

# **Mark Scheme for January 2012**

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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## Annotations

Annotation	Meaning
✓	correct
✓✓	good point
<u>Underline</u> or ○	incorrect
⋈	irrelevant
(✓)	sort of
>	better than
<	less than
=	equal to
R	repetition
V	vague
P	point
DP	developed point
WDP	well developed point
VWDP	very well developed point
AP	applied point
NLTQ	not linked to question

**Subject-specific Marking Instructions**

This mark scheme must be used in conjunction with the Advanced Subsidiary GCE Law Assessment Grid.

When using the mark scheme the points made are merely those that a well-prepared candidate would be likely to make. The cases cited in the scheme are not prescriptive and credit must be given for any relevant examples given. Similarly, candidates who make unexpected points, perhaps approaching the question from an unusual point of view, must be credited with all that is relevant.

Candidates can score in the top bands without citing all the points suggested in the scheme. Answers, which contain no relevant material at all, will receive no marks.

For part **(a)** of questions only AO1 marks are available so credit cannot be given for any AO2 points. Any AO2 points should be marked as irrelevant. The main discriminator between the levels will be the level of detail and the level of understanding demonstrated in the answer.

**Section A** part **(b)** questions require discussion. Each point should be annotated as P for point, DP for developed point and WDP for a well developed point. Occasionally an argument will be worthy of a VWDP (very well developed point). It is important to ensure that the discussion is based on the question asked.

Marks are awarded on a points basis:

P	= 1 mark
DP	= 2 marks
WDP	= 3 marks
VWDP	= 4 marks

However if there are only simple points (P) no matter how many points are made, a maximum of top Level 2 (5 marks) for AO2 can be awarded as if there is no development the answer does not meet the descriptor for Level 3.

If there are only developed points (DP) and no well developed points (WDP) only top of Level 3 (7 marks) can be awarded for AO2, as such an answer would not meet the criteria for Level 4.

**Section B** part **(b)** questions are marked differently as these questions require application. Identification of a relevant point should be awarded a P for a point if it is not then applied to the situation. An AP (applied point) should be awarded if a point is applied to the situation given.

P	= 1 mark
AP	= 2 marks

If there is no application but relevant points have been identified only top Level 2 marks can be awarded, as the criteria for Level 3 will not have been met.

There may be more possible marks in a response than the maximum 9 for AO2 but obviously 9 marks for AO2 plus 3 marks for AO3 is the maximum that can be awarded.

