

AS

**Law**

LAW01 Law Making and the Legal System  
Mark scheme

---

2160  
June 2016

---

Version 1.0: Final Mark Scheme

---

---

Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts. Alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Assessment Writer.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' 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.

Further copies of this mark scheme are available from [aqa.org.uk](http://aqa.org.uk).

# **LAW01**

## **Assessment Objectives One and Two**

### **General Marking Guidance**

You should remember that your marking standards should reflect the levels of performance of students, 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 students 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 student'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 student's answer does not deserve credit, then no marks should be given.

### **Citation of Authority**

Students 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 (QoWC)**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"><li>• clear expression of ideas</li><li>• a good range of specialist terms</li><li>• few errors in grammar, punctuation and spelling</li><li>• errors do not detract from the clarity of the material.</li></ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"><li>• reasonable expression of ideas</li><li>• the use of some specialist terms</li><li>• errors of grammar, punctuation and spelling</li><li>• errors detract from the clarity of the material.</li></ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"><li>• poor expression of ideas</li><li>• limited use of specialist terms</li><li>• errors and poor grammar, punctuation and spelling</li><li>• errors obscure the clarity of the material.</li></ul>

### The level of understanding in AS Law – LAW01

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.

<b>Sound</b>	<ul style="list-style-type: none"> <li>• The material will be generally accurate and contain material relevant to the Potential Content.</li> <li>• The material will be supported by generally relevant authority and/or examples.</li> <li>• It will generally deal with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<b>Clear</b>	<ul style="list-style-type: none"> <li>• The material is broadly accurate and relevant to the Potential Content.</li> <li>• The material will be supported by some use of relevant authority and/or examples.</li> <li>• The material will broadly deal with the Potential Content in a manner required by the question.</li> </ul> <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>
<b>Some</b>	<ul style="list-style-type: none"> <li>• The material shows some accuracy and relevance to the Potential Content.</li> <li>• The material may occasionally be supported by some relevant authority and/or examples.</li> <li>• The material will deal with some of the Potential Content in a manner required by the question.</li> </ul> <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>
<b>Limited</b>	<ul style="list-style-type: none"> <li>• The material is of limited accuracy and relevance to the Potential Content.</li> <li>• The material will be supported by minimal relevant authority and/or examples.</li> <li>• The material will deal superficially with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the concepts of the Potential Content will barely be established, as there will be many errors, omissions and/or confusion which almost completely undermine the essential elements of the Potential Content.</p>

---

**Section A Law Making****Topic: Parliamentary Law Making**

<b>0 1</b>	Describe the Law Commission <b>or</b> pressure groups as an influence operating on Parliament in the law-making process.  <div style="text-align: right;"><b>[10 marks]</b></div>
------------	---

**Potential Content**

(A) A sound description of (A) should describe at least **four** of the following bullet points for either influence:

For the Law Commission:

- who works for the Commission
- how it works in investigating issues/reviewing the law with possible example
- its role in codifying law with possible example
- its role in consolidating law with possible example
- its role in recommending repeals of old law with possible example.
- reporting to Parliament, possible example, implementation of recommendations

For pressure groups:

- the meaning of a pressure group
- insider pressure groups and example and how they can influence
- outsider pressure groups and example and how they can influence
- cause groups and example and how they can influence
- sectional groups and example and how they can influence
- examples of campaigns – successful or unsuccessful.

**Mark Bands**

- 10 - 8 The student demonstrates a sound understanding of (A).
- 7 - 5 The student demonstrates a clear understanding of (A).
- 4 - 3 The student demonstrates some understanding of (A).
- 2 - 1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.

---

<b>0 2</b>	Describe the process in the House of Commons in the making of an Act of Parliament. <div style="text-align: right;"><b>[10 marks]</b></div>
------------	--

**Potential Content**

(A) A sound description of (A) should describe at least **four** of the following bullet points:

- the difference between public bills and private members bills
- introduction of the bill at first reading by the minister or other promoter and procedure
- purpose and outline of second reading
- purpose and outline of committee, report and third reading stages
- the 'ping-pong' procedure in conjunction with House of Lords
- supremacy of House of Commons due to Parliament Acts 1911 and 1949.

**Mark Bands**

10 - 8 The student demonstrates a sound understanding of (A).

