

# **OCR ADVANCED SUBSIDIARY GCE IN LAW (3839)**

## **OCR ADVANCED GCE IN LAW (7839)**

### **Revised Specimen Question Papers and Mark Schemes For use from June 2003 onwards**

These specimen assessment materials are designed to accompany the OCR Advanced Subsidiary GCE and Advanced GCE specifications in Law. They have been revised to take account of the QCA Review of Curriculum 2000 and relate to Advanced Subsidiary units to be taken from June 2003 onwards.

Centres are permitted to copy material from this booklet for their own internal use.

The specimen assessment material accompanying the revised specifications is provided to give Centres a reasonable idea of the general shape and character of the planned question papers in advance of the first operational examination.

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**Advanced Subsidiary GCE**

**LAW**

**MACHINERY OF JUSTICE**

**2568**

**Specimen Paper**

Additional materials:  
Answer paper

**TIME** 1 hour

**INSTRUCTIONS TO CANDIDATES**

Write your name, Centre number and candidate number in the spaces provided on the answer booklet.

Write all your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

Answer **three** questions; **two** from Section A and **one** from Section B.

**INFORMATION FOR CANDIDATES**

The number of marks is given in brackets [ ] at the end of each question or part question.

You will be awarded marks for the quality of written communication where an answer requires a piece of extended writing.

Answer **THREE** questions; **two** from Section A and **one** from Section B.

### SECTION A

1. Briefly describe both (i) the three track system of civil justice; and (ii) the procedure under Article 234 for making references to the European Court of Justice. **[20 marks]**
2. Police officers on patrol believe that a man that they see, Shane, is a suspect wanted for burglary. Outline the powers of the police to stop and search and if necessary to arrest the man. **[20 marks]**
3. Explain the different appeal routes available to both defence and prosecution in the case of a charge of theft. **[20 marks]**
4. Describe the sentences available to a court when sentencing a young offender **[20 marks]**

### SECTION B

5. Discuss the advantages and disadvantages of using Alternative Dispute Resolution (ADR) rather than using the courts to resolve civil disputes. **[20 marks]**
6. Shane has been arrested by police and taken to the police station. Discuss the extent of any protections he enjoys while at the police station. **[20 marks]**
7. Discuss the aims of sentencing and consider other factors the criminal courts will use to reach an appropriate sentence. **[20 marks]**

**Oxford Cambridge and RSA Examinations**



**Advanced Subsidiary GCE**

**LAW**

**MACHINERY OF JUSTICE**

**2568**

**Mark Scheme**

## GENERAL MARKING GUIDELINES

### Please note:

- 1 All mark schemes are to be used in conjunction with the appropriate assessment matrix.
- 2 Marking must be positive. Candidates should not be penalised for errors or inaccuracies.
- 3 All answers should be written in continuous prose. Quality of written communication will be assessed through Assessment Objective 3. This will take account of organisation and presentation, as well as grammar, punctuation and spelling, including the accurate use of legal terminology.
- 4 Examiners are reminded it is good assessment practice to use the whole mark range in order to differentiate between candidates of different ability. Full marks should be awarded for responses which are the best that can reasonably be expected of an AS candidate who has completed one year of study and is writing in controlled examination conditions.
- 5 When using this mark scheme the points made in the scheme are merely those which 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.
- 6 Overall marks should be allocated among the assessment objectives as follows. Questions from Section A focus entirely on AO1 material; questions from Section B focus entirely on AO2 material; AO3 marks are equally distributed between all three questions.

Assessment Objective 1	36 marks
Assessment Objective 2	18 marks
Assessment Objective 3	6 marks

## SECTION A

1. Briefly describe both (i) the three track system of civil justice; and (ii) the procedure under Article 234 for making references to the European Court of Justice. [20 marks]

### Mark levels

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

### Assessment Objective 1

In the case of (i):

- Identify that there are two main civil trial courts – the County Court and the High Court;
- Explain the significance of case management under the new Civil Procedure Rules and the use of the Allocation Questionnaire;
- Explain the three tracks and how it is decided which court the case should be heard in:
  - Small claims track in County Court – for damages up to £5,000 or £1,000 for personal injury
  - Fast track for cases between £5,000 and £15,000 – County Court
  - Multi-track for cases over £15,000 or those involving complex points of law – County Court or High Court depending on value and complexity;
- Explain also that the County Court has unlimited jurisdiction in contract and tort claims while the High Court’s jurisdiction is now limited to claims over £15,000, personal injury over £50,000, and specialist claims required to be heard in the High Court.