**For part (b) questions AO3 marks should be awarded as follows:**

If AO2 marks 1-3 awarded = give 1 AO3 mark

If AO2 marks 4-6 awarded = give 2 AO3 marks

If AO2 marks 7-9 awarded = give 3 AO3 marks

Question		Answer	Marks	Guidance										
1	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>A description of Mediation, Conciliation and Arbitration is required with at least one example of each</p> <ul style="list-style-type: none"> <li>• Mediation – neutral person helps parties reach a compromise solution acting as a facilitator. Mediator does not offer an opinion unless asked.</li> <li>• Formalised settlement conference is another method of approaching mediation – mini trial but no binding results. Examples include Centre for Effective Dispute Resolution dealing with companies and more local mediation services to deal with disputes between neighbours.</li> <li>• Conciliation – conciliator goes beyond mediation in that they have the power to suggest grounds for compromise or a settlement. Often used in industrial disputes using ACAS</li> <li>• Mediation and conciliation both allow the parties to have control over the resolution process as they can withdraw at any time and a resolution to the dispute cannot be imposed on them as they must agree to it.</li> <li>• Arbitration – both parties voluntarily agree to let their dispute be left to the judgment of an arbitrator or a panel of arbitrators who are neutral.</li> <li>• Agreements to arbitrate are governed by the Arbitration Act 1996 and are usually in writing. Agreement to go to arbitration can be made before a dispute arises [usually by a <i>Scott v Avery</i> clause in a contract]. Agreement will either name an arbitrator or provide a method for choosing one. A court may also appoint an arbitrator. The parties agree the procedure for hearings and this ranges from a ‘paper’ arbitration to a formal court like hearing</li> <li>• Arbitration decisions are binding on the parties and can be enforced by the courts if necessary. An award by an arbitrator can be challenged in the courts for serious irregularity in the proceedings or on a point of law. Examples of situations where arbitration is used include building contracts, holiday contracts and as a result of various other business contracts</li> <li>• Negotiation – parties reach agreement themselves with no third party. They may act through solicitors.</li> <li>• Credit will be given for any other relevant details.</li> </ul>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>A level 4 response will require a <b>detailed</b> description of all three main types of ADR. It is possible to get full marks without describing Negotiation as that is not specifically mentioned in the specification.</p> <p>If a response describes the different types of ADR as a series of stages (that if one fails you go on to the next) level 4 cannot be achieved as it demonstrates a lack of understanding of ADR.</p> <p>Some description of Arbitration is necessary to go beyond the top of level 2.</p> <p>Mention of the Arbitration Act and the <i>Scott v Avery</i> Clause are the level of detail that would be likely for high level 4 marks.</p> <p>If no examples are given a response cannot go beyond the top of Level 3 as the question specifically asks for illustration.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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1	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>Cheaper than Courts to solve disputes</li> <li>Less formal and does not have to follow the strict letter of the law</li> <li>Encourages co-operation and avoids the adversarial system</li> <li>Maintains working relationships and can include decisions about future dealings</li> <li>Both parties maintain a sense of control and can choose the method of mediation</li> <li>Agreements are more likely to last as they are a compromise and in a sense ‘everyone wins’</li> <li>Highly successful – 80% resolved (Centre for Effective Dispute Resolution).</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>No guarantee that the dispute will be resolved</li> <li>Will not work unless both parties are willing to co-operate and reach a compromise</li> <li>Settlements are often considerably lower than those awarded by the courts</li> <li>Agreements cannot be enforced, so there is no pressure to stick to it</li> <li>Could go on for a long time without a settlement</li> <li>Unless the mediator has the necessary qualities, mediation can turn in to a bullying exercise and weaker parties may not stand up for their own rights.</li> </ul>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>A Level 4 response will require at least one well developed point illustrating a real ability to discuss both sides of the argument.</p> <p>Three well developed points should receive full marks provided there is a reference to solving civil disputes.</p> <p>If there are only developed points and no well developed points maximum top level 3 marks can be awarded.</p> <p>A series of points with no real development can only be awarded top level 2 marks.</p> <p>As the question requires <b>both</b> advantages and disadvantages of mediation if only advantages <b>or</b> disadvantages are covered maximum top level 2 marks can be achieved.</p>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer	Marks	Guidance										