7 - 5 The student demonstrates a clear understanding of (A).

4 - 3 The student demonstrates some understanding of (A).

2 - 1 The student demonstrates limited understanding of (A).

0 The answer contains no relevant information.

<b>0 3</b>	Discuss disadvantages of the parliamentary law-making procedure.  <b>[10 marks + 2 marks for AO3]</b>
------------	---

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY****Potential Content**

A sound answer of A should discuss at least **three** bulleted points, supported, where appropriate, by examples.

(A) Disadvantages:

- There is often a delay in dealing with an issue after a report has been issued (or a complete failure to consider a suggestion); The whole process from an initial Green Paper to Royal Assent and implementation can take years.
- Alternatively 'knee-jerk' legislation may be considered to deal with a perceived problem
- Debates, particularly in the House of Commons, can take a political approach rather than considering the genuine need for new legislation
- The House of Lords is not democratic; MPs may only represent a small percentage of their constituents
- Legislation produced by Parliament is often written in complex language; there is seldom consolidation or codification of laws on a topic. As a result, there is often the need to read more than one document to find the law on an issue
- Legislation may be a compromise between the Commons and Lords, rather than its best form.

**Mark Bands**

- 10 – 8 The student demonstrates a sound understanding of (A).
- 7 – 5 The student demonstrates a clear understanding of (A).
- 4 – 3 The student demonstrates some understanding of (A).
- 2 – 1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.



**Topic: Delegated Legislation**

<b>0 4</b>	Briefly describe <b>two</b> different forms of delegated legislation.	<b>[10 marks]</b>
------------	---	-------------------

**Potential content**

- (A) Brief description of first form of delegated legislation.  
 (B) Brief description of second form of delegated legislation.

Types of delegated legislation are:

- Statutory Instruments
  - the existence of law made by government ministers;
  - ministers having delegated powers under the authority of primary legislation (an enabling Act), within the area of their responsibility;
  - use including example(s) – to update an existing law or to provide detailed rules within a framework Act; commencement orders for the whole or part of an Act;
- By-laws
  - how made – under delegated powers given by e.g. Local Government Act 1972, or other relevant statute and approved by a government minister;
  - made by a local authority for the benefit of the local authority area – example such as dog fouling;
  - can be made by public bodies and companies e.g. smoking bans or penalty fares made by transport operators;
- Orders in Council
  - made by Queen and Privy Council – reference to members of Council;
  - laws can be made when Parliament is not sitting or in emergencies e.g. Afghanistan Order;
  - use - Orders to dissolve Parliament or to reorganise responsibility of government departments; Orders can be issued to bring an Act into force.

**Note:** For sound (A) or (B) - all three points to be briefly described.

**Mark Bands**

- 10 - 8 The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 7 - 5 The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
 mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0 The answer contains no relevant information.

---

<b>0 5</b>	Describe parliamentary controls on delegated legislation.	<b>[10 marks]</b>
------------	---	-------------------

**Potential Content**

(A) Description of parliamentary controls:

- can be carried out by scrutiny committees or by asking questions of ministers in either House of Parliament to check legislation is within limits imposed by enabling Act;
- description of affirmative resolution procedure;
- description of negative resolution procedure;
- Parliament can repeal primary or delegated legislation and set limits in enabling Act;

**Note:** for Sound A – at least **three** of the above points should be described, supported, where appropriate, by example(s).

**Mark bands**

- |        |  |
|--------|--|
| 10 – 8 | The student demonstrates a sound understanding of (A). |
| 7 – 5  | The student demonstrates a clear understanding of (A). |
| 4 – 3  | The student demonstrates some understanding of (A).    |
| 2 – 1  | The student demonstrates limited understanding of (A). |
| 0      | The answer contains no relevant information.           |

<b>0 6</b>	Briefly discuss advantages <b>and</b> disadvantages of delegated legislation.  <b>[10 marks + 2 marks for AO3]</b>
------------	--

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY**

**Potential Content**

**Note:** A sound answer of A or B should briefly discuss at least **two** bulleted points, supported, where appropriate, by examples.