In the case of (ii):

- Identify that the A234 reference procedure is for preliminary rulings on questions of EC law for member states to apply to the case in question;
- Explain that references can be either discretionary – from any court where the facts are settled and the ruling will enable them to give judgment in the case – or mandatory - where the court in the case will be the final court to hear the case;
- Identify the criteria for making references either from *CILFIT* or from *Bulmer v Bollinger*;
- Use any relevant case in illustration of the reference procedure.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

2. **Police officers on patrol believe that a man that they see, Shane, is a suspect wanted for burglary. Outline the powers of the police to stop and search and if necessary to arrest the man.** [20 marks]

### Mark levels

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

### Assessment Objective 1

- Identify that the rules on stop and search and arrest are generally to be found in PACE;
- Explain the rights of a police officer to stop and search under s1-7 of PACE with guidance in Code A of the Codes of Practice:
  - Can stop and search in a public place anyone they have reasonable suspicion is carrying prohibited articles e.g. weapons, drugs, items to carry out a crime, or stolen goods
  - Police officer must identify him/herself and give name, station and also explain the reason for the stop and search
  - Can only require removal of limited outer clothing e.g. coat, jacket, gloves – but not hat;
- Identify other statutes that give power to stop and search e.g. Misuse of Drugs Act, Prevention of Terrorism Act, Criminal Justice and Public Order Act;
- Explain the rights of a police officer to arrest:
  - Arrest under s24 PACE – arrest for an arrestable offence
  - Define arrestable offence – one carrying fixed sentence, or sentence of over 5 years, or identified by statute as arrestable offence
  - Identify when the arrest can occur – reasonable suspicion that an arrestable offence has been committed, is being committed, or will be committed;
- Arrest under s25 PACE:
  - General arrest conditions
  - Available if no name or address given or that given is suspected of being false, or to prevent injury to the suspect or others or damage to property or to protect a vulnerable person;
- Credit arrest for other purposes as well as arrest under warrant.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.



**3. Explain the different appeal routes available to both defence and prosecution in the case of a charge of theft. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

**Assessment Objective 1**

- Identify that theft is an offence triable either way, and that, therefore, the trial could take place in either the Magistrates' Court or the Crown Court;
- Explain the various appeal routes from the Magistrates' Court:
  - Against conviction (not guilty plea only) or sentence to the Crown Court on a rehearing (defendant) – credit can be given to mentioning that the appeal is in front of a judge and magistrates
  - On a point of law on an appeal by way of case stated to the Queen's Bench Divisional Court (defendant and prosecution);
- Explain that both of these are available as of right;
- Identify also the further appeal to the House of Lords where a point of law of general public importance is certified;
- Explain the routes of appeal from Crown Court:
  - To the Court of Appeal (Criminal Division) against sentence or conviction (not guilty plea only) with leave only (defendant)
  - No actual right of appeal to the prosecution – but Attorney-General's references and appeals against over lenient sentences are possible
  - Identify the further right of appeal to the House of Lords where a point of law of general public importance is certified;
- Credit can also be given to mention of venire de novo.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**4. Describe the sentences available to a court when sentencing a young offender. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

**Assessment Objective 1**

- Explain the availability of sentences to the court under the Powers of the Criminal Courts (Sentencing) Act 2000;
- Explain and give brief descriptions of a range of sentences including any of the following:
  - Detention and training order
  - Community Punishment order (Community Service order)
  - Community Rehabilitation order (Probation)
  - Community Punishment and Rehabilitation order (Combination order)
  - Attendance Centre order
  - Supervision order
  - Action Plan order
  - Curfew order with or without electronic tagging
  - Reparation order
  - Fine up to maximum for age
  - Absolute or Conditional Discharges;
- Explain that young offenders cannot be placed in adult prisons but can be detained for long periods depending on the seriousness of the crime, including Detention at Her Majesty's Pleasure (the equivalent of a life sentence for an adult offender);
- Identify that, while not strictly sentences, young offenders can be the subjects of reprimands and warnings.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

## SECTION B

5. Discuss the advantages and disadvantages of using Alternative Dispute Resolution (ADR) rather than using the courts to resolve civil disputes. [20 marks]

### Mark levels

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

### Assessment Objective 2

- Briefly identify the various methods of ADR:
  - Negotiation
  - Mediation
  - Conciliation
  - Arbitration;
- Discuss the various disadvantages associated with resolving disputes through the courts:
  - Cost
  - Delay
  - Formal and intimidating procedures;
- Consider the possible advantages of using ADR instead:
  - The relative cheapness, speed, and informality of most of the procedures
  - The availability of specific expertise in the area of the claim as in arbitration
  - The privacy of the proceedings
  - The chance to have hearings at a time and place of the parties' choosing
  - The avoidance of adversarial process
  - The chance to resolve the dispute on an amicable basis;
- Consider any disadvantages:
  - Dependency on co-operation of the parties in the case of mediation and negotiation
  - The lack of an enforceable solution in these processes
  - The lack of proper appeal routes;
- Consider also the fact that the new Civil Procedure Rules actively encourage use of ADR.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**6. Shane has been arrested by police and taken to the police station. Discuss the extent of any protections he enjoys while at the police station. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