2	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>A description of the education, training and work of solicitors:</p> <p><b>Education and Training</b></p> <ul style="list-style-type: none"> <li>• Academic: law degree (7 core subjects) or other degree plus CPE / GDL to cover core subjects or have qualified as a Fellow of ILEX</li> <li>• Vocational: 1 year Legal Practice Course, includes dealing with clients, negotiation, advocacy, legal research, drafting legal documents and business management</li> <li>• Practical: 2 years working in a solicitors' office, paid but working under supervision. This can also be undertaken in the CPS or local authority legal departments</li> <li>• 20 day Professional Skills Course</li> <li>• Continuing education once qualified</li> <li>• range of education / training (and same for work) dependant on type of firm and legal areas covered.</li> </ul> <p>Credit will be given for details of training.</p> <p><b>Work</b></p> <ul style="list-style-type: none"> <li>• Most who qualify will work in private practice in a solicitor's firm but may work for CPS or local government or in the legal departments of large businesses</li> <li>• Multi disciplinary partnerships/ Alternative Business Structures</li> <li>• Work is likely to involve interviewing clients, advising on a range of legal topics, such as housing, consumer problems and family problems</li> <li>• Much paperwork is likely to be undertaken including writing letters for clients, drawing up wills, drafting contracts and conveyancing</li> <li>• Advocacy in both criminal and civil matters.</li> </ul> <p>Credit will be given for any other details.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>A level 4 response will require a detailed description of the education, training and the work of solicitors.</p> <p>If only the education and training <b>or</b> the work are covered responses cannot access higher than top level 2 / bottom level 3 marks (depending on the quality of the answer). A response which deals with only half the question will have to be very detailed to achieve level 3 marks.</p> <p>Responses which include a diagram of the training are perfectly acceptable and should be marked in the same way as a prose answer taking the level of detail into account.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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2	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Problems of the present system of training include:</p> <ul style="list-style-type: none"> <li>• Difficulty in finding a training contract prevents many from completing their training but there are many other problems</li> <li>• Costs put off many able candidates especially with the scarcity of training contracts as large debts accrue with no guarantee of being able to complete the training</li> <li>• Many newly qualified lawyers have accrued large debts but the ILEX route can overcome this problem and as they are already qualified as a Legal Executive they will probably find it easier to get the training contract</li> <li>• CPE / PGDL may not be seen as a sufficient grounding in law for non-law graduates but is an opportunity for those able candidates who decide late to keep the training more affordable and less time consuming</li> <li>• Choice to become a barrister or solicitor has to be made too early</li> <li>• LPC tries to cover too much in one year but the content has been broadened to cover business skills</li> <li>• Difficulties lead to only those with financial backing being able to qualify, perhaps excluding those who are able but lack financial resources.</li> </ul>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>A level 4 response will require at least one well developed point illustrating a real ability to focus on the question and come to a conclusion.</p> <p>Three well developed points should receive full marks.</p> <p>If there are only developed points and no well developed points then at most top level 3 marks can be achieved.</p> <p>A series of points with no real development can only achieve top level 2 marks.</p> <p>The question is focused on problems but credit should be given for the development of points which mitigate the problems or comment that it can be seen as an advantage by some people.</p> <p>As the issue of costs is so large and diverse it can be credited more than once where several issues are covered.</p>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer	Marks	Guidance										
3	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>A description of the role of the jury in both criminal and civil cases and the process for making decisions.</p> <p><b>Criminal cases</b></p> <ul style="list-style-type: none"> <li>• Only used in approximately one per cent of criminal cases</li> <li>• In the Crown Court the jury decides whether the defendant is guilty or not guilty in serious cases</li> <li>• They listen to the evidence and the summing up by the judge</li> <li>• They decide questions of fact, the judge will advise them on questions of law</li> <li>• At the end of the trial they retire to the jury room to discuss the case in secret and come to a unanimous decision if possible or a majority decision at least 10 – 2 if necessary</li> <li>• They do not have to give any reasons for their decisions.