(A) Advantages:

- it can save parliamentary time allowing parliament to focus on major issues
- delegated legislation can be made quickly because it does not have to go through Parliament and can be used in the case of emergency
- it is often made to cover technical matters; it can be used to fill in the gaps in primary legislation and experts can be consulted for specific detail;
- flexibility – different local laws can be introduced in different areas, as required, to deal with local need or to deal with specific issues;
- statutory instruments can complete the detail of framework Act, or deal with regular changes, eg annual changes to the minimum wage
- some form of control either by Parliament or the judiciary is possible
- there is some form of democracy, as by-laws are made by local politicians and statutory instruments are made by, or in the name of, elected ministers.

(B) Disadvantages:

- it is undemocratic – may be made by unelected civil servants (acting behind government ministers) or Privy Councillors
- volume – over 3000 statutory instruments are made annually
- lack of publicity – despite the internet, it may be difficult to find a piece of delegated legislation and when it came into force
- need for control – there is the need for more effective parliamentary or judicial control
- limited scrutiny and control of Executive power – due to the volume of statutory instruments, there is limited scrutiny in parliament; orders in council and by-laws have limited, if any, scrutiny
- delegated powers to impose tax (eg through budget) – many pieces of primary legislation can only work if supported by delegated legislation giving limited chance of debate or scrutiny; this is especially so for items in the ‘red book’ giving effect to many detailed rules in the budget
- length and expense of judicial review – no legal aid is available for this procedure; there is the ‘interest’ test before an action can be launched; government is seeking to reduce availability of this remedy.

**Mark bands**

- 10 – 8      The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 7 – 5      The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 4 – 3      The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 2 – 1      The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0          The answer contains no relevant information.

---

**Topic: Statutory Interpretation**

<b>0 7</b>	Outline internal (intrinsic) <b>and</b> external (extrinsic) aids to statutory interpretation. <span style="float: right;"><b>[10 marks]</b></span>
------------	---

**Potential Content**

**Note:** A sound answer of A or B should define internal and external aids and outline at least **two** bulleted points, supported, where appropriate, by relevant examples.

(A) Outline of internal aids could include:

- long and short titles of an Act
- any preamble
- any definitions included in the Act
- the interpretation section of the Act
- the detail given in a Schedule to an Act.

(B) Outline of external aids could include:

- an authorised dictionary of the year the Act was passed
- an external treaty entered into by the UK, eg The Treaty of Rome or any other subsequent EU treaty, if the word is defined there
- a report (such as a Law Commission report) on which the Act is based or a previous statute
- if the word is included in the Interpretation Act 1978 (eg 'he' includes 'she')
- if the word or phrase has been discussed in a parliamentary debate and is included in a Hansard report of the debate.

**Mark Bands**

10 - 8 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some **or** two clear

7 - 5 The student deals with (A) and (B) as follows:

**max 7:** one sound **or** one clear, one some

**max 5:** one clear **or** two some

4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

**or**

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.

<b>0 8</b>	Explain the mischief rule and how it has been used by judges in cases.	<b>[10 marks]</b>
------------	--	-------------------

**Potential content**

(A) Explanation of the mischief rule:

- judges are looking at gaps/defects in the law; the process from Heydon's case:- Act to be interpreted according to these questions – what was the old law? What was the defect? What was Parliament's intention?  
The Act is then interpreted to give effect to that intention;
- use by judges in case(s) e.g. Smith v Hughes, Elliott v Grey, DPP v Bull, Corkery v Carpenter, RCN v DHSS.

**Note:** for Sound A –both points should be explained.

**Mark Bands**

10 - 8 The student demonstrates a sound understanding of (A).

7 - 5 The student demonstrates a clear understanding of (A).

4 - 3 The student demonstrates some understanding of (A).

2 - 1 The student demonstrates limited understanding of (A).

0 The answer contains no relevant information.

<b>0 9</b>	Briefly discuss advantages <b>and</b> disadvantages of the mischief rule.  <b>[10 marks + 2 marks for AO3]</b>
------------	--

## REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY

### Potential Content

(A) Brief discussion of advantages of mischief rule:

- avoidance of unjust outcomes as in, for example, Berriman;
- flexibility in allowing judges to apply law really intended by Parliament – e.g. Smith v Hughes;
- judges can fill in the gaps in legislation to arrive at “right”/just result;
- it saves Parliament from having to pass an amending Act;
- allows judges to update law to take account of changing social conditions e.g. RCN v DHSS.

