

Mark Scheme

Winter 2008

GCE

GCE Government and Politics (Unit 2) Key Political Issues

General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

Question Number	Indicative content
1(a)	<p>A codified constitution is a constitution in which key constitutional provisions are collected together within a single legal document, popularly known as a 'written constitution'. Such constitutions have three key features. First, in a codified constitution, the document is authoritative in the sense that it serves as 'higher' law, indeed the highest law of the land. This gives rise to a two-tier legal system in which the constitution stands above statute law made by the legislature. Second, the provisions of the constitution are effectively entrenched, in the sense that it is difficult to amend or abolish them. The procedure for making and subsequently changing the constitution must thus be in some way more complex and difficult than the procedure for making ordinary laws. Third, a codified constitution is judiciable, in the sense that the judiciary is the supreme constitutional arbiter - the constitution means what the senior judiciary say it means. All public bodies are thus subject to the authority of the courts, which can determine that any government action is 'unconstitutional'.</p>

Level	Mark	Descriptor
Level 1	0-1	Poor to weak knowledge and understanding
Level 2	2-3	Limited to sound knowledge and understanding
Level 3	4-5	Good or better knowledge and understanding

Question Number	Indicative content
1(b)	The main features of the UK constitution are as follows. The UK has an uncodified, or 'unwritten' constitution. There are therefore a number of constitutional sources, the main ones being statute law, common law, conventions, works of constitutional authority and European law and treaties. The main principles of the UK constitution are parliamentary sovereignty (the fact that Parliament can make, unmake or amend any law it wishes), the rule of law, the unitary state (reflecting the fact that sovereignty resides in a single institution of central government). There is a lack of separation of powers in that there is a fusion of legislative and executive power.

Level	Mark	Descriptor
Level 1	0-4	Poor to weak knowledge and understanding. Limited analysis of political information
Level 2	5-9	Limited to sound knowledge and understanding. Adequate analysis of political information.
Level 3	10-15	Good or better knowledge and understanding. Effective analysis of political information.

Question Number	Indicative content
1(c)	<p>The UK constitution has been criticised for a number of reasons, including the following. First, critics of the UK constitution point out that it is sometimes difficult to know what the constitution says. This is because of a reliance on 'unwritten' constitutional sources that have no legal substance. Second, the most serious and challenging criticism of the UK constitution is that it tends to give rise to 'elective dictatorship'. This is a consequence of the fact that sovereignty is vested in a Parliament that is routinely dominated and controlled by the executive. The effect of this is that, in practice, executive power is unconstrained by Parliament and factors other than the need, every few years, to face the electorate. Third, the UK constitution is characterised by weak checks and balances between and amongst government institutions. For example, the constitution can be amended by any government by simple act of parliament. The prime minister tends to dominate the cabinet, the executive usually controls Parliament, and central government has the upper hand over local government. Such concentrations of power, only partly remedied by recent constitutional reforms such as devolution and the wider use of referendums, create the problem that power can be abused. Fourth, the UK constitution has been criticised for providing weak protection for individual rights and civil liberties. In part, this is a consequence of elective dictatorship. However, it also reflects a traditional unwillingness to write down individual rights and freedoms, to give them legal substance. Even the 1990 Human Rights Act provides inadequate protection for rights, as its provisions are not entrenched and can be set aside by Parliament.</p>

Level	Mark	Descriptor
Level 1	0-10	Poor to weak knowledge and understanding. Limited analysis and evaluation of political information
Level 2	11-19	Limited to sound knowledge and understanding. Adequate analysis and evaluation of political information.
Level 3	20-30	Good or better knowledge and understanding. Effective analysis and evaluation of political information.

Question Number	Indicative content
2(a)	<p>Presidential government is characterised by a variety of features, illustrated by the USA as the classic example of a presidential system. These features include the following:</p> <ul style="list-style-type: none"> • A separation of powers between the executive and the legislature, supported by the fact that these two institutions are separately elected. The president has a separate source of authority from the legislature. • A strict separation of personnel between the executive and the legislature. • Fixed-term elections, meaning that the executive cannot dissolve the legislature, and the legislature cannot remove the executive.

