



Examiners' Report

Principal Examiner Feedback

Pearson Edexcel

In GCE Politics (9PL0/3A)

Comparative Politics - USA

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## **Introduction**

This was a welcome return to a full examination process following the impact of the pandemic over the last few years. To help students manage their exam preparation, Advance Information (AI) was released to centres in February, giving students guidance about the topics for which they should focus their revision. It was particularly heartening to note how well prepared most candidates were for this examination. Many of the responses made clear that candidates had developed an outstanding knowledge and understanding of the specification content and were able to demonstrate all of the associated skills which led to the construction of some truly impressive work.

It is worth noting that the longer 30-mark questions are, of course, marked using three distinct Assessment Objectives. Whilst AO1 knowledge and understanding was typically very strong, as was AO2 which covers analysis, AO3 could still be a challenge for some candidates. There were some truly outstanding examples of fully relevant and sustained evaluation of political information, constructing fully effective arguments and judgements, which were consistently substantiated leading to fully focused and justified conclusions. Equally there were numerous candidates who found that the level that they achieved in AO1 and AO2 was not matched by their AO3 and this AO is, of course, worth a third of the best-fit mark.

The sitting of the A level Politics examination in 2022 was only the second full running of a summer series since the new specification was first examined in 2019. Although resit papers were sat in November 2020 and November 2021, the entries for these were very small (less than 100), and we therefore did not receive the usual feedback on the level of demand of those papers. After every full series, we review how our papers have performed to understand what adjustments may be required for future series; in light of feedback from teachers about this summer's papers, we will take additional care in our review process this autumn.

## **Question 1a**

This was the more popular of the optional Section A questions.

The majority of candidates were able to identify a range of checks and balances on the US Congress and the UK Parliament from a variety of sources. However, a minority of candidates treated this a more general question on the checks and balances, and so included erroneous points such as the checks and balances carried out by the legislative branches on the other branches of government. Points related to this were given no credit.

Candidates should be reminded of the need to take the time to carefully read the question to ensure they are fully cognisant of the focus of the question.

### **Common strengths:**

- Candidates who were able to directly and explicitly compare relevant and related points from each country were able to access the higher levels.
- The vast majority of candidates addressed the comparative element of the question. Very few candidates used the simplistic US/UK format in their answers – describing features of US politics followed by features of UK politics, with no direct comparison – which meant they were less likely to access the higher levels.
- The typical Level 4 response was able to successfully incorporate political vocabulary such as unconstitutional, veto, ultra vires, gridlock and so on. Candidates should be encouraged to use specialist terms rather than general phrases such as ‘throw it out’, ‘ban it’ or ‘reject/turn down’.
- The most successful responses were able to embed recent, relevant examples from both countries as part of their analysis of the differences.
- Candidates who focused their answer on the question from the outset were more likely to reach the higher levels – a number of candidates wasted time with often lengthy introductions and/or conclusions. This is not required for the 12-mark questions.

### **Common weaknesses:**

- Candidates who made unrelated comparisons were limited to the lower levels because of the lack of comparison, which is essential to reach Level 2 and above. For example, some responses made points about the presidential veto acting as a check on Congress, and made a separate, unrelated point about the prime ministerial power of patronage.
- There was a tendency to rely on very historical examples, particularly on the UK element of the question.
- Candidates who relied more heavily on US examples were less likely to access Level 3 – some responses did not draw upon any UK examples whatsoever. Candidates are to be reminded that the comparative questions would expect exemplification from both countries to access the top AO1 marks.

- There are still a minority of candidates who are confused about the requirements for passing legislation in the US – it should be emphasised that legislation can be passed with a simple majority rather than a 2/3 majority. Similarly, there were a number of candidates who also believed that the UK prime minister can veto legislation. A further common mistake was stating that Congress has no whip system whatsoever.
- There was a tendency to rely on stating rather than explaining points in the lower levels. For example, candidates might state that there is separation of powers in the US and a fusion of powers in the UK, without explicitly explaining how this relates to differences in the checks and balances on Congress and Parliament. This limits both the AO1 and AO2 marks, as there is a lack of knowledge demonstrated of those checks and balances, and only limited accompanying analysis of the differences.
- A minority of candidates included the comparative theories here – this is only relevant for Section B, Question 2.
- Candidates must focus on the comparison specified in the question – this asked for differences, and so any similarities that were identified could not be credited.

Indicate which question you are answering by marking a cross in the box . If you change your mind, put a line through the box  and then indicate your new question with a cross .