</li> </ul> <p><b>Civil cases</b></p> <ul style="list-style-type: none"> <li>• Very rarely used – only averaging ten or fewer cases per year mainly in defamation cases in the High Court</li> <li>• Jury trial is only available only in four types of case in the High Court or County Court</li> <li>• Defamation, false imprisonment, malicious prosecution and fraud</li> <li>• Only retained for these cases because they deal with character or reputation</li> <li>• Can be refused even in these cases if the judge thinks the evidence is too complicated.</li> <li>• Technically allowed in personal injury cases in the High Court in exceptional circumstances <i>Ward v James (1966)</i> but personal injury cases since that case have not been deemed exceptional so none have had juries.</li> <li>• Dual role in civil cases to decide the verdict and assess damages to be awarded.</li> </ul> <p>Credit reference to the role of the jury in the Coroner's Court but it is not necessary for full marks.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>A level 4 response will require a detailed description of the role of the jury in both criminal and civil cases.</p> <p>If only the criminal <b>or</b> civil role are covered in detail no more than top level 3 marks can be achieved.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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3	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Discuss the arguments for having juries in both civil and criminal cases</p> <ul style="list-style-type: none"> <li>Public confidence in the system – regarded as one of the fundamental indicators of a democratic system “the lamp that shows that freedom lives”</li> <li>They are used for what are regarded as the more important trials in criminal law where a serious crime is involved and in civil cases where a civil wrong has taken place usually where reputation is at stake</li> <li>Traditionally seen as fair but there can be problems with understanding</li> <li>Jury equity – can disagree with a particular law and apply their own idea of fairness as they do not need to give reasons for their decisions <i>Ponting, Owen, Kronlid</i> which can help citizens feel empowered and that justice is seen to be done</li> <li>Allows the ordinary person to take part in the administration of justice</li> <li>Juries are likely to be impartial as they are not connected with anyone involved in the case</li> <li>Lawyers have to explain matters simply and clearly for the jury so the defendant is better able to follow the proceedings and they become more accessible to the public</li> <li>Expensive and so not widely used but this helps to stress the importance of decision making.</li> </ul>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>A level 4 response will require at least one well developed point illustrating a real ability to discuss arguments within the answer that relate to both criminal and civil cases.</p> <p>Three well developed points should receive full marks.</p> <p>If there are only developed points and no well developed points then at most top level 3 marks can be achieved.</p> <p>A series of points with no real development can only achieve a maximum of top level 2 marks.</p> <p>If the points are different but on the same theme eg secrecy of the jury room they should all be credited.</p>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3		
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Question		Answer	Marks	Guidance										
4	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Powers of the police to arrest set out under the Police and Criminal Evidence Act 1984 as amended by the Serious Organised Crime and Police Act 2005 and the Criminal Justice Act 2003 and the Code G:</p> <ul style="list-style-type: none"> <li>• Section 24 PACE as amended by SOCPA 2005 – sets out the power to arrest without warrant If a person has committed an offence or is in the act of committing an offence or is about to commit an offence or there are reasonable grounds for suspecting one of these occurrences (even if no offence is actually committed)</li> <li>• There is a necessity requirement that arrest can only occur for one of the following reasons – to enable the name and address of suspect to be ascertained, to prevent physical injury, loss or damage to property, causing an offence against public decency, obstruction of the highway to allow effective investigation of the offence, protect a vulnerable person or prevent any prosecution being hindered by the disappearance of the person in question</li> <li>• Arrest for breach of the peace (common law power)</li> <li>• Arrest for breaching bail conditions.</li> <li>• Any other power of arrest eg aggravated trespass under the Criminal justice and Public Order Act 1994</li> <li>• Arrest with a warrant</li> <li>• Arrested person may be searched for anything that may help them escape Rights of the individual</li> <li>• The person has the right to be told they are under arrest and the reason for arrest and also the police have to identify themselves to make arrest lawful</li> <li>• Only reasonable force may be used</li> <li>• A caution must be given</li> <li>• The individual has a right to be taken to the police station as soon as practicable.</li> </ul> <p>Credit any further relevant details.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>For level 4 marks it will be expected that the candidate can show good knowledge of the powers of arrest under section 24 PACE including the necessity test, at least one other power of arrest and the rights of the individual during arrest.</p> <p>A level 3 answer is likely to only focus on section 24 PACE as amended.