinsic Aids: • More helpful. • Earlier case law may provide precedents. • Dictionaries of the time useful in literal approach <i>Laroche v Spirit of Adventure UK Ltd</i> (2009). • Historical setting useful for mischief and purposive approaches. • Law Commission reports useful for Mischief approaches as they often summarise the current law before reform <i>Black Clawson</i> (1975). • Hansard – debate on usefulness Lord Denning in <i>Davis v Johnson</i> (1979), Lord Scarman and <i>Jackson & Others v HM Attorney General</i> (2005). • Use is limited. • International conventions can be of use <i>Fothergill v Monarch Airlines</i> (1980).	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain how civil cases are allocated for trial. Use Table B to mark candidate responses to this question. AO1 Knowledge and understanding Indicative content Responses may include: AO1 Knowledge and understanding Allocation: • Decision made as to which court used. • When claim issued and defended has to be allocated to a track. • Decision made by District Judge in High Court or a Master in the High Court. • Parties are sent an allocation questionnaire. Small Claims Track: • Under £10 000. • In the County Court. • Claimants bring their own case. • Lawyers discouraged. • Inquisitorial. • Can be a paper trial if no witnesses. Fast Track: • County Court. • £10 000 to £25 000. • Personal injury cases over £1000 and up to £25 000. • Housing cases over £1000 and up to £25 000. • DJ decides if case is suitable. • Timetable set. • Aims to be heard within 30 weeks. • Normally heard by Circuit Judge in open court. • Hearing limited to one day. Multi Track: • Claims for more than £25 000. • Can be in County Court. • High Court if claim over £100 000 or complex law. • Circuit judge. • Timetabled and managed. • Can require ADR prior to trial.	10

Question	Answer	Marks
8(b)	Discuss the extent to which the allocation of cases enables the civil courts to deal with them justly and at reasonable cost. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Small Claims: • Cost of issuing claim is low. • Loser does not pay winners costs. • No lawyers to pay. • Quick and simple. • DJ can help parties. BUT • No legal funding available. • If opponent is a business likely to have legal advice. • DJ not always helpful. • Even if won, hard to recover award, only 60% are successful in this. Fast track: • Quicker. • Strict timetable so does not drag on. • Prevents costs running up. • Delays less frequent than before this system. BUT • Formal court setting. • Needs legal representation. • Adversarial system. • May need to pay winners' costs if loser. Multi track: • Similar to Fast track. • Expert judges. • Managed case timetable. • May be able to settle before trial via ADR. BUT • As Fast track. • Need to use ADR may slow down process with little advantage. • Very limited legal aid.	15
	AO2	8
	AO3	7



Cambridge International AS & A Level

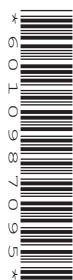
LAW

9084/13

Paper 1 English Legal System

May/June 2024

1 hour 30 minutes



You must answer on the enclosed answer booklet.

You will need: Answer booklet (enclosed)

INSTRUCTIONS

- Answer **seven** questions in total:
Section A: answer **all** questions.
Section B: answer **two** questions.
- Follow the instructions on the front cover of the answer booklet. If you need additional answer paper, ask the invigilator for a continuation booklet.

INFORMATION

- The total mark for this paper is 75.
- The number of marks for each question or part question is shown in brackets [].

This document has **4** pages. Any blank pages are indicated.

Section A

Answer **all** questions.

- 1 Identify the **most** senior court in the English legal system. [1]
- 2 Identify **three** rules of language used in statutory interpretation. [3]
- 3 Identify **five** types of judges. [5]
- 4 Define *ratio decidendi* and *obiter dicta*. [6]
- 5 Discuss the relationship between law and morality. [10]

Section B

Answer **two** questions.

- 6 (a) Explain the selection process for jury service. [10]
(b) Assess how far it is true to say that a jury is representative of society. [15]
- 7 (a) Explain the different types of delegated legislation, giving examples of their use. [10]
(b) Discuss the advantages of delegated legislation. [15]
- 8 (a) Explain how cases are allocated in the civil courts. [10]
(b) Discuss how far the Woolf reforms have improved the civil process. [15]

Cambridge International AS & A Level

LAW**9084/13**

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LNK	Indicates that an attempt has been made to link to the question posed.
REP	Indicates where content has been repeated.
SEEN	Indicates that content has been recognised but not rewarded.