(B) Brief discussion of disadvantages of mischief rule:

- too much power given to unelected judiciary/encourages judicial law making/undemocratic; eg Smith v Hughes;
- difficult to identify the mischief in the previous law and find parliament’s intention;
- it can lead to unpredictable results;
- it can be said to be outdated and not fit to deal with current issues.

**Note:** For Sound A or B – at least **two** of the above points should be briefly discussed, supported, where appropriate, with case examples.

### Mark Bands

10 - 8 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some **or** two clear

7 - 5 The student deals with (A) and (B) as follows:

**max 7:** one sound **or** one clear, one some

**max 5:** one clear **or** two some

4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

**or**

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.

**Topic: Judicial Precedent**

<b>1 0</b>	<p>In the context of judicial precedent:</p> <ul style="list-style-type: none"> <li>• outline what is meant by the term ratio decidendi and</li> <li>• briefly describe the use of law reports.</li> </ul> <p style="text-align: right;"><b>[10 marks]</b></p>
------------	--

**Potential Content**

(A) A sound answer of (A) should outline:

- that ratio decidendi is the reason for the decision
- that it is the binding part of the decision and
- if from a judge in a higher court, it has to be followed by judges in lower courts.

The outline should be supported by a case example illustrating the ratio of a decision.

(B) A sound answer of (B) should describe briefly at least **three** of the following bullet points:

- the need for reporting to publicise judgements, and statements of law for lawyers and judges and academics, and being used as precedent in later cases
- an official law report is an accurate and authorised record of the reasons for the decision
- examples of different series of reports – eg the Law Reports, WLR, All ER, The Times, BAILII
- content of report – the facts of the case, the judge’s summary of the issues and arguments, the decision and the reason(s) for it
- that official reports are written by specialist lawyers and approved by the judge handing down the decision.

**Mark Bands**

10 - 8 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some **or** two clear

7 - 5 The student deals with (A) and (B) as follows:

**max 7:** one sound **or** one clear, one some

**max 5:** one clear **or** two some

4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

**or**

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.



<b>1 1</b>	<p>Outline <b>both</b> of the following ways judges can avoid binding precedent:</p> <ul style="list-style-type: none"> <li>• the use of the 1966 Practice Statement by the Supreme Court and</li> <li>• distinguishing a precedent.</li> </ul> <p style="text-align: right;"><b>[10 marks]</b></p>
------------	---

### Potential Content

(A) A sound answer of (A) should outline both of the following bulleted points:

- what the Practice Statement says, and
- a case example to show its use (by the present Supreme Court or the former House of Lords). Case examples could include BRB v Herrington; A v Hoare; R v Howe.

(B) A sound answer of (B) should outline both of the following bulleted points:

- what distinguishing is and possible reference to which courts can distinguish
- case examples to show its use. Case examples could include Merritt v Merritt distinguishing Balfour v Balfour; R v Wilson distinguishing R v Brown.

### Mark Bands

10 - 8 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some **or** two clear

7 - 5 The student deals with (A) and (B) as follows:

**max 7:** one sound **or** one clear, one some

**max 5:** one clear **or** two some

4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

2 -1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

**or**

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.

<b>1 2</b>	Discuss advantages of judicial precedent.	<b>[10 marks + 2 marks for AO3]</b>
------------	---	-------------------------------------

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY****Potential Content**

(A) A sound answer of (A) should discuss at least **three** of the following bullet points, supported by a case example where appropriate:

- certainty – a judge has to reach a decision in a case; lawyers can advise their clients on the state of law and how it will affect their case
- flexibility – judges are used to adapting the law to new or slightly different situations
- a case which comes to court is a real (as opposed to theoretical) case
- precedent decisions (particularly of the appeal courts) provide detailed rules for later cases to follow; it is just that similar cases with similar points of law should be decided in the same way
- judges (particularly in the higher courts) carry great authority and their decisions are respected as being impartial.
- The benefit to new / inexperienced judges in lower courts to be able to rely on the reasoning from the judgements of more senior judges

**Mark Bands**

- 10 - 8 The student demonstrates a sound understanding of (A).
- 7 - 5 The student demonstrates a clear understanding of (A).
- 4 - 3 The student demonstrates some understanding of (A).
- 2 - 1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.