</p> <p>Level 2 marks are likely to be awarded if there is basic understanding but no real detail.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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4	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Fact that the police officer has to identify himself and give a reason for the search protects the individual from random searches illustrated by <i>Osman (1999)</i></li> <li>• Code of Practice A setting out what is not reasonable suspicion should protect individuals from harassment because of their appearance or previous record but reasonable suspicion is still very open ended and easy to justify</li> <li>• It could be said that the rights of the individual are not adequately protected however as stop and search has increased tenfold since 1986</li> <li>• Only 10 – 13% of people stopped are then arrested which implies that many stop and searches are unnecessary</li> <li>• There is some misuse of Section 60 CJPOA to deal with street robbery or other crimes rather than its original purpose of dealing with riots</li> <li>• The individual is protected by the necessity test as they cannot be arrested unless it is necessary, however, the reason to allow effective investigation of the offence can usually be used by the police</li> <li>• There is some protection in the requirement that only reasonable force can be used to carry out an arrest although deadly force may be seen as reasonable in certain situations</li> <li>• The fact that a caution must be given protects the individual to some extent</li> <li>• The fact that the person has to be given the reason for the arrest and a caution is also some protection of their rights</li> <li>• Many people do not know their rights which may make the rights ineffective</li> <li>• Research has shown that ethnic minorities are less likely to be charged after arrest than others which implies that many of these arrests should not have taken place but ethnic monitoring now takes place which should prevent this happening to such an extent.</li> </ul>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>A level 4 response will require at least one well developed point illustrating a real ability to discuss the argument and will deal with both stop and search and arrest.</p> <p>Three well developed points should receive full marks.</p> <p>If there are only developed points and no well developed points then at most top level 3 marks can be achieved.</p> <p>A series of points with no real development can only be achieved top level 2 marks maximum.</p> <p>If only one area is covered then can only be awarded top level 3 marks maximum.</p>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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5	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Role of judges in <b>civil courts</b> at first instance:</p> <ul style="list-style-type: none"> <li>• To ensure the hearing is carried out fairly and preside over the court</li> <li>• To decide questions of law</li> <li>• Decide verdict and award, in small claims help parties put their case</li> <li>• Decisions made by a single judge</li> <li>• Case manager organising the case and keeping parties to strict time limits</li> <li>• Deciding which track is most appropriate, holding preliminary hearings to clarify issues</li> <li>• May also be responsible for running court office.</li> </ul> <p>Role of judges in <b>criminal court</b> at first instance:</p> <ul style="list-style-type: none"> <li>• To ensure the hearing is carried out fairly and preside over the court</li> <li>• To decide questions of law</li> <li>• Magistrates' Court – decide both verdict and sentence and preliminary matters eg bail</li> <li>• Crown Court – sum up for jury, sentence if appropriate.</li> </ul> <p>Credit knowledge of judicial review and the Human Rights Act 1998 but this is not needed for full marks.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>For level 4 marks the response must include a good description of the role of judges in the criminal and in the civil courts.</p> <p>If only one of these areas is covered in detail no more than top level 3 marks can be achieved, if one area is covered superficially a maximum of level 2 marks can be achieved.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question		Answer	Marks	Guidance											
5	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Training is very short consisting of a four day residential course and shadowing an experienced judge for a week</li> <li>• It is short on the basis that those appointed are experienced lawyers and do not need extensive training but the role of a judge is very different from that of either a barrister or a solicitor</li> <li>• Since the Tribunals, Courts and Enforcement Act (2007) there is more diverse range of new judges including government lawyers, tribunal chairs and ILEX Fellows and this needs to be reflected in the training needs</li> <li>• This may be adequate for newly appointed judges from a criminal advocate background but will probably be inadequate for those from any other background</li> <li>• The focus on preparing judges to deal with cases in the Crown Court so it is inadequate for those who will be working in the civil courts as there is no specific training in case management or deciding damages.</li> </ul> <p>Credit a comparison with the European practice of having a career judiciary Credit any other reasoned arguments.</p>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>A level 4 response will require at least one well developed point illustrating a real ability to discuss both sides of the argument.</p> <p>Three well developed points should receive full marks.</p> <p>If there are only developed points and no well developed points then at most top Level 3 marks may be achieved.</p> <p>A series of points with no real development can only achieve top level 2 marks maximum.</p>		AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer	Marks	Guidance										