Question	Answer	Marks
1	Identify the <u>most</u> senior court in the English legal system. AO1 Knowledge and understanding • The Supreme Court. 1 mark for accurately identifying the court.	1

Question	Answer	Marks
2	Identify <u>three</u> rules of language used in statutory interpretation. AO1 Knowledge and understanding • Eiusdem generis. • Expressio unius exclusion alterius. • Noscitur a sociis. 1 mark per rule accurately identified up to a maximum of 3 marks.	3

Question	Answer	Marks
3	Identify <u>five</u> types of judges. AO1 Knowledge and understanding Any five from: • Justices of the Supreme Court. • Lords Justices of Appeal. • High Court Judges. • Circuit Judges. • Recorders. • District Judges. 1 mark per judge accurately identified up to a maximum of 5 marks.	5

Question	Answer	Marks
4	Define <i>ratio decidendi</i> and <i>obiter dicta</i>. AO1 Knowledge and understanding Ratio decidendi • Reason for deciding. • Forms the precedent. • Legal basis for the decision. • Can be hard to find. • May be more than one. Obiter Dicta • Other things said. • Not a binding precedent. • May be a hypothetical point. • May become a persuasive precedent. 1 mark for translating the term and up to 2 marks for explaining the term x2	6

Question	Answer	Marks																		
5	Discuss the relationship between law and morality. Table A Use this table to give marks for each candidate response. <table> <tr> <th>Level</th><th>AO2 Analysis and application 6 marks</th><th>AO3 Evaluation 4 marks</th></tr> <tr> <th></th><th>Description</th><th>Description</th></tr> <tr> <td>3</td><td> 5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples. </td><td> 4 marks - Clearly focused evaluation developed with relevant evidence. </td></tr> <tr> <td>2</td><td> 3–4 marks - Some analysis. - Some use of relevant examples. </td><td> 2–3 marks - Some evaluation which may be developed with some relevant material. </td></tr> <tr> <td>1</td><td> 1–2 marks - Limited analysis. - Limited use of relevant examples. </td><td> 1 mark - Limited evaluation with little or relevant evidence. </td></tr> <tr> <td>0</td><td> 0 marks - No creditable content. </td><td> 0 marks - No creditable content. </td></tr> </table> Indicative content Responses may include: Morality - System of values. - May be personal or collective. - Normative/Prescriptive – what ought to be done. - Acceptable/unacceptable behaviour. - Often influenced by religious beliefs e.g. the Ten Commandments, the Koran. - Can change over time. Law - Rules based. - Imposed in all of society. - What must be done, or not done. - Can link to religious beliefs. - Can change, but more slowly than morality.	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.	2	3–4 marks - Some analysis. - Some use of relevant examples.	2–3 marks Some evaluation which may be developed with some relevant material.	1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.	0	0 marks No creditable content.	0 marks No creditable content.	10
Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks																		
	Description	Description																		
3	5–6 marks - Clearly reasoned analysis. - Effective use of relevant examples.	4 marks Clearly focused evaluation developed with relevant evidence.																		
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1	1–2 marks - Limited analysis. - Limited use of relevant examples.	1 mark Limited evaluation with little or relevant evidence.																		
0	0 marks No creditable content.	0 marks No creditable content.																		

Question	Answer	Marks
5	Link • Law and morality often overlap where values are shared by the majority. • Most criminal offences may also be considered immoral. • Morality also in civil law. • Contract – keeping promises, redressing balance where unequal bargaining power. • Tort – requiring damages for harm caused. However, • Law and morality may move at different speeds. • Morals can change quickly; law is less responsive. • Also, all may not share the same moral beliefs enshrined in law. • In an ethnically diverse society, some moral beliefs may not be enshrined in law.	
	AO2	6
	AO3	4

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	• Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.	9–10
3	• Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	6–8
2	• Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	3–5
1	• Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology.	1–2
0	• No creditable content.	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks - Mostly focused and reasoned analysis throughout. - The analysis is supported by effective and well-developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.	6–7 marks - Mostly focused and reasoned evaluation of most of the relevant issues. - Effectively supported by relevant material. - Coherent argument.
2	3–5 marks - Some reasoned analysis. - The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority.	3–5 marks - Some evaluation, reasoned at times, of some of the relevant issues. - Supported by some relevant material. - Some coherent argument.
1	1–2 marks - Limited analysis. - The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority.	1–2 marks - Limited evaluation of a relevant issue. - Limited or no use of relevant material. - Limited or no argument.
0	0 marks No creditable content.	0 marks No creditable content.