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Level 1	0-1	Poor to weak knowledge and understanding
Level 2	2-3	Limited to sound knowledge and understanding
Level 3	4-5	Good or better knowledge and understanding

Question Number	Indicative content
2(b)	<p>The UK system of government is often seen as the classic example of parliamentary government, such systems being said to be based on a 'Westminster model'. At the heart of the UK's parliamentary system is a fusion of power between the executive and the legislature, meaning that government and Parliament are overlapping and interlocking institutions. This is reflected in an overlap of personnel, such that all ministers must be MPs or peers. Government also rests on the confidence of Parliament and is accountable to Parliament, in that it can be removed by a defeat on a vote of confidence by the House of Commons. Government, in turn, can dissolve Parliament, meaning that electoral terms are flexible within a maximum of five years. There is a distinction between the posts of head of government (prime minister) and head of state (monarch).</p>

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Question Number	Indicative content
2(c)	<p>Representation is one of the core functions of Parliament. This function is carried out through the elective basis of the House of Commons. In constitutional theory, representation operates through the relationship between MPs and constituents, the former being able to think for him- or herself on behalf of the latter (acting as a representative not a delegate). In practice, however, the development of the party system means that representation operates through the doctrine of the mandate. This means that the party that wins majority control of the Commons can claim to have popular authority to implement its programme of policies. This process is underpinned by the ability of the public to call the majority party to account through regular, free, fair and democratic elections.</p> <p>However, the representative role of Parliament has been criticised in a variety of ways, including the following. First, MPs find it difficult to act as Burkean representatives because their views and actions are so often subject to party control. Second, the doctrine of the mandate has been attacked for a variety of reasons, including the fact that there is no mechanism for ensuring that the majority party carries out its manifesto promises. Third, the Westminster electoral system has been widely criticised for, for example, distorting party representation in the House of Commons and creating a majority party that very rarely enjoys majority support in the country. Fourth, the second chamber of Parliament, the House of Lords, is non-elected and therefore carries out no meaningful representative role. Other criticisms have included the power of the whips on MPs, weakening their ability to represent the public and their constituencies. Neither house is truly socially representative, e.g women and ethnic minorities are under-represented.</p>

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Question Number	Indicative content
3(a)	Cabinet government is a political feature that has two key elements. First, the cabinet is the institution that links the executive and the legislature, through the fact that its members sit in Parliament and also control the administrative machinery of government. Second, cabinet government implies that the cabinet makes policy collectively, all members being, in theory at least, equal. In its classical formulation, this implies that the prime minister is merely 'first in name only'. Cabinet government is underpinned by the convention of collective ministerial responsibility.

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Level 1	0-1	Poor to weak knowledge and understanding
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Question Number	Indicative content
3(b)	<p>There are a number of sources of prime ministerial power. Among the most important are the following. First, prime ministers have significant powers of patronage, in particular the ability to hire and fire, promote and demote, all ministers including cabinet ministers. Second, as party leaders they normally enjoy the loyalty and support of party members in government, in Parliament and in the country at large. Third, prime ministers benefit from various institutional supports and sources of expert advice, the most important of which are the prime minister's office and the cabinet office. Fourth, prime ministers have direct access to the media through their control over government communications and news management. Fifth, prime ministers are able to manage and often control the cabinet and the cabinet system. This is done through, for instance, the ability to chair the cabinet, sum up cabinet decisions, create and staff cabinet committees, bypass the cabinet through the use of bilateral meetings, and so on. Prerogative powers are a key source, not least the PM's pre-eminent position in foreign policy.</p>