## Section B The Legal System

### Topic: The Civil Courts and other forms of dispute resolution

<b>1 3</b>	<p>Civil claims for compensation can be dealt with in court, or out of court by negotiation.</p> <p>Referring to the different financial limits, outline the civil <b>trial</b> courts that can hear cases involving claims for compensation.</p> <p>Briefly explain out of court settlement by negotiation.</p> <p style="text-align: right;"><b>[10 marks]</b></p>
------------	--

#### Potential Content

(A) A sound answer of (A) should outline **all** of the following bullet points:

- Small claims – maximum claim £1,000 in personal injury claims, £10,000 in all other claims  
Possible reference to small claims track, informal procedure, parties likely to represent themselves, decisions made by District Judge
- County court – claims up to £50,000 in personal injury claims and £100,000 in other claims  
Possible reference to Fast-track and multi-tracks. Formal procedure, parties likely to be represented, decisions made by Circuit judge
- High Court QBD – claims over £50,000 in personal injury claims and £100,000 in other claims  
Possible reference to very formal procedure, parties very likely to be represented by experienced advocates, decisions made by High Court judges

Minor inaccuracy in financial limits can be compensated by reference to other indicated material

(B) A sound answer of (B) should briefly explain at least **three** of the following bullet points:

- who carries out the negotiation – the parties, their lawyers or unqualified representatives
- the possible forms of negotiation – face to face, using telephone, email or conference calls
- the process – continued talking/contact until resolution made or fails
- successful outcome is agreement which is enforceable if the parties formally agree;
- types of dispute

#### Mark Bands

10 - 8	<p>The student deals with (A) and (B) as follows:</p> <p><b>max 10:</b> two sound</p> <p><b>max 9:</b> one sound, one clear</p> <p><b>max 8:</b> one sound, one some <b>or</b> two clear</p>
7 - 5	<p>The student deals with (A) and (B) as follows:</p> <p><b>max 7:</b> one sound <b>or</b> one clear, one some</p> <p><b>max 5:</b> one clear <b>or</b> two some</p>
4 - 3	<p>The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).</p>
2 - 1	<p>The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges</p> <p><b>or</b></p> <p>mistakes and confusion fundamentally undermine a more substantial attempt at explanation.</p>

0 The answer contains no relevant information.

<b>1 4</b>	Arbitration is one way in which civil disputes can be resolved without going to court. Describe how arbitration is used to resolve civil disputes. <span style="float: right;"><b>[10 marks]</b></span>
------------	---

### Potential Content

(A) Description of arbitration:

- qualification/expertise of arbitrator
- how arbitration can come about e.g. from a Scott v Avery clause in the agreement
- types of cases dealt with – reference to commercial and/or consumer arbitration with possible example;
- nature of hearing/process – oral hearing or paper based;
- potential outcome – an award, which can be enforced;
- limited possibility of an appeal;
- possible reference to statutory framework (e.g. Arbitration Acts) or relevant cases.

**Note:** for Sound A – at least **five** of the above points should be described.

### Mark Bands

10 - 8 The student demonstrates a sound understanding of (A).

7 - 5 The student demonstrates a clear understanding of (A).

4 - 3 The student demonstrates some understanding of (A).

2 - 1 The student demonstrates limited understanding of (A).

0 The answer contains no relevant information.

<b>1 5</b>	<p>Briefly discuss advantages <b>and</b> disadvantages of dispute resolution by arbitration.</p> <p style="text-align: right;"><b>[10 marks + 2 marks for AO3]</b></p>
------------	--

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

(A) Brief discussion of advantages of arbitration:

- speed;
- informality;
- control of process by parties;
- expertise of arbitrator;
- limited or no need for legal representation;
- effect of award;
- cost compared to court;
- privacy.

(B) Brief discussion of disadvantages of arbitration:

- lack of funding leading to lack of legal representation;
- possible imbalance between parties
- availability of process dependent on terms of agreement
- cost/availability of specialist arbitrator;
- limited appeal rights.

**Note:** for Sound A or B – at least **two** of the above points should be briefly discussed, supported, where appropriate, with examples.

**Mark Bands**

- 10 - 8      The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 7 - 5      The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 4 - 3      The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 2 - 1      The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0            The answer contains no relevant information.