**Assessment Objective 2**

- Identify that protections of people detained at police stations are to be found in PACE and the Codes of Practice;
- Identify that there are rules on periods of detention – normally 24 hours with additional extensions first by a superintendent and later by Magistrates;
- Identify that there are also strict rules regarding the searching of detainees;
- Identify that there are also strict rules in respect of interviewing – including the requirement for tape recording, for regular breaks etc and that by s76 PACE any evidence gained by ‘oppression’ can be disregarded by the courts;
- Explain the role of the Custody Officer – to explain the detainee’s rights first of all, and to ensure throughout that there are sufficient grounds to hold the detainee, and to record all details of the detention from start to finish;
- Discuss the basic rights of the detainee at the commencement of detention – not to be held incognito (s56 PACE), the right to legal advice (s58 PACE), the right to see the Codes of Practice – and comment on the requirement of publicity;
- Consider that there are additional rights in respect of vulnerable detainees;
- Comment on the effectiveness of the duty solicitor scheme;
- Comment on the problem of accuracy of custody records;
- Comment on whether the police sufficiently bring these rights to detainees’ attention;
- Comment on the chances of succeeding in claiming that evidence was attained by oppression, and the other avenues available to challenge the oppressive behaviour.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**7. Discuss the aims of sentencing and consider other factors the criminal courts will use to reach an appropriate sentence. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points. Candidates may be rewarded for either breadth or depth.

**Assessment Objective 2**

- Distinguish between retributive theories of punishment and utilitarian theories of punishment, and also between tariff sentencing and individualised sentencing;
- Discuss the various aims of sentencing:
  - Retribution – punishes and aims to make the punishment fit the crime, society can take satisfaction in revenge against the offender but achieves little else
  - Deterrence – aimed at preventing either the offender (individual) cease offending, or to make an example so as to make society as a whole afraid to offend – but recidivism rates show it is ineffective, and making an example of an offender is basically unfair and can lead to inconsistency in sentencing
  - Denunciation – harsh sentences show society’s disapproval – but same criticisms as above may apply
  - Incapacitation – sometimes there is no sensible choice but to protect the public from the offender
  - Reparation – pays back the victim or society - not always possible depending on financial circumstances of offender
  - Reform/rehabilitation – sometimes seen as the soft option but is trying to achieve some long term objective;
- Consider the other factors that the court may take into account:
  - Aggravating factors such as previous convictions, violence in the crime, the seriousness of the individual offence will all lead potentially to harsher sentencing
  - Mitigating factors such as first offender, personal circumstances and background identified in reports, and early guilty pleas will all lead to more lenient sentencing;
- Consider the problems that the courts may have in balancing the various aims.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**Advanced Subsidiary GCE in LAW Levels of Assessment**

Level	Assessment Objectives		
	AO1	AO2	AO3
<b>4</b>	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Candidates will be able to elaborate by good citation to 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.	Ability to present relevant material in a planned and logical sequence, using appropriate legal terminology accurately. There will be few, if any, errors of grammar, punctuation and spelling.
<b>3</b>	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. 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.	Ability to present relevant material in a structured manner, using appropriate legal terminology reasonably accurately. There may be some errors of grammar, punctuation and spelling.
<b>2</b>	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles 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 the 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.	Limited ability to organise relevant material, using some appropriate legal terminology. There may be noticeable errors of grammar, punctuation and spelling.
<b>1</b>	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 <b>or</b> identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	Ability to communicate at least one point using some appropriate legal terminology. Errors of grammar, punctuation and spelling may be noticeable and intrusive.

**Oxford Cambridge and RSA Examinations**

**Advanced Subsidiary GCE**

**LAW**

**LEGAL PERSONNEL**

**2569**

**Specimen Paper**

Additional materials:  
Answer paper

**TIME** 1 hour

**INSTRUCTIONS TO CANDIDATES**

Write your name, Centre number and candidate number in the spaces provided on the answer booklet.

Write all your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

Answer **three** questions; **two** from Section A and **one** from Section B.

**INFORMATION FOR CANDIDATES**

The number of marks is given in brackets [ ] at the end of each question or part question.

You will be awarded marks for the quality of written communication where an answer requires a piece of extended writing.

Answer **THREE** questions; **two** from Section A and **one** from Section B.

### SECTION A

1. Describe and explain the training and work of solicitors. [20 marks]
2. Explain the role of magistrates in both civil and criminal cases. [20 marks]
3. Identify the different types of legal advice available for both civil and criminal law issues. [20 marks]
4. Explain the selection and appointment of the different types of judges and identify in which courts they each sit [20 marks]

### SECTION B

5. Consider how appropriate it is that the Lord Chancellor has so many different roles. [20 marks]
6. Discuss the advantages and disadvantages of using juries to decide both criminal and civil cases. [20 marks]
7. Discuss the various criticisms that can be made of public and private funding of civil cases. [20 marks]



**Oxford Cambridge and RSA Examinations**

**Advanced Subsidiary GCE**

**LAW**

**LEGAL PERSONNEL**

**2569**

**Mark Scheme**

## GENERAL MARKING GUIDELINES

### Please note:

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- 5 When using this mark scheme the points made in the scheme are merely those which 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.
- 6 Overall marks should be allocated among the assessment objectives as follows. Questions from Section A focus entirely on AO1 material; questions from Section B focus entirely on AO2 material; AO3 marks are equally distributed between all three questions.

