



General Certificate of Education

Law 5161

Unit 2 (LAW2) Dispute Solving

Mark Scheme

2007 examination - June series

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

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LAW2

Assessment Objectives One and Two

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of candidates, mainly 17 years old, who have completed some part of the Advanced Subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive Marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.

Mark Range

You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.

Levels of Response for Essay Marking

When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?

Citation of Authority

Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.

Assessment Objective Three

Quality of Written Communication

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- Level 3** Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling
4-5 marks
- Level 2** Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning.
2-3 marks
- Level 1** Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning.
1 mark
- Level 0** Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning.
0 marks

The level of understanding in AS Law – LAW2

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year-old, so the level of understanding required by these criteria will be that of the notional 17-year-old.

Sound	<ul style="list-style-type: none"> • The material will be generally accurate and contain relevant material to the Potential Content. • The material will be supported by generally relevant authority and/or examples. • It will generally deal with the Potential Content in a manner required by the question. <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
Clear	<ul style="list-style-type: none"> • The material is broadly accurate and relevant to the Potential Content. • The material will be supported by some use of relevant authority and/or examples. • The material will broadly deal with the Potential Content in a manner required by the question. <p>As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being fully rounded or developed.</p>
Some	<ul style="list-style-type: none"> • The material shows some accuracy and relevance to the Potential Content. • The material may occasionally be supported by some relevant authority and/or examples. • The material will deal with some of the Potential Content in a manner required by the question. <p>As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content.</p>

1**Total for this question: 30 marks**

Alternative Dispute Resolution (ADR) is encouraged as a method of resolving a civil dispute without going to court.

(a) Briefly explain any **three** forms of ADR. *(15 marks)*

Potential Content

- (A) Brief explanation of one form of ADR
- (B) Brief explanation of second form of ADR
- (C) Brief explanation of third form of ADR

Note: Forms of ADR may include Tribunals, Arbitration, Mediation, Conciliation or Negotiation.

Explanation may cover reasons for existence, types of cases heard, make up and qualification of panel/decision maker, nature of hearing, result.

Mark Bands

- 12 - 15 The candidate deals with (A) – (C) as follows:
max 15: two sound, one clear
max 13: two sound, one some **or** one sound, two clear
max 12: two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11 The candidate deals with (A) – (C) as follows:
max 11: one sound, one clear **or** one sound, two some **or** two clear, one some
max 10: one sound, one some **or** two clear **or** one clear, two some
max 9: one sound **or** one clear, one some **or** three some
max 8: one clear **or** two some.
- 4 - 7 The candidate begins to display limited understanding by introducing discussion of any of the material in (A)-(C). Where the candidate introduces material across the range, it will be superficial.
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges
or
a more substantial answer is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Identify and discuss the advantages **and** disadvantages of ADR as a method of dispute resolution. (15 marks)

Potential Content

- (A) Identification and discussion of advantages of ADR, eg cost, informality, lack of legal representation, efficiency, preservation of relationship, convenience, expertise, procedure, encouragement by courts
- (B) Identification and discussion of disadvantages of ADR, eg funding, unpredictable decisions, public awareness, imbalance between parties, limited appeal rights

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

2**Total for this question: 30 marks**

- (a) Explain how a juror qualifies for service and is selected. Describe the role of the jury in a criminal trial. (20 marks)

Potential Content

- (A) Explanation of juror qualification, eg age, electoral register, residence, reasons for not serving, eg disqualification, excusal, deferral
- (B) Explanation of juror selection, eg random selection by Central Summoning Bureau, vetting and challenges, selection for and in the court
- (C) Description of role of jury, eg listening to evidence and judges' direction, secret discussion, unanimous and majority verdicts, public announcement of verdict

Mark Bands

- 16 - 20 The candidate deals with all three of (A) - (C) as follows:
max 20: two sound, one clear
max 18: two sound, one some **or** one sound, two clear
max 16: two sound **or** one sound, one clear, one some **or** three clear.
- 11 - 15 The candidate deals with (A) - (C) as follows:
max 15: one sound, one clear **or** one sound, two some **or** two clear, one some
max 14: one sound, one some **or** two clear **or** one clear, two some
max 13: one sound **or** one clear, one some **or** three some
max 11: one clear **or** two some.
- 6 - 10 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- | |
|--|
| (b) Discuss the advantages of using juries and lay magistrates in the criminal justice system.
<i>(10 marks)</i> |
|--|

Potential Content

- (A) Discussion of advantages of jurors and lay magistrates, eg trial by peers, open justice, public confidence, fairness, limited number of appeals, cost, reduction of professional involvement

Mark Bands

- 8 - 10 The candidate demonstrates a sound understanding of (A) (**max 8** if discussion refers to one only of juries or lay magistrates or fails to distinguish between them).
- 5 - 7 The candidate demonstrates a clear understanding of (A).
- 3 - 4 The candidate displays some understanding of (A).
- 1 - 2 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

3**Total for this question: 30 marks**

Isaac has suffered injuries in an accident.