---

**Topic: The Criminal Courts and lay people**

<b>1 6</b>	Outline <b>both</b> of the following: <ul style="list-style-type: none"><li>• the courts (trial <b>and</b> appeal) that can hear adult criminal cases</li><li>• the types of cases dealt with by these courts.</li></ul> <p style="text-align: right;"><b>[10 marks]</b></p>
------------	--

**Potential Content**

A. A sound answer of A should outline **all** the following bulleted points:

- Magistrates Courts and types of cases dealt with
- Crown Court and types of cases dealt with
- Appeal Courts

Note – Credit possible reference to criminal procedure, and/or types of appeals

**Mark Bands**

- 10 - 8 The student demonstrates a sound understanding of (A).
- 7 - 5 The student demonstrates a clear understanding of (A).
- 4 - 3 The student demonstrates some understanding of (A).
- 2 - 1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.

<b>1 7</b>	Outline the qualifications required for appointment as a lay magistrate. Briefly explain the training of a lay magistrate following appointment.	<b>[10 marks]</b>
------------	--	-------------------

### Potential Content

(A) A sound answer of A should outline **three** of the following bulleted points:

- age range (on appointment, 18-65)
- key (personal) qualities;
- willingness to take Oath of Allegiance.
- excluded professions e.g. police and / or excluded backgrounds e.g. bankrupts, those with serious convictions.
- balancing factors (e.g. occupation, gender, political allegiance, connection with local area)

(B) A sound answer of B should briefly explain **three** of the following bulleted points:

- training being the responsibility of Judicial Studies Board (now Magisterial/Committee of the judicial college) and legal adviser
- initial compulsory training
- initial mentoring
- on-going training (core training) and appraisal
- chairmanship training; specialist panel training, eg youth court.

### Mark Bands

10 - 8 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some **or** two clear

7 - 5 The student deals with (A) and (B) as follows:

**max 7:** one sound **or** one clear, one some

**max 5:** one clear **or** two some

4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

**or**

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.

<b>1 8</b>	Discuss disadvantages of the use of lay persons (juries and lay magistrates) in the criminal justice process.  <b>[10 marks + 2 marks for AO3]</b>
------------	--

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY****Potential Content**

(A) A sound answer of (A) should discuss at least **three** of the following bulleted points: supported, where appropriate, by (case) examples:

for juries –

- make up of panel and selection issues - the Romford jury
- perverse verdicts such as in R v Ponting, R v Kronlid and others
- how juries reach their verdicts R v Young
- media pressure – Rosemary West, the Taylor sisters
- ability to do job/effect of jury service – Rosemary West.

for lay magistrates –

- unrepresentative (middle-aged, middle-class, middle-minded), underrepresented groups on the Bench
- possible bias towards police/prosecution – R v Bingham Justices ex.p. Jowitt
- possible influence – of legal adviser, of chair, of advocates or police
- inconsistent sentencing for similar offences.

**Note:** an answer which fails to distinguish between lay magistrates and juries or whose answer is based on magistrates or juries only – max 7.

**Mark Bands**

- 10 - 8 The student demonstrates a sound understanding of (A).
- 7 - 5 The student demonstrates a clear understanding of (A).
- 4 - 3 The student demonstrates some understanding of (A).
- 2 - 1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.



---

**Topic: The Legal Profession and other sources of advice, and funding**

<b>1 9</b>	<p>Legal advice can be obtained from a variety of sources including Citizens Advice Bureaux, Law Centres, trade unions, insurance companies and the internet.</p> <p>Briefly describe any <b>two</b> of these sources of advice <b>and</b> outline the types of cases they can give advice on.</p> <p style="text-align: right;"><b>[10 marks]</b></p>
------------	--

**Potential Content**

- (A) Brief description of first source of advice and types of cases  
 (B) Brief description of second source of advice and types of cases

**CAB** – A charity providing free general legal advice on a range of issues to those living in their local areas. Tend to specialise in debt, welfare, consumer, housing, employment or immigration problems. They may claim funding from sources such as local authorities, Lottery funds, primary care trusts, charitable trusts, companies and individuals as well as government grants. They offer initial advice and some representation, though if the case is complex they may pass the case to more specialist agencies or lawyers.