6	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Under the Criminal Justice Act 2003 and the Crime and Disorder Act 1998</p> <p>Custodial sentences available for <b>adults</b>:</p> <ul style="list-style-type: none"> <li>• Mandatory life sentences – only sentence available for murder if over 18 years old. Minimum term to be served before release on licence ranges from whole life to 15 years. Tariff set out in CJA (2003)</li> <li>• Discretionary life sentences available for other serious offences but the judge has discretion in imposing a lesser sentence if it is more appropriate</li> <li>• Fixed term sentences automatic release after half sentence is served. Only available if over 21 years old</li> <li>• Home Detention Curfew – early release from prison on a curfew</li> <li>• Indeterminate sentences for dangerous offenders for public protection</li> <li>• Extended sentences – custodial sentence up to the maximum for the crime followed by an extension period on licence</li> <li>• Minimum sentences for dealing in Class A drugs or a third burglary of a residential building</li> <li>• Suspended sentence of 28 – 51 weeks suspended for up to two years – sentence only has to be served if the offender commits further offences.</li> </ul> <p>Custodial sentences available for <b>young offenders</b>:</p> <ul style="list-style-type: none"> <li>• Detention at Her Majesty’s Pleasure for murder if offender is 10 – 17 years old. An indeterminate sentence the judge will recommend a minimum term</li> <li>• Young Offenders Institutions for offenders aged 18 – 20. Minimum 21days – maximum for the offence: <ul style="list-style-type: none"> <li>- Transferred to adult prison if reaches 21</li> <li>- Detention and training orders for offenders aged 12 – 17 only for persistent offenders if aged under 15 years old for 4 months – 24 months</li> </ul> </li> <li>• Detention for serious crimes available for very serious crimes allowing a young person to be detained for longer – up to the maximum for the offence.</li> </ul> <p>Credit any further relevant details.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>A description of custodial sentences available for <b>both</b> adults and young offenders is required for level 4 marks.</p> <p>A detailed description of only adult custodial sentences could achieve the top of level 3 as there are many more of those than for young offenders.</p> <p>If only young offenders are considered a response cannot achieve above top level 2 marks maximum.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question		Answer	Marks	Guidance										
6	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>As Bryn is 17–years–old only the sentences available for young offenders will be available to the court</li> <li>He has entered a not guilty plea so would not receive any discount for a guilty plea</li> <li>He is a young offender so one of the factors the court would use would be the possibility of rehabilitating him.</li> <li>Robbery is a serious violent offence. This is an aggravating factor and the public may need protecting from him</li> <li>He is a repeat offender having been convicted of theft on several previous occasions which is an aggravating factor so deterring him from future crime may also be a consideration</li> <li>As previous sentences of fines and community orders have not deterred him from committing further offences a custodial sentence may be considered – a detention and training order or if the robbery was very serious he could be given detention for serious crimes and a longer sentence. An unpaid work requirement could also be considered.</li> </ul> <p>Credit any other reasonable sentence Credit any other reasoned application to the scenario.</p>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>If there is no application but relevant points have been identified then a maximum of top level 2 marks can be achieved as the criteria for level 3 will not have been met.</p> <p>“Bryn” or “he” or “D” needs to be mentioned to get out of level 2 as this is an application question. A sentence must be suggested to access level 4 marks</p> <p>The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total:</p> <ol style="list-style-type: none"> <li>1) Young offender</li> <li>2) Plea of not guilty</li> <li>3) Serious violent offence</li> <li>4) Repeat offender</li> <li>5) Previous sentences</li> <li>6) Suggest sentence</li> </ol>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer	Marks	Guidance										