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Question Number	Indicative content
3(c)	<p>The argument that prime ministers have become more powerful in recent years is usually linked to the growth of so-called presidentialism. This reflects the ability of prime ministers, usually through their control over the media and communications, to distance themselves from their government and party, using what is known as 'spatial leadership'. Thatcher and Blair are the best examples of 'presidential' prime ministers, both of them exercising personal control over their governments ideological direction and strategy. Other ways in which prime ministers have become more powerful include the impact of large majorities in the House of Commons since the 1980s and growing disregard for the cabinet, illustrated by a significant reduction in the number and, under Blair, length of cabinet meetings.</p> <p>However, it can also be argued that prime ministers have become less powerful in certain ways. One indication of this is the decline in party unity which has made MPs more likely to turn on prime ministers who appear to have become electoral liabilities. This contributed to the fall of Thatcher and the decline of Blair. Moreover, Blair was much weaker than his media image suggested, particularly because domestic policy was largely dominated by his Chancellor, Gordon Brown. More intense media focus on the prime minister can also be negative as well as positive in the case of policy failures. For example, Major's reputation and public standing were badly damaged by the ERM crisis in 1992, while Blair's premiership was ultimately destroyed by Iraq.</p>

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Question Number	Indicative content
4(a)	Civil liberty is a sphere of individual freedom that is independent from government. It is embodied in a series of liberties that belong to citizens and which government should not encroach upon, thereby distinguishing between civil society and the state. Closely linked to the doctrine of human rights, the key civil liberties are usually identified as the right to freedom of speech (or, more widely, expression), freedom of movement, freedom of assembly (including the right to protest), and freedom of religious worship.

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Level 1	0-1	Poor to weak knowledge and understanding
Level 2	2-3	Limited to sound knowledge and understanding
Level 3	4-5	Good or better knowledge and understanding

Question Number	Indicative content
4(b)	Traditionally, judges have had a limited ability to protect civil liberties, because these liberties were only weakly defined in law. Judges could only protect civil liberties through so-called 'residual' rights, rights that were embodied in the common law belief that 'everything is permitted if it is not prohibited'. Judges have been able to protect civil liberties through judicial review, ensuring that ministers (and public bodies generally) do not act beyond their powers. The passage of the 1998 Human Rights Act significantly strengthened the ability of judges to protect civil liberties. The Act incorporates the European Convention on Human Rights into UK statute law. Using the HRA, judges have increasingly challenged ministerial actions on the grounds that they violate basic civil liberties. It could be argued that many judges have sought to protect civil liberties as part of their deliberative role.

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Question Number	Indicative content
4(c)	<p>Traditional independence is reflected in the ability of judges to act independently from the executive and Parliament, being influenced only by their own views and judgements. Evidence of greater independence in recent years have been evident in a greater willingness of judges to challenge, and sometimes overturn, decisions of ministers. In the 1980s, the judiciary was generally believed to have a pro-government bias, being inclined to uphold executive decisions in most cases and certainly not supporting radical causes. Greater judicial activism in recent years has usually been associated with the changing view of judges, linked to a growing sympathy for issues of human rights and civil liberties, and the impact of the Human Rights Act. Some have also explained this in terms of the judiciary's reaction to growing authoritarianism on the part of UK government, linked to law and order and, increasingly, terrorism. The effect of this has been that clashes between judges and ministers have become much more common. This was apparent in the final years of the Major government, which were characterised, amongst other things, by clashes between government and the senior judiciary, usually, but not always, involving Michael Howard, the then Home Secretary. The HRA has extended this conflict by bringing the courts, sometimes, into conflict with Parliament as well as the executive. For example, in June 2006, Mr Justice Sullivan ruled against six control orders that had been imposed on the basis of counter-terrorism legislation. This amounted to a clash between the judiciary and Parliament, rather than with government ministers, because the courts deemed that the underlying legislation was wrong. It has to be pointed out that the judges cannot challenge the sovereignty and supremacy of parliament. On the other hand, it would be misleading to suggest that judges always challenge ministerial actions or parliamentary legislation. Although such examples have become more common in recent years, they have usually been associated with the government's response to terrorism.</p>

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