**Law Centres** – often situated in large cities to provide access to legal advice where traditional legal services are less available; they are specialists in social welfare issues including immigration and asylum, housing, employment and benefit entitlement. May be partly funded by local authorities and may employ lawyers or para-legals who may be specialists in the field; they may be able to pursue a case right through to court.

**Trade Unions** – advice is available to members on civil matters, generally related to employment such as discrimination, unfair dismissal or contract disputes. Advice + representation will generally be free to full members. Advice will be provided by lawyers attached to the Union or from independent solicitors. Legal services will include both advice and dispute resolution both in and out of court (all forms of ADR where appropriate).

**Insurance companies** – initial advice on merits of mostly civil claims provided nature of claim is covered by policy conditions to their insured; may be prepared to fund more specialist advice or taking the case to court, if so advised. Policies may be taken to cover legal expenses when covering houses, businesses or vehicles. Policy may be taken to cover no-win no-fee cases.

**Internet** – advice is open to all on range of mostly civil topics, given either by qualified lawyers or by non-qualified persons (often for a fee); they may provide initial documents and material (again for a fee) but may be unable to continue to help if case becomes more complex, or requires court appearance or appeal.

**Mark Bands**

- 10 - 8 The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 7 - 5 The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some

- 4 - 3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 2 - 1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0 The answer contains no relevant information.

<b>2 0</b>	Explain the qualification <b>and</b> training requirements to become a solicitor.	<b>[10 marks]</b>
------------	---	-------------------

### Potential Content

(A) A sound answer of (A) should explain **four** of the following bulleted points:

- Degree Entry – by law degree; alternative non-law degree with Common Professional Exam/Graduate Diploma in Law; enrolling with the Solicitors Regulation Authority and obtaining a certificate of completion of the academic stage of training
- Alternative non-law degree route: joining CILEX, pass examinations to qualify first as a member and later as a fellow.
- Legal Practice Course to develop the skills needed to work in a firm of solicitors.
- 2 year training contract in a firm of solicitors or other organisation authorised to take trainees,
- Professional Skills Course attendance during the training contract, covering Client care and professional standards, Advocacy and communication skills, Financial and business skills, together with elective courses relevant to specific types of practice and areas of law.
- Enrolment with the Solicitors Regulation Authority
- Enrolment on the Roll of Solicitors

### Mark Bands

- 10-8 The student demonstrates a sound understanding of (A).
- 7-5 The student demonstrates a clear understanding of (A).
- 4-3 The student demonstrates some understanding of (A).
- 2-1 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.

<b>2 1</b>	Briefly discuss advantages <b>and</b> disadvantages of using “lawyers” (solicitors and barristers) to resolve legal disputes.  <b>[10 marks + 2 marks for AO3]</b>
------------	--

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY****Potential Content**

A sound answer of (A) or (B) should discuss at least **two** of the following bulleted points, supported, where appropriate, by examples.

**(A) Advantages:**

- Availability – lawyers are available in most areas of country; direct access to barristers is available for specialist advice and services in certain areas of law
- Specialism – lawyers may specialise in certain areas of law/dispute settlement; they will know the procedures and routes to deal with dispute; they may be able to bring about resolution through alternatives to court; their involvement may bring an early resolution to dispute
- Cost – state funding/’no win-no fee’/pro bono services may only be available through lawyers.

**(B) Disadvantages:**

- Availability – some lawyers are not specialists in certain areas of law; lawyers may, for business reasons, choose not to offer legal services in certain areas of law; they may only be available during the working week so there may be practical unavailability
- Delay – communications between client and own lawyer and between own and opponent’s solicitors and barristers may cause significant delays; the public perception of delay as a means of raising the costs of an action
- Cost – the need to use both solicitors and barristers in certain litigation; the cost of private funding if state funding or ‘no win-no fee’ services are not available
- Language – legal words/phrases used may be inaccessible to the general public – eg lawyer to lawyer language, the wording of court documents, the language used by courts.

**Mark Bands**

- 10-8 The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 7-5 The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 4-3 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 2-1 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0 The answer contains no relevant information.