Assessment Objective 1	36 marks
Assessment Objective 2	18 marks
Assessment Objective 3	6 marks

## SECTION A

### 1. Describe and explain the training and work of solicitors.

[20 marks]

#### Mark levels

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

#### Assessment Objective 1

- Explain the three stage route for qualifying as a solicitor:
  - Academic stage – law degree (3 years) or a non-law degree plus CPE (1 year)
  - Vocational stage – Legal Practice Course (1 year) – focuses on skills
  - Professional stage – training contract;
- Identify also the possibility of qualifying as a non-graduate through the ILEX route;
- Explain also that solicitors are not entered on the roll until they have completed their training contracts;
- Demonstrate knowledge of the types of work undertaken by solicitors, including:
  - Conveyancing
  - Drafting wills and probate
  - Family and domestic
  - Litigation
  - Drafting contracts
  - Criminal
  - Commercial
  - General advice
  - Advocacy in lower courts or in higher courts with appropriate qualification.

#### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**2. Explain the role of magistrates in both civil and criminal cases.**

**[20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

**Assessment Objective 1**

- Explain that magistrates can be either lay (amateurs) or District Judges (Magistrates Courts) (professionals);
- Identify the role of magistrates in criminal cases, including:
  - Decide on bail
  - Conduct plea before venue and mode of trial hearings and transfer for trial
  - Commit cases to Crown Court for sentence
  - In summary trial decide verdict where defendant pleads not guilty
  - Decide sentence where defendant either pleads or is found guilty
  - Issue warrants for arrest and/or searches
  - Approve further detention of detainees at police station
  - Conduct Youth Courts if appropriately qualified;
- Candidates will also be rewarded for knowledge of changes proposed in the Auld Report;
- Identify the role of magistrates dealing with civil cases:
  - Family Proceedings Court sits also in the Magistrates Court
  - Magistrates can sit also as Licensing Justices hearing applications for liquor and entertainment licenses
  - Magistrates also hear actions for civil debts involving the old public utilities e.g. Council Tax, charges for water, gas, and electricity authorities.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**3. Identify the different types of legal advice available for both civil and criminal law issues.**  
**[20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

**Assessment Objective 1**

- Explain the following as potential sources of advice in civil cases:
  - Privately funded solicitors
  - Publicly funded solicitors funded by the Community Legal Service
  - Fixed fee interviews
  - ALAS scheme
  - Citizens Advice Bureaux – staffed by some professionals and volunteers
  - Law Centres – only in big cities and poorly funded – usually specialize in welfare type areas, housing law etc.
  - Claims management companies – advise initially but pass claims on to solicitors dealing with no win no fee personal injury claims
  - Law school pro bono advice clinics
  - Internet sites (including the Community Service Website) – some offering individual advice
  - Specialist bodies e.g. Trade Unions, AA & RAC
  - Consumer organisations;
- Explain the following as potential sources of advice in criminal cases:
  - Duty solicitor scheme at police stations – available free of charge
  - Duty solicitors in Magistrates Courts
  - Privately funded solicitor.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**4. Explain the selection and appointment of the different types of judges and identify in which courts they each sit. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

**Assessment Objective 1**

- Identify the following judges, the way they are appointed, and the courts they usually sit in:
  - Lords of Appeal in Ordinary (Law Lords) - selected by PM on advice of LC, appointed (invitation only) by Queen, - require 15 year advocacy rights or have held high judicial office, sit in HL
  - Lord Justices of Appeal - selected as above (invitation only), 10 year qualification or High Court Judge, sit in CA
  - Puisne judges (High Court Judges) - selected by LC and appointed by Queen (by invitation or application), 10 year advocacy or years as Circuit Judge, sit in High Court and in Crown Court
  - Circuit Judge - selected by LC, appointed by Queen (application), 10 year advocacy, 3 years as Recorder etc.
  - Recorder - selected by LC, appointed by Queen - 10 year Advocacy
  - District Judge - selected by LC, appointed by Queen, 7 years, sit in County Court
  - District Judge (Magistrates' Court) - sit singly in Magistrates' Courts in place of a Bench of lay magistrates

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

## SECTION B

5. Consider how appropriate it is that the Lord Chancellor has so many different roles.

[20 marks]

### Mark levels

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 2

- Discuss the fact that there are too many roles e.g.:
  - Appointment of judges, (and can dismiss some) and can sit as a judge in HL
  - Cabinet Minister and part of Government
  - Speaker in HL and can partake in debate and vote
  - Oversees legal funding, training of lawyers and judges, courts, and tribunals, Land Registry, Public Records Office, Law Commission etc.
  - In charge of the magistracy;
- Identify that these various roles means that LC is part of all three arms of the state – so conflicts with doctrine of separation of powers;
- Discuss the problems that this can cause:
  - Can mean judiciary is subject to political control – and judicial independence threatened
  - Could lead to potential bias in the courtroom
  - Impossible for LC to be impartial in his role as Speaker of HL
  - Political appointment means LC is answerable to PM
  - Too much work and too many roles for efficiency
  - Too much power concentrated in one department e.g. changes in Access to Justice Act
  - Potential for corruption e.g. relationship between Lord Irvine and the Blairs, ‘cash for wigs scandal’.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