- (a) Explain where **and** by what process, by using the civil courts, he may be able to claim compensation for his injuries. *(15 marks)*

Potential Content

- (A) Explanation of civil courts, eg possible reference to tracking leading to Small Claims Court, County and High Courts, possible reference to appeal courts
- (B) Explanation of procedure, eg issuing of claim forms, possible reference to judge having case management responsibilities, judge only trial, judge deciding questions of law, evidence, liability and remedies, awarding of costs

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Briefly explain the ways in which Isaac could pay for his claim, if it went to court. Discuss the advantages **and** disadvantages of these forms of funding. (15 marks)

Potential Content

- (A) Brief explanation of the ways of payment – private funding, possibility of Legal Representation, no win no fee arrangements, possible funding through insurance policy or membership of union or organisation, possible reference to *pro bono*
- (B) Discussion of advantages of forms of funding – widening access to justice allowing compensation to injured parties, allowing choice of specialist lawyers, cost (through insurance, union or organisation)
- (C) Discussion of disadvantages of forms of funding – limited availability of state funding, threshold tests (for state funding and no win no fee), cost of action for private funding, cost of insurance policy for no win no fee arrangements, requirement to be members of insurance company, union or organisation

Mark Bands

- 12 - 15 The candidate deals with (A) – (C) as follows:
max 15: two sound, one clear
max 13: two sound, one some **or** one sound, two clear
max 12: two sound **or** one sound, one clear, one some **or** three clear.
- 8 - 11 The candidate deals with (A) – (C) as follows:
max 11: one sound, one clear **or** one sound, two some **or** two clear, one some
max 10: one sound, one some **or** two clear **or** one clear, two some
max 9: one sound **or** one clear, one some **or** three some
max 8: one clear **or** two some.
- 4 - 7 The candidate begins to display limited understanding by introducing discussion of any of the material in (A)-(C). Where the candidate introduces material across the range, it will be superficial.
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges
or
a more substantial answer is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

4**Total for this question: 30 marks**

- (a) Outline the role of a judge in civil **and** criminal court cases. In your answer, you should refer to first instance (trial) **and** appeal cases. *(15 marks)*

Potential Content

- (A) Outline of role of judge in civil trial and appeals, eg pre-trial procedures and case management, hearing evidence and arguments, deciding liability, deciding compensation, on appeal reviewing liability and amount of damages and considering points of law
- (B) Outline of role of judge in criminal trial and appeals, eg keeping order in court, ruling on law, directing jury, passing sentence, appeal deciding issues of conviction and/or sentence and any points of law and/or new evidence

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Briefly explain how inferior **and** superior judges can be dismissed from office.
Consider why it is so difficult to dismiss a judge. (15 marks)

Potential Content

- (A) Brief explanation of dismissal of inferior and superior judges, eg powers of Lord Chief Justice and Lord Chancellor in cases of incapacity and misbehaviour for inferior level judges, possible reference to non renewal of fixed term appointments, parliamentary petition for superior level judges, reference to Constitutional Reform Act 2005 reforms
- (B) Consideration of reasons why dismissal of judge is difficult, eg security of tenure, impartiality of decisions, independence from Executive, freedom from pressure, status given to judiciary

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

5**Total for this question: 30 marks**

(a) Describe the stages in qualifying as a solicitor **and** as a barrister. (15 marks)

Potential Content

(A) Description of qualifying stages of Solicitor, eg degree entry, CPE/GDL for non-law degree, LPC, training contract, enrolling in Law Society

Note: Reference to qualifying through Legal Executive route may enhance quality of (A)

(B) Description of qualifying stages of barrister, eg degree entry, CPE/GDL for non-law degree, BVC, enrolling with Bar Council and Inns of Court, pupillage

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Briefly describe **and** compare the work of a solicitor and a barrister. (15 marks)

Potential Content

- (A) Brief description of solicitor’s work, and comparison with (B) eg negotiation, initial advice on contentious work when assessing merits of claim, preparation of claim, obtaining evidence, possible advocacy with increased right of audience, advice on non-contentious work in areas such as conveyancing, probate, family and commercial work, specialisation of city firms
- (B) Brief description of barrister’s work, and comparison with (A) eg initial legal opinion, advocacy, advice on presentation and possible appeals, presentation of appeal

Note: Mention of lawyers work outside the professions such as in local government, CPS and companies can be credited and could enhance quality of (A) and (B).

Work can include reference to organisation of solicitors’ practices/barristers’ chambers.

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

Advanced Subsidiary Level law (LAW2)

UNIT 2	AO1	AO2	AO3
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(x2 from 5)	(x2 from 5)	
AO3 (Quality of Written Communication for the paper as a whole)			5
Total marks	40	20	5
% of the AS	18.5	9	2.5
% of the A Level	9.25	4.5	1.25