Chosen question number: Question 1(a)  Question 1(b)

The checks and balances on Congress and Parliament differ in numerous ways. Both are checked by the executive (the President in the US and the Prime Minister in the UK) but the way in which the executive limits their power differs. In the US, the Constitution allows the President to veto legislation passed by Congress. Although Congress can override a veto, this requires a supermajority and is thus very rare - of Trump's ten vetoes, just one was overridden. The President is therefore able to check Congress by preventing the passage of certain laws. Meanwhile, Parliament is checked by the PM as ~~they~~<sup>the PM</sup> ~~are~~<sup>is</sup> able to dominate Parliament and effectively control the legislative process, especially if the PM has a large majority. This is because the UK uses fusion of powers, while the US uses separation of powers. The PM can use their power to at times force through their legislative agenda, thus checking Parliament's power. However, the PM cannot veto legislation, unlike the President.

Moving on, Congress and Parliament are checked by the judiciary in different ways. In the US, the Supreme Court can strike down Acts of Congress if they are found to be unconstitutional. For example, the Court overturned much of the Bipartisan Campaign Reform Act in *Citizens United v. FEC*. This allows the Court to check Congress by preventing enacting laws that violate the Constitution. Meanwhile, in the UK, the Supreme Court's ability to check Parliament is more limited. The Supreme Court cannot overturn Acts of Parliament, but it can issue a declaration of incompatibility with the Human Rights Act. However, Parliament can ignore those declarations - although they may be pressured into changing the laws as was shown in the 2004 Belmarsh case.

Finally, both Congress and Parliament are checked by the Constitution in different ways. The US has a codified constitution which explicitly codifies Congress' powers in Article One. Furthermore, the Tenth Amendment states that all powers not delegated to Congress are reserved to the states. This means that Congress can only pass legislation affecting certain areas, such as foreign policy and the federal budget. Most powers are

reserved to the states, as a result of federalism. In contrast, the UK has an uncodified constitution, and Parliamentary sovereignty means there are virtually no limits on Parliament's powers. However, devolution means that Parliament has devolved certain powers to the devolved assemblies. For example, the devolved assemblies have power over policing, housing and healthcare. Although devolution is not entrenched, it does still limit Parliament's influence, and is thus an effective check on Parliament.

#### **Commentary:**

**This is a top Level 4 response. The candidate makes three developed points with good exemplification throughout. Point 1 is the strongest with regards to integrating AO1 and AO2.**

#### **Question 1b**

The majority of candidates were able to identify at least one difference between the methods used by interest groups in the US and pressure groups in the UK. This was, however, often simply a difference by example rather than through analysis.

Overall, this question saw more marks awarded in the lower levels than Q1a.

Centres are reminded that the comparative element of the specification may be directed at similarities **or** differences, where relevant, and so should take this into account when covering content.

#### **Common strengths:**

*See also the common strengths for Q1a in relation to explicit comparisons, structure of the response, political vocabulary, exemplification, and introductions/conclusions.*



- The most successful responses focused on the differences between the methods used in each country. This was explained using specialist political vocabulary related to interest groups and pressure groups, such as separation and fusion of powers, iron triangles, PACs/Super-PACs and so on.
- Such responses supported their points with well-chosen, relatively recent examples from both countries.
- Some of the strongest responses were able to analyse the impact of the differing access points in particular, supported by exemplification.

### **Common weaknesses:**

*See also the common weaknesses for Q1a in relation to comparisons, historical examples, US and UK examples and comparative theories.*

- A number of candidates chose to focus on similarities instead – this was not the specified aspect of the topic required, and so such points were not credited.
- Responses that answered by example tended to remain in the lowest level – for example, some candidates made very general points about direct action taken by groups such as Extinction Rebellion in the UK and compared this with direct action being less likely by groups in the US such as the NRA. This is, of course, a creditable point – but without the accompanying explanation and analysis to underpin this, it is simply description rather than comparative analysis and so unlikely to move up through the levels.
- Conversely, some responses contained no examples at all. Candidates should be reminded that examples are required, and contribute to the AO1 mark.
- Some responses chose to describe the differences in general, so focusing on the type of interest groups and pressure groups you might see in each country, or their objectives, rather than the methods used. This was likely to stay in the bottom level for lack of relevance.
- A number of candidates made unsupported assertions, such as that US interest groups **only** focus on lobbying and campaign finance, making vague comparisons to UK pressure groups who **only** focus on direct action.
- A common mistake was stating that UK pressure groups cannot make any donations at all.