**6. Discuss the advantages and disadvantages of using juries to decide both criminal and civil cases. [20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

**Assessment Objective 2**

- Identify that juries are used for trials on indictment in the Crown Court, and sit as a panel of 12 providing lay involvement in criminal justice;
- Consider the advantages of using juries in criminal cases:
  - Public confidence in the system
  - Justice seen to be done
  - Public participation – trial by one’s peers
  - Accountability of the legal system
  - Secrecy of the jury system
  - Constitutional right of defendants
  - Chance for ‘jury equity’;
- Consider the disadvantages:
  - Possibility of bias
  - Lack of expertise
  - No way of knowing how a decision is reached
  - The small pool of available jurors after disqualification, excusal, and ineligibility
  - Perverse verdicts
  - Media influence
  - Susceptibility to persuasion
  - Chance of jury nobbling;
- Comment on the high acquittal rates;
- Identify that civil juries sit in High Court, in 12’s and County Court in 8’s to hear defamation, malicious prosecution, false imprisonment and fraud providing limited lay involvement in civil justice;
- Add any advantages or disadvantages specific to civil juries:
  - Bias against the press in defamation actions
  - High awards of damages in defamation cases
  - Lack of expertise for complex fraud trials.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.



**1. Discuss the various criticisms that can be made of public and private funding of civil cases.**  
**[20 marks]**

**Mark levels**

Level 4	16-20
Level 3	11-15
Level 2	6-10
Level 1	1-5

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

**Assessment Objective 2**

- Identify methods of funding in civil cases: privately funded solicitors, public funding through the Community Legal Service, conditional fee arrangements for personal injury claims;
- Discuss possible criticisms;
- Private funding:
  - Cost of private funding
  - problem of paying other side's costs if losing case
  - impossible to predict final cost in multi-track actions;
- Public funding:
  - Capping of Community Legal Fund
  - no guarantee of funding
  - eligibility criteria for public funding is very restrictive
  - limited number of solicitors' firms working within public funding;
- CFA's:
  - Uncertainties surrounding CFA's
  - solicitors unprepared to take all but certain cases
  - pressure to settle early and for low amounts
  - need to pay insurance premiums.

**Assessment Objective 3**

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

## Advanced Subsidiary GCE in LAW Levels of Assessment

Level	Assessment Objectives		
	AO1	AO2	AO3
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Candidates will be able to elaborate by good citation to 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.	Ability to present relevant material in a planned and logical sequence, using appropriate legal terminology accurately. There will be few, if any, errors of grammar, punctuation and spelling.
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. 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.	Ability to present relevant material in a structured manner, using appropriate legal terminology reasonably accurately. There may be some errors of grammar, punctuation and spelling.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles 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 the 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.	Limited ability to organise relevant material, using some appropriate legal terminology. There may be noticeable errors of grammar, punctuation and spelling.
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 <b>or</b> identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	Ability to communicate at least one point using some appropriate legal terminology. Errors of grammar, punctuation and spelling may be noticeable and intrusive.

**Advanced Subsidiary GCE**

**LAW**

**SOURCES OF LAW**

**2570**

**Specimen Paper**

Additional materials:  
Answer paper

**TIME** 1 hour

**INSTRUCTIONS TO CANDIDATES**

Write your name, Centre number and candidate number in the spaces provided on the answer booklet.

Write all your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

Answer **one** question.

**INFORMATION FOR CANDIDATES**

The number of marks is given in brackets [ ] at the end of each question or part question.

You will be awarded marks for the quality of written communication where an answer requires a piece of extended writing.

Answer *one* question, either Question 1 or Question 2.

1. Read the source material below and answer questions (a) to (c) which follow.

### Exercise on Judicial Precedent

#### SOURCE A

Their Lordships ... recognise that too rigid adherence to precedent may lead to injustice in a particular case and also unduly restrict the proper development of the law. They propose, therefore, to modify their present practice and, while treating former decisions of this House as normally binding, to depart from previous decisions when it appears right to do so.

In this connection they will bear in mind ... the especial need for certainty in the criminal law. 5  
This announcement is not intended to affect the use of precedent elsewhere than in this House.

Extract adapted from *The House of Lords Practice Statement 1966*

#### SOURCE B

*Elliott v C (1983)*

C, a 14 year old and somewhat backward girl spent an evening with a friend and, being unable to stay there the night decided to sleep in a shed. Finding some white spirit and matches she poured the spirit on the floor and set light to it, destroying the shed as a result when the fire got out of hand. The girl claimed that she had no idea that such damage would result. 10

Magistrates acquitted her under s1(1) Criminal Damage Act 1971 of 'recklessly' damaging property because of her age and lack of understanding. The prosecution then made a successful appeal by way of case stated to the Queen's Bench Divisional Court. This court applied the definition of recklessness given by Lord Diplock in the House of Lords in *Caldwell* [1981]. Lord Justice Goff in the Queen's Bench Divisional Court accepted that he was bound to apply the precedent from *Caldwell* to the case, but felt very unhappy about having to do so in the circumstances of the present case which he felt would be unfair on the girl. 15

