

Mark Scheme (Results)

Summer 2012

GCE Law (9345)
Paper 1

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General Marking Bands

The guidance on different types of responses below should be read in conjunction with the detailed marking content for each question.

Level	Mark	Descriptor
An excellent answer	25-22	<p>Presents a well-structured response to the question and demonstrates consistently a thorough knowledge and understanding of legal rules and legal institutions and excellent appreciation of the function of law in society. Shows a thorough understanding of legal classification and an excellent approach to problem solving with a particular strength in the use of legal authority together with a demonstrable awareness of matters of legal controversy and legal reform. Demonstrates an ability to appraise and criticise the application of legal principles across different branches of the law.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>
A very good answer	21-17	<p>Presents a clearly written answer with a detailed knowledge and understanding of legal rules and also the place and role of institutions, as well as demonstrating a very good appreciation of the role and function of law in society. Shows a good understanding of legal classification and demonstrates a clear grasp of analysis of legal problems, with a real ability to apply rules and use authority. Shows a good understanding of different branches of law and gives evidence of a critical awareness of controversial issues in law and law reform. The majority of relevant legal issues raised by the question are included with appropriate supporting material.</p> <p>The candidate will express complex ideas extremely clearly and fluently. Sentences and paragraphs will follow on from each other smoothly and logically. Arguments will be consistently relevant and well structured. There will be few, if any, errors of grammar, punctuation and spelling.</p>

A good answer	16-13	<p>Demonstrates a sound knowledge and understanding of legal rules, and the role and function of law in society with some evidence of depth and breadth of argument. Is able, where required to distinguish between civil and criminal liability, and shows a sound approach to problem solving. Quotes some appropriate legal authority. Demonstrates a sound knowledge of some of the relevant issues raised by the question and shows awareness of current controversies and legal reform. Identifies significant points in the marking scheme but with some imbalance in the treatment of issues raised by the question.</p> <p>The candidate will express moderately complex ideas clearly and reasonably fluently through well linked sentences and paragraphs. Arguments will be generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.</p>
A satisfactory answer	12-8	<p>Presents an answer which demonstrates some knowledge and understanding of legal rules and institutions, and awareness of the role and function of law in society. Demonstrates some ability to solve problems, to identify sources, and to quote relevant authority. Shows knowledge of different branches of law, with some understanding shown also of legal classification. Although awareness of current controversies and reform issues is demonstrated, answers are more descriptive than analytical.</p> <p>The candidate will express straightforward ideas clearly, if not always fluently. Sentences and paragraphs may sometimes not 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 to suggest a weakness in these areas.</p>

A basic answer	7-4	<p>Presents an attempt to deal with the question with a superficial knowledge and understanding of legal rules, institutions and the role and function of law in society. Shows an attempt to deal with legal classification and problem solving and uses legal authority, with a little understanding of appropriate branches of law. Gives evidence of a little awareness of issues of controversy and reform. Answers may be commonsense with simple conclusions and little law.</p> <p>The candidate will express simple ideas clearly, but may be imprecise and awkward in dealing with complex or subtle concepts. Arguments may be of doubtful relevance or obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, suggesting weakness in these areas.</p>
	3-0	<p>Presents an answer which demonstrates difficulty in understanding the subject. Although struggling, may produce some relevant points. Perhaps produces a social answer with little relevance to law.</p>

Question Number	Indicative content	Mark
1	Discussion of Hart/Devlin debate and relevant cases on the enforcement of morals.	(25)

Question Number	Indicative content	Mark
2	Exposition of range of meaning of rule of law, including reference to Dicey, and analysis of the usefulness of the concept.	(25)

Question Number	Indicative content	Mark
3	Discussion of meaning of potential of equity - its origins and relationship to the common law, and the role it has subsequently played.	(25)

Question Number	Indicative content	Mark
4	Exposition of the meaning of strict liability with illustrations of the areas in which it operates, and evaluation of its justifiability in modern law.	(25)

Question Number	Indicative content	Mark
5	Exposition of the obligations imposed on judges by s3 of the 1998 Act, with illustration, and discussion of the areas of conduct that fall within and outside the scope of the European Convention.	(25)

Question Number	Indicative content	Mark
6	Exposition of the operation of the literal rule and its merits and disadvantages. Comparative analysis of the function and justifiability of the purposive approach.	(25)

Question Number	Indicative content	Mark
7	Exposition of the pros and cons of strict observation of precedent in terms of institutional and process values, followed by an account of the flexibility anyway enjoyed by judges in practice, as for instance through the Practice Statement and the use of distinguishing.	(25)

Question Number	Indicative content	Mark
8	Exposition of the functions and merits of the magistrate and exploration of alternatives.	(25)

Question Number	Indicative content	Mark
9	Discussion of the merits and demerits of the jury system, with reference to case law, research findings, and reports.	(25)

Question Number	Indicative content	Mark
10	Assessment of the extent to which EU law has impinged on UK law - possible exceptions such as family law. Discussion of judicial awareness and use of the teleological approach to statutory interpretation.	(25)

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.

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