Indicate which question you are answering by marking a cross in the box . If you change your mind, put a line through the box  and then indicate your new question with a cross .

Chosen question number: Question 1(a)  Question 1(b)

One difference in the methods used by US interest groups and UK pressure groups is that US interest groups disperse their focus ~~on~~ between federal and state governments, with interest groups ~~at~~ taking advantage of the ~~US's~~ US government's federal nature, and the fact that influence and power is dispersed: between state governments and the federal government. For example, interest groups such as the NRA, which boasts over 5 million members, splits its influence between campaigning in local governments, like that of the state of Texas, and the federal government, where they spent over \$1 million attempting to support Trump's presidential campaign and therefore influence the federal government. In the UK, however, although devolved bodies hold some power, interest groups seek to influence, mainly, the Westminster government. Utilising the principle of parliamentary sovereignty to their advantage, UK pressure groups focus their influence and campaigning on Westminster. The BMA's status as an insider group with Westminster, holding annual meetings with MPs is what helps them gain influence. In this way, US interest groups disperse their efforts and methods.

between Westminster the federal and state governments unlike in the UK where PGs are more focused.

Another difference in methods comes from US interest groups being able to influence legislation through donating to election campaigns, unlike in the UK where strict laws on donations limit PGs use of such a method. In the US, interest groups donate and fund by taking advantage of PACs and Super PACs, ~~and~~ seeking to push for the election of their preferred candidate. To illustrate, groups more liberal-leaning interest groups, defending issues such as abortion and women's rights sought to fund Bernie Sanders in the 2016 elections, as he was likely to support their aims. This is different from PGs in the UK, that are heavily limited in donating to election campaigns, and even parties, with a £2,500 cap placed on donations ~~to~~ by groups to political parties, PGs in the UK are less focused on donations when it comes to their methods.

The final difference between ~~the~~ interest group methods is that US pressure groups have more opportunity for lobbying of government.

officials. In the US, due to elections in the house occurring every 2 years, interest groups influence congressmen by attempting to carry the wishes of constituents and influence back barrel legislation that congressmen use to get re-elected. However, in the UK, MPs have less influence due to fewer election cycles, and even an unelected house of lords. This limits their lobbying powers mostly to one house, and shows how they have less access points than US interest groups.

(Total for Question 1 = 12 marks)

#### Commentary:

This is a top Level 4 response. The candidate makes a range of points, directly and explicitly comparing the US and the UK. There are some mistakes here in regards to financing in the UK; such mistakes should be discounted, and only positive marking carried out on the accurate points and evidence included.

#### Question 2

This question has the added specific requirement to include comparative theories. Centres are reminded that this question has a mark scheme cap related to this: candidates cannot access Level 4 if there is no explicit discussion of at least one theory. Therefore, responses that do not include **any** comparative theories are limited to a maximum mark of 9/12.

However, it is important to note that referring to or discussing comparative theories also does **not** mean automatic entry to Level 4. The response is marked as a whole, and so the points made, analysed and exemplified also form part of the decision on whether a response overall meets the requirements for Level 4.

#### Common strengths:

- The strongest responses were able to directly incorporate one of the comparative theories into their response. To gain access to Level 4, this does need to be more than a passing reference, and so should include some explanation of how the theory affects the comparison made, e.g. structural theory was often linked to the constitution/lack of a codified constitution in each country, and how this affected the checks and balances that made it harder for a US president to achieve their goals.
- Responses that accessed the highest levels were consistently focused on the question, with clear and explicit use of the language of the question throughout their response. It is likely using this technique helped to remind candidates that they were writing about a particular aspect of presidents/prime ministers rather than a more general discussion of these roles.
- As with Q1a/b, candidates who were able to directly and explicitly compare relevant and related points from each country were able to access the higher levels.
- The vast majority of candidates addressed the comparative element of the question. Very few candidates used the simplistic US/UK format in their answers – describing features of US politics followed by features of UK politics with no direct comparison – which meant they were less likely to access the higher levels..
- The typical Level 4 response was able to successfully incorporate political vocabulary such as gridlock, patronage, separation and fusion of powers, whip system, veto override, majority, divided government and so on. Candidates should be encouraged to use specialist terms rather than general phrases such as ‘the president will be ignored’ or ‘more/less support’ or ‘can talk to more people’.
- The most successful responses were able to embed recent, relevant examples from both countries as part of their analysis of the differences.
- Candidates who focused their answer on the question from the outset were more likely to reach the higher levels. A number of candidates wasted time with often lengthy introductions and/or conclusions. This is not required for the 12-mark questions.