In his judgment Lord Justice Goff said: "In my opinion, although of course the courts of this country are bound by the doctrine of precedent, sensibly interpreted, nevertheless it would be irresponsible for judges to act as automatons [like robots], rigidly applying authorities without regard to consequences. Where a judge is compelled to reach a conclusion he senses to be unjust or inappropriate, he is under a duty to examine the precedent with scrupulous care to ascertain whether he can, within the limits imposed by the doctrine of precedent legitimately interpret or qualify the principle in the precedent to achieve the result which he sees as just or appropriate in the particular case." 25

Extract adapted from the judgment in *Elliott v C* [1983]

Answer **ALL** parts

1. (a) Using the Sources and other cases, briefly explain and illustrate the 1966 Practice Statement. [15]
- (b) In a 2002 case of criminal damage an eleven year old boy has thrown down a lighted firework in a shop and this has caused a fire destroying the shop. In each of the following situations consider whether the judges in the case should consider themselves bound by the precedents in *Caldwell and Elliott v C*:
- (i) The judge in the Queen’s Bench Divisional Court feels that it would be unfair to convict the boy.
- (ii) All three judges in the Court of Appeal feel that it would be unfair to convict the boy.
- (iii) Three out of five House of Lords judges consider that it would be unfair to convict the boy. [15]
- (c) In Source B, Lord Justice Goff suggests that judges should not “*act as automatons* [like robots], *rigidly applying authorities without regard to consequences*”. Using the sources and cases explain and comment on the ways in which a judge can avoid rigidly applying precedent. [30]

**[Total: 60 marks]**

2. Read the source material below and answer parts (a) to (c) which follow.

### Exercise on Statutory Interpretation

#### SOURCE A

A knife was displayed in a shop window with a price ticket attached to it. The shopkeeper was charged with offering for sale a flick knife contrary to s1(1) of the Restriction of Offensive Weapons Act 1959 which provides:

‘Any person who manufactures, sells or hires or offers for sale or hire, or lends or to any other person –

5

(a) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a ‘flick knife’ ... shall be guilty of an offence.

The court had to decide whether the shopkeeper was guilty of ‘offering the knife for sale’ (he had not actually sold any). Applying the literal rule to the facts of the case, the court held that the display of the knife in the shop window was not ‘offering for sale’ – merely an invitation to treat. Hence the shopkeeper was not guilty of the offence.

10

*Fisher v Bell* [1960] 1 QB 394

#### SOURCE B

‘Some may say ... that judges should not pay attention to what is said in Parliament. They should grope around in the dark for the meaning of an Act without switching on the light. I do not agree with this view.’

Adapted from the judgment of Lord Denning in *Davis v Johnson* [1979] AC 264

Answer **ALL** parts

2. (a) Source B refers to Lord Denning's dissatisfaction with the ban on the use of the external aid Hansard prior to 1993. Explain what Hansard is and the circumstances in which courts may make a reference to it. **[15]**
- (b) Read Source A lines 4 – 9. Using your knowledge of statutory interpretation consider whether any of the following *'sells or hires or offers for sale or hire or gives to any other person – any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife'* and therefore commits an offence under s1(1) of the Restriction of Offensive Weapons Act 1959:
- (i) Jane, a youth worker, confiscates a flick knife from a member of her youth club and gives it to her supervisor.
- (ii) Tony, an antique dealer, displays an old military knife with a spring opening device in his shop window with a price ticket attached to it.
- (iii) Fola buys a 'job lot' box of kitchen utensils from a car boot sale. Without examining the contents closely she donates the box to a charity shop. The box is found to contain a flick knife. **[15]**
- (c) With reference to Source A and other cases consider the problems that can be created by using the literal rule of interpretation and any advantages to be gained by using the modern purposive approach. **[30]**

**[Total: 60 marks]**





**Oxford Cambridge and RSA Examinations**



**Advanced Subsidiary GCE**

**LAW**

**SOURCES OF LAW**

**2570**

**Mark Scheme**

## GENERAL MARKING GUIDELINES

### Please note:

- 1 All mark schemes are to be used in conjunction with the appropriate assessment matrix.
- 2 Marking must be positive. Candidates should not be penalised for errors or inaccuracies.
- 3 All answers should be written in continuous prose. Quality of written communication will be assessed through Assessment Objective 3. This will take account of organisation and presentation, as well as grammar, punctuation and spelling, including the accurate use of legal terminology.
- 4 Examiners are reminded it is good assessment practice to use the whole mark range in order to differentiate between candidates of different ability. Full marks should be awarded for responses which are the best that can reasonably be expected of an AS candidate who has completed one year of study and is writing in controlled examination conditions.
- 5 When using this mark scheme the points made in the scheme are merely those which 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.
- 6 Overall marks should be allocated among the assessment objectives as follows. Question (a) focuses entirely on AO1 material; question (b) focuses entirely on AO2 material; question (c) is an equal balance of AO1 and AO2 material. AO3 is distributed proportionately between all three questions.
- 7 Assessment Objective 1      27 marks
- 8 Assessment Objective 2      27 marks
- 9 Assessment Objective 3      6 marks