Question	Answer	Marks
6(a)	Explain the selection process for jury service. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Process: • Chosen randomly. • Computer selection. • Jury summons sent out. • Form returned with detail on potential disqualification/deferral. • Shown brief video. • May need to wait to be selected. • Can claim an allowance. • Divided into groups of 15, 12 chosen randomly. • Sworn in. • Challenges. • Stand by. • Vetting.	10

Question	Answer	Marks
6(b)	Assess how far it is true to say that a jury is representative of society. Use Table C to mark candidate responses to this question. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Representative: • Chosen randomly by computer. • Wide range of ages and backgrounds. • Now very few professions exempt. • Allows everyone to take part in the system and understand how it works. • Open justice. However, • Not everyone in society on electoral role – homeless, students. • Vetting can remove some people – DBS checks, Authorised checks <i>ABC Trial (1978)</i>, <i>AG's Guidelines (1988)</i>. • Challenge for cause good as removes potential bias <i>R v Wilson & Sprason (1995)</i>. • But jurors may hide prejudices. • Jury members may be aware of the case in the media. • Challenge to the array can remove biases caused by flaws in jury summons <i>Romford Case (1993)</i>, but no allowance for lack of multi racial jury <i>R v Fraser (1987)</i>, <i>R v Ford (1989)</i>. • Stand by potentially unfair as no reasons given and can be used for jury 'building'. • Not every jury member may be willing. • Increase in requests for excusals/deferrals. • Presence of judges/lawyers/police on jury may prevent free discussion.	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	Explain the different types of delegated legislation, giving examples of their use. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Orders In Council: • Made by Queen & Privy Council. • Privy Council – Prime Minister, leading members of government. • Can be used to bring Acts into force, making law in emergencies, transferring responsibilities between government departments. • Must be an enabling act to allow Orders In Council to be made. • Civil Contingencies Act 2004, Misuse of Drugs Act 1971. Statutory Instruments: • Made by government ministers. • Can make SIs for their area of responsibility. • Can be very short. • Major method of law-making. • Sometimes over 3000 a year. • The Chemicals Regulations 2009, Police Codes of Practice. Bylaws: • Made by local authorities. • Issues covering within their own area. • Often involve traffic control or regulating behaviour i.e. drinking, smoking. • Can also be made by corporations. • British Airport Authority, railway companies.	10

Question	Answer	Marks
7(b)	Discuss the advantages of delegated legislation. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation • Time saving – quicker to pass and amend. • Allows MPs to concentrate on policy in law making (Enabling Acts) rather than detail. • Speed – can provide a quick response in an emergency, especially when Parliament is not sitting. • Expertise – allows experts to create detail where MPs may not have the knowledge required. • Local knowledge can be used in Bylaws. • Flexibility – DL can be easily amended or revoked. • Can also be used to bring parts of Acts of Parliament in piecemeal. • Controlled by parliament. • Enabling acts limit powers. • Affirmative resolution allows Parliament to debate proposed DL. • Scrutiny Committees can review all SIs and may refer back to parliament if they impose a tax, have retrospective effect, go beyond the powers given or are unclear in some way. • Courts can declare DL ultra vires, either substantive <i>R v Home Secretary ex p Fire Brigades Union (1995)</i>, <i>R v S of State for Education ex p NUT (2000)</i> or procedural <i>Aylesbury Mushrooms (1972)</i>. • Can also be declared 'Wednesbury unreasonable'.	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	Explain how cases are allocated in the civil courts. Use Table B to mark candidate responses to this question. AO1 out of 10 marks. Indicative content Responses may include: AO1 Knowledge and understanding Allocation: Decision made as to which court used. When claim issued and defended has to be allocated to a track. Decision made by District Judge in High Court or a Master in the High Court. Parties are sent an allocation questionnaire. Small Claims Track: • Under £10 000. • In the County Court. • Claimants bring their own case. • Lawyers discouraged. • Inquisitorial. • Can be a paper trial if no witnesses. Fast Track: • County Court. • £10 000 to £25 000. • Personal injury cases over £1000 and up to £25 000. • Housing cases over £1000 and up to £25 000. • DJ decides if case is suitable. • Timetable set. • Aims to be heard within 30 weeks. • Normally heard by Circuit Judge in open court. • Hearing limited to one day. Multi Track: • Claims for more than £25 000. • Can be in County Court. • High Court if claim over £100 000 or complex law. • Circuit judge. • Timetabled and managed. • Can require ADR prior to trial.	10

Question	Answer	Marks
8(b)	Discuss how far the Woolf reforms have improved the civil process. Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks. Indicative content Responses may include: AO2 Analysis and application and AO3 Evaluation Woolf reforms: • Encouraged use of ADR. • Simpler forms and language. • Increased Small claims track limit. • Created fast track for moderate value cases. • Gave judges responsibility for case management. • Introduced strict timetables. Advantages of Woolf reforms: • More co-operation between parties. • Encouraged out of court settlements to free up court time. • Judges actively managing cases. • Quicker hearings doe Small Claims track cases. However, Small Claims: • No legal funding available. • If opponent is a business likely to have legal advice. • DJ not always helpful. • Even if won, hard to recover award, only 60% are successful in this. Fast track: • Formal court setting. • Needs legal representation. • Adversarial system. • May still need to pay winners' costs if loser. Multi track: • As Fast track. • Need to use ADR may slow down process with little advantage. • Very limited legal aid.	15
	AO2	8
	AO3	7