---

**Topic: The Judiciary**

<b>2 2</b>	Describe the work of a judge in a civil case.	<b>[10 marks]</b>
------------	---	-------------------

**Potential Content**

(A) A sound answer of (A) should to describe **both** bulleted points:

- pre-trial – dealing with pre-trial issues (eg tracking), acting as trial manager, reading case papers
- during the trial – hearing evidence and legal submissions, ruling on legal issues during trial, deciding liability, deciding remedy and award of costs. Possible reference to appeals.

**Mark Bands**

10 - 8 The student demonstrates a sound understanding of (A).

7 - 5 The student demonstrates a clear understanding of (A).

4 - 3 The student demonstrates some understanding of (A).

2 - 1 The student demonstrates limited understanding of (A).

0 The answer contains no relevant information.

<b>2 3</b>	Explain how a judge can be dismissed from office.	<b>[10 marks]</b>
------------	---	-------------------

**Potential Content**

(A) A sound answer of (A) should explain **two** of the following bulleted points:

- how inferior-level judges can be dismissed in cases of incapacity and misbehaviour – the powers of Lord Chief Justice, in conjunction with Lord Chancellor and Secretary of State for Justice; an answer could refer to the expiry of a fixed term appointments
- how superior-level judges can be dismissed – by parliamentary petition
- the role of Office for Judicial Complaints, now the Judicial Conduct Investigation Office.

**Mark Bands**

10 - 8 The student demonstrates a sound understanding of (A).

7 - 5 The student demonstrates a clear understanding of (A).

4 - 3 The student demonstrates some understanding of (A).

2 - 1 The student demonstrates limited understanding of (A).

0 The answer contains no relevant information.

<b>2 4</b>	Discuss why it is, <b>and</b> why it should be, difficult to dismiss a judge.  <b>[10 marks + 2 marks for AO3]</b>
------------	--

**REMEMBER TO ALLOCATE MARKS FOR AO3 SEPARATELY****Potential Content**

(A) A sound answer of (A) should discuss **three** of the following bulleted points:

- the need for judges to be independent of the legislature and Executive
- the freedom of a judge of any level to make a 'just' decision
- the need for judges to be free from influence of the parties, advocates, press and anyone interested in the case
- that judges are upholding the Rule of Law
- that difficulty in dismissing a judge maintains public confidence in the law and in the judicial system.
- for superior-level judges, there are practical difficulties in obtaining a parliamentary petition.

**Mark Bands**

- 10 - 8    The student demonstrates a sound understanding of (A).
- 7 - 5    The student demonstrates a clear understanding of (A).
- 4 - 3    The student demonstrates some understanding of (A).
- 2 - 1    The student demonstrates a limited understanding of (A).
- 0        The answer contains no relevant information.

**ASSESSMENT GRID A Level Law (LAW01)**

(To show the allocation of marks to Assessment Objectives)

<b>Topic</b>	<b>Question</b>	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
<b>Parliamentary Law Making</b>	<b>01</b>	<b>10</b>		
	<b>02</b>	<b>10</b>		
	<b>03</b>		<b>10</b>	<b>2</b>
<b>Delegated Legislation</b>	<b>04</b>	<b>10</b>		
	<b>05</b>	<b>10</b>		
	<b>06</b>		<b>10</b>	<b>2</b>
<b>Statutory Interpretation</b>	<b>07</b>	<b>10</b>		
	<b>08</b>	<b>10</b>		
	<b>09</b>		<b>10</b>	<b>2</b>
<b>Judicial Precedent</b>	<b>10</b>	<b>10</b>		
	<b>11</b>	<b>10</b>		
	<b>12</b>		<b>10</b>	<b>2</b>
<b>The Civil Courts and other forms of dispute resolution</b>	<b>13</b>	<b>10</b>		
	<b>14</b>	<b>10</b>		
	<b>15</b>		<b>10</b>	<b>2</b>
<b>The Criminal Courts and Lay People</b>	<b>16</b>	<b>10</b>		
	<b>17</b>	<b>10</b>		
	<b>18</b>		<b>10</b>	<b>2</b>
<b>The Legal Profession and other sources of advice, and funding</b>	<b>19</b>	<b>10</b>		
	<b>20</b>	<b>10</b>		
	<b>21</b>		<b>10</b>	<b>2</b>
<b>The Judiciary</b>	<b>22</b>	<b>10</b>		
	<b>23</b>	<b>10</b>		
	<b>24</b>		<b>10</b>	<b>2</b>