## 1. Exercise on Judicial Precedent

- (a) Using the sources and other cases, briefly explain and illustrate the 1966 Practice Statement. [30 marks]

### Mark Levels

Level 4	13-15
Level 3	9-12
Level 2	5-8
Level 1	1-4

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 1

- Identify that the Practice Statement was introduced by Lord Gardiner LC in 1966;
- Explain the various elements of the Practice Statement:
  - Allows HL to depart from past precedent where it appears ‘right to do so’
  - Will be used to prevent injustice in the present case or to aid the proper development of law
  - Is available only to the House of Lords
  - Recognises the need to maintain certainty in e.g. contracts, fiscal settlements and in criminal law;
- Use any relevant cases in illustration e.g. *Herrington v BR Board* overruling *Addie v Dumbreck*; *Miliangos v George Frank Textiles* overruling *Schorsch Meier v Hennin*; *Shivpuri* overruling *Anderton v Ryan*, *Howe* overruling *DPP v Lynch*, *Murphy v Brentwood DC* overruling *Anns v Merton LBC*; ETC;

(while not necessary for the highest levels, candidates who comment on the rarity with which the Practice Statement is used and cite cases such as *Jones v Secretary of State for Social Services* will be appropriately rewarded)

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

- (b) In a 2002 case of criminal damage an eleven year old boy has thrown down a lighted firework in a shop and has caused a fire destroying the shop. In each of the following situations consider whether the judges in the case should consider themselves bound by the precedents in *Caldwell* and *Elliott v C*:
- (i) The judge in the Queen’s Bench Divisional Court feels that it would be unfair to convict the boy.
  - (ii) All three judges in the Court of Appeal feel that it would be unfair to convict the boy.
  - (iii) Three of the five in the House of Lords judges consider that it would be unfair to convict the boy.

### Mark Levels

Level 4	13-15
Level 3	9-12
Level 2	5-8
Level 1	1-4

Potential answers may include a number of the following points. These points are neither prescriptive ore exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 2

- Identify the similarities with the case of *Elliott v C* in the source
  - Comment that the Divisional Court is lower in the hierarchy than HL so will be bound as it was in the source. Consider the possibility of distinguishing – since the child is only 11 and the throwing of the firework might not be as obvious a cause of destruction as setting light to paper.
  - Consider that CA also is inferior to HL so is bound by the precedent in *Caldwell* if there is an obvious risk here, but not by that in *Elliott v C*.
  - Identify HL as the most senior court, and comment on the availability of the Practice Statement, which it can use to avoid injustice in a present case.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

- (c) In Source B, Lord Justice Goff suggests that judges should not “*act as automatons [like robots] rigidly applying authorities without regard to consequences*”. Using the sources and cases explain and comment on the ways in which a judge can avoid rigidly applying precedent. [30 marks]

### Mark Levels

Level 4	24-30
Level 3	17-23
Level 2	9-16
Level 1	1-8

Potential answers may include a number of the following points. These points are neither prescriptive or exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 1

- Explain that precedent is much more strictly observed in England than it is in other jurisdictions;
- Identify the only ways in which a judge can actually avoid precedent:
  - The House of Lords Practice Statement (available only to HL)
  - The possibility of overruling by - where a principle laid down by a lower court is later overturned by a higher court
  - The limited freedom available to the Court of Appeal in the three exceptions in *Young v Bristol Aeroplane*
  - The wider freedom based on possible injustice enjoyed by the Criminal Division of CA – *Taylor, Gould, Spencer*
  - The possibility of reversing a lower court in an appeal in the same case *Milliangos v George Frank Textiles*
  - Distinguishing – which is available to all courts *Merritt v Merritt* and *Balfour v Balfour*, *Read v Lyons* and *Rylands v Fletcher* etc.;
- Use any other relevant cases in illustration.

### Assessment Objective 2

- Consider the need for certainty in the law;
- Comment also how the insistence on maintaining certainty can prevent proper development of the law and even lead to injustices;
- Discuss the limitations imposed on CA and the reaction HL when CA has tried to change ‘bad law’ *Davis v Johnson*, *Milliangos v George Frank Textiles*, *Broome v Cassell* (candidates may also use any of Lord Denning’s arguments in support of wider powers for CA);
- Comment on the reluctance of HL to use Practice Statement *Jones v Secretary of State for Social Services*;
- Consider how inappropriate precedents have stayed around for very long periods *R v R (Marital Rape)*;
- Consider the effectiveness or advisability of distinguishing as a method of changing law.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

## 2. Exercise on Statutory Interpretation

- (a) Source B refers to Lord Denning's dissatisfaction with the ban on the use of the external aid Hansard prior to 1993. Explain what Hansard is and the circumstances in which courts may make a reference to it. [15 marks]