7	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Appeal routes from the Crown Court.</p> <p><b>Appeals to the Court of Appeal</b></p> <ul style="list-style-type: none"> <li>Defendant may appeal against conviction, sentence if unduly harsh or both to the Court of Appeal (Criminal Division). Leave to appeal must be granted either by the trial judge or from the Court of Appeal itself</li> <li>Only ground for allowing an appeal against conviction is that the conviction is unsafe and the Court of Appeal may order a retrial or quash the conviction if it allows the defendant's appeal</li> <li>When hearing an appeal the Court of Appeal in the interests of justice may admit new evidence</li> <li>Criminal Cases Review Commission may refer cases back to the Court of Appeal after all routes of appeal have been exhausted if there is evidence of a miscarriage of justice.</li> </ul> <p><b>Appeals by the prosecution</b></p> <ul style="list-style-type: none"> <li>The prosecution may ask the Attorney-General to seek leave from the Court of Appeal to consider an unduly lenient sentence</li> <li>Attorney-General may refer a point of law to the Court of Appeal if the prosecution is concerned about an acquittal – this will merely settle the law on that point it will not affect the acquittal</li> <li>If there is evidence of jury tampering the prosecution may apply to the High Court for the acquittal to be set aside and a retrial ordered</li> <li>Criminal Justice Act 2003 abolished double jeopardy rule so that the Director of Public Prosecutions may apply to the Court of Appeal to overturn an acquittal and order a retrial if there is new and compelling evidence</li> <li>The prosecution may appeal against a ruling on law made by a judge in a Crown Court trial.</li> </ul> <p><b>Appeals to the Supreme Court</b></p> <ul style="list-style-type: none"> <li>Both the prosecution and the defence have the right to appeal from the Court of Appeal (Criminal Division) to the Supreme Court, the Court of Appeal have to certify that it involves a point of law of public importance and either the Court of Appeal or the Supreme Court must give permission to appeal</li> <li>Very few cases are appealed to the Supreme Court.</li> </ul> <p>Credit any further details.</p>	18	<table border="1"> <thead> <tr> <th>AO1 Level</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>15–18</td> </tr> <tr> <td>3</td> <td>11–14</td> </tr> <tr> <td>2</td> <td>6–10</td> </tr> <tr> <td>1</td> <td>1–5</td> </tr> </tbody> </table> <p>Appeal routes by both the defence and the prosecution and details of appeals against conviction and sentence in all relevant courts must be described to achieve level 4 marks.</p> <p>A fully annotated diagram is acceptable as a way of answering the question and if the level of detail warrants it can achieve full marks.</p> <p>If only defence or prosecution appeals are covered then level 2/3 marks may be achieved.</p>	AO1 Level	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question		Answer	Marks	Guidance										
7	(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>Identify that Lucas has a right of appeal against conviction to the Crown Court as he pleaded not guilty to the original offence</li> <li>It is an automatic right as it is from the Magistrates' Court, he does not need permission</li> <li>Lucas can bring up the misapplication of the law of theft in the appeal as it is a complete rehearing</li> <li>As it is a point of law Lucas could appeal by way of case stated to the Queen's Bench Divisional Court</li> <li>This is not an automatic right. This will require leave</li> <li>Lucas also has an automatic right to appeal against his sentence but needs to consider that the sentence can be increased as well as decreased.</li> <li>Lucas could possible appeal to the UK Supreme Court on a point of law of public importance. This is extremely unlikely and he would need leave</li> </ul>	9	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>8–9</td> </tr> <tr> <td>3</td> <td>6–7</td> </tr> <tr> <td>2</td> <td>4–5</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </tbody> </table> <p>If there is no application but relevant points have been identified then a maximum of top level 2 marks can be achieved as the criteria for level 3 will not have been met.</p> <p>“Lucas” or “he” or “D” needs to be mentioned to access level 2 as this is an application question.</p> <p>The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total:</p> <ol style="list-style-type: none"> <li>1) Previously pleaded not guilty</li> <li>2) Automatic right to appeal to CC</li> <li>3) Misapplication of the law</li> <li>4) Case stated appeal to QBD</li> <li>5) Right to appeal against sentence</li> <li>6) Possible further appeal to the UKSC but this is extremely unlikely</li> </ol>	AO2 Level	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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### Advanced Subsidiary GCE Law Levels of Assessment

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course. Similarly, there are **three** levels of assessment of AO3 in the AS units.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation of relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform <b>or</b> identify most of the relevant points of law in issue. Ability to develop clear arguments <b>or</b> apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question <b>or</b> identify the main points of law in issue. Ability to develop arguments <b>or</b> apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question <b>or</b> identify some of the points of law in issue. A limited ability to produce arguments based on their material <b>or</b> limited ability to apply points of law to a given factual situation, but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

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