

Mark Scheme (Results)

Summer 2014

Pearson Edexcel International
Advanced Level Law (YLA0/01)

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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.

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> |

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| 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> |

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| 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 and subsequent debates on the enforcement of morality. Both examples of morality (eg altruistic acts) and immorality (eg adultery) should be involved in the discussion, Relevant case law such as Brown, Shaw Kelly and other instances should be forthcoming. Candidates who confuse this debate with the natural law/positivism controversy cannot achieve a mark in the higher bands (above 12). Credit in this and in all subsequent questions will be given to candidates who focus precisely and expressly on the terms of the question set, rather than producing overdescriptive or oblique or stock answers where it is unclear whether the candidate actually understands the terms of the question. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 2 | Discussion of the relationship between law and social change and specific focus on the scope of meaning of inefficient. Reference can be expected to theorists such as Marx and Durkheim and to Hart's account of the difficulties inevitably besetting legislators trying to alter behaviour- the fluidity of language itself, relative ignorance of fact and relative indeterminacy of aim. A wide range of examples both for and against the proposition is in principle available. Candidates who attempt to apply arguments from Q1 to Q2 will not convince the examiner that they have comprehended the question. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 3 | Requires exposition of the role and expectations of equity since its origins and exploration of the truth of the maxim in different contexts. Has equity made a significant independent substantive contribution? What role have institutions such as Courts of Chancery played? | (25) |

| Question Number | Indicative content | Mark |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 4 | Exposition of the meaning of strict liability and its place in both civil and criminal law. Analysis of relevant cases and of the advantages and disadvantages of the employment of strict liability, leading to a reasoned conclusion that goes beyond description. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 5 | Assuming 1998 Act has survived, answers should include analysis of any special duties imposed on the judiciary under the Act, as for example the interpretive duty contained in s4. Illustration through case law should show to what extent judges do have a different role to play, and this should be followed by a discussion of the merits of the Act as a whole in "incorporating" the Convention. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 6 | Explanation of the meaning of "literal-minded" in this context, and exposition of the historical development and influence of the literal rule. Clearly the emergence of different approaches such as the purposive or contextual rule and their influence should also be documented, with reference also to the antiquity of the "mischief" rule as a qualification of the proposition to be analysed. Candidates who describe the different 'rules' even at some length without focusing on the question cannot receive a mark in the higher achievement bands above 12. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 7 | Analysis of the hypothetical consequences of the abolition of the doctrine, which will require some detailed exposition of its content at different levels in the court hierarchy as part of some "impact study." Awareness of the steadying factors in any legal system which make for continuity, coupled with the acknowledgement that there are a variety of leeways for avoiding precedents where desired, of which distinguishing on the facts is one example among many. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 8 | Description of the eligibility, composition and role of the magistracy accompanied by a critical overview of the adequacy and the viability of any possible alternatives. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 9 | Candidates should be aware of both the arguments in favour, such as representativeness, popular participation, etc. and of negative aspects, lack of understanding, bias, malleability, etc. Reference should be made to recent history of proposals for reform and Runciman, Roskill and Auld recommendations. | (25) |

| Question Number | Indicative content | Mark |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 10 | Discussion of elements of Diceyan sovereignty and of impact of EU law in cases such as Factortame. Evaluation of extent of EU influence- are some elements of private/property law unaffected? Possibility of exercise of sovereignty to depart from EU. | (25) |