### Mark Levels

Level 4	13-15
Level 3	9-12
Level 2	5-8
Level 1	1-4

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 1

- Explain that Hansard is the official report of what is said in Parliament during the progress of the Act through Parliament as a Bill;
- Identify *Pepper v Hart* as the case that relaxed the ban on the use of Hansard as an external aid to interpretation;
- Explain also that references to Hansard can only be done in very limited circumstances and explain the criteria involved:
  - the words in question are ambiguous, obscure or lead to absurdity
  - the material to be considered is a statement made by the Minister or other promoter of the Bill
  - the statements to be relied upon are clear;
- Use any relevant case in illustration of using Hansard e.g. *Three Rivers District Council and Others v Bank of England (No 2)*;
- Credit also any detail on *Davis v Johnson*.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

(b) Read Source A lines 4 – 9. Using your knowledge of statutory interpretation consider whether any of the following *‘sells or hires or offers for sale or hire or gives to any other person – any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife’* and therefore commits an offence under s1(1) of the Restriction of Offensive Weapons Act 1959:

- (i) Jane, a youth worker, confiscates a flick knife from a member of her youth club and gives it to her supervisor.
- (ii) Tony, an antique dealer, displays an old military knife with a spring opening device in his shop window with a price ticket attached to it.
- (iii) Fola buys a ‘job lot’ box of kitchen utensils from a car boot sale. Without examining the contents closely she donates the box to a charity shop. The box is found to contain a flick knife.

### Mark Levels

Level 4	13-15
Level 3	9-12
Level 2	5-8
Level 1	1-4

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 2

- Apply the rules of statutory interpretation to the three situations:
  - Discuss how applying a literal interpretation or a purposive interpretation may produce different results – Jane has given a flick knife to her supervisor. Her particular situation or reasons for doing so are immaterial under the Act and so under the literal rule she may be guilty of an offence. A purposive approach is unlikely to find that it was the intention of Parliament to punish those who do their best to challenge the ownership of such weapons.
  - Identify that the situation is very similar to that in *Fisher v Bell*. Hence applying s1(1), Tony is not guilty of an offence under the literal rule. Use of the purposive approach and the greater willingness of judges to consult *Hansard* would probably mean that such a decision would not occur now. Credit any reference also to the fact that the problem in *Fisher v Bell* led to rectification in statute in the Registration of Offensive Weapons Act 1961.
  - Identify how a strict application of the literal rule to s1(1) here would result in Fola having committed an offence. Consider, however, that she is apparently unaware of the contents of the box, and so has no intention to commit the offence under s1(1) (no mens rea) – discuss the appropriateness of a purposive approach to this situation

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.

- (c) **With reference to Source A and other cases consider the problems that can be created by using the literal rule of interpretation and any advantages to be gained by using the modern purposive approach.** [30 marks]

### Mark Levels

Level 4	24-30
Level 3	17-23
Level 2	9-16
Level 1	1-8

Potential answers may include a number of the following points. These points are neither prescriptive nor exhaustive. Credit should be given for any other relevant points.

### Assessment Objective 1

- Define the literal rule as applying the plain, ordinary, literal meaning of words;
- Explain that, when using the rule, judges must restrict themselves to plain meaning, even if it leads to an absurdity – Lord Esher in *R v Judge of the City of London Court*;
- Identify the literal rule as protecting the separation of powers;
- Use any other relevant cases in illustration of the literal rule e.g. *LSNER v Berriman*, *Fisher v Bell*, *Whiteley v Chappell* etc.;
- Identify the purposive approach as looking behind the statute (rather than concentrating entirely on the words in question) in order to find the purpose for which the Act was passed;
- Explain that the approach is the required approach in EC law;
- Use any relevant case in illustration of the golden rule e.g. *Royal College of Nursing v DHSS*.

### Assessment Objective 2

- Discuss how the literal rule respects the separation of powers;
- Consider how use of the literal rule can lead to:
  - Absurdity *IRC v Hinchy*
  - Injustice *Berriman*
  - Punishing Parliament *Fisher v Bell*;
- Discuss the objections of the Law Commission that it implies an ‘unattainable perfection in draftsmanship’ or Zander’s criticism that it is divorced from the realities of language;
- Consider that the purposive approach allows the court to take into account social and technological developments since the Act e.g. *Royal College of Nursing v DHSS*, and helps judges who wish to be more ‘activist’ in their role;
- Comment also that strict literalist judges would see it as too creative.

### Assessment Objective 3

Present material in a well-planned and logical sequence, with a clearly defined structure and communicate clearly and accurately with confident use of appropriate terminology. Demonstrate few, if any, errors of grammar, punctuation and spelling.



## Advanced Subsidiary GCE in LAW Levels of Assessment

Level	Assessment Objectives		
	AO1	AO2	AO3
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Candidates will be able to elaborate by good citation to 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.	Ability to present relevant material in a planned and logical sequence, using appropriate legal terminology accurately. There will be few, if any, errors of grammar, punctuation and spelling.
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. 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.	Ability to present relevant material in a structured manner, using appropriate legal terminology reasonably accurately. There may be some errors of grammar, punctuation and spelling.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles 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 the 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.	Limited ability to organise relevant material, using some appropriate legal terminology. There may be noticeable errors of grammar, punctuation and spelling.
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 <b>or</b> identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	Ability to communicate at least one point using some appropriate legal terminology. Errors of grammar, punctuation and spelling may be noticeable and intrusive.