### **Common weaknesses:**

- In terms of the comparative theory, a number of candidates simply referred to it rather than developing an explanation of how it affected the president/prime minister, e.g. by stating that structural theory affects a president because it makes it harder for them to achieve their goals compared to a prime minister. The lack of accompanying explanation means this would not qualify for a Level 4 award, even if the rest of the response is well-developed. There must be analysis present to access that top level.
- A common issue was found in generic responses about why a president might be less effective, rather than focusing on legislative goals. Similarly, a number of candidates drifted into discussions of foreign policy that were not always clearly or explicitly related to legislative goals.
- There was also a common misunderstanding of impeachment: this was often argued as reason for a lack of legislative success for a US president, again without being able to relate this to legislative goals.

- A minority of candidates tried to challenge the question, or wrote a balanced response where they argued that the US president is actually more effective than the UK prime minister in achieving their legislative goals. This was not the focus of the question, and so was not credited.
- Candidates in the lower levels tended to focus on descriptions of the role of the president and the prime minister, or described how they acted as a check on the legislature, rather than focusing on the question of achieving legislative goals.
- There was also a lack of exemplification in the lower levels, or, where exemplification was included, it was often very historic. Many such responses exclusively relied on examples from the Bush and Blair eras. Teachers are encouraged where possible to use contemporary political examples, for this brings insight and helps to engage students with the subject.
- Candidates who made unrelated comparisons were limited to the lower levels because of the lack of comparison, which is essential to reach Level 2 and above. For example, some responses made points about how Congress can override the presidential veto, but then made a separate, unrelated point about the prime ministerial power of patronage.

The U.S. president does not have ~~an explicit~~ influence over the legislature like the UK Prime minister does and this is <sup>harder</sup> to pass legislation. This can be explained by the structural approach as the U.S. constitution separated the power of the legislative and ~~executive~~ executive branches of government. <sup>Δ</sup>

For example, Trump's border wall did not get adequate funding due to a lack of influence in the House of Representatives, ~~the~~ ~~was~~ ~~change~~ ~~to~~ on the contrary, Boris Johnson's 'Get Brexit Done' legislative mission was done quickly due to his large 80 seat majority. As both policies ~~the~~ were the executives main legislative goal, it is clear that due to ~~the~~ the fusion of power in the UK, the US's separation of powers makes the President less effective at achieving <sup>legislative</sup> goals.

Δ whereas the UK constitution

provides a fusion of power between the legislative and executive

The U.S. President faces checks from the Supreme court, another ~~and~~ obstacle to legislative policy that the Prime minister does not face. For example, ~~the~~ Biden was unable to pass his vaccine mandate due to ~~the~~ SC declaring it unconstitutional. The SC ~~has~~ of the UK that influence on the executive, as it can only recommend the Prime minister to act differently but has no legal power due to its lack of sovereignty over parliament.

Finally, the ~~the~~ <sup>have</sup> upper ~~chamber~~ of both congress and ~~the~~ Parliament affect the ~~executive~~ executive in different ways with ~~the~~ ~~the~~ ~~the~~ the Senate filibuster were. For example, the Senate cover of the Filibuster can mean that accidental bills stall easily, formerly, Ted Cruz, Republican senator filibustered gov<sup>n</sup> bills which ~~prevented~~ <sup>prevented</sup> Obama's <sup>proposed</sup> <sup>legislation</sup> ~~legislation~~ from passing. On the contrary, the UK's House of Lords can only stall a government for one year, thanks to the Parliament Act. For example, in 2004, the HoL\* stalled a fox hunting bill but it was forced through by the executive as



year later. Thus, as the senate is more effective at stalling legislation than the HoL it is clear that the U.S president is more likely ~~to be~~ less effective at achieving its legislative goals than the UK prime minister.

\* HoL: House of Lords.

#### Commentary:

This is a top Level 4 response. Here, you can clearly see how the candidate has embedded the comparative theory within their response, choosing the structural theory. Note that candidates are only required to include one comparative theory; it is not necessary to try to incorporate all three theories. The second point made is not quite as well explained as points one and three; however, there is sufficient explicit comparison, explanation and substantiation for a top Level 4 award.

#### Question 3a

This was the most popular of the optional extended response questions, particularly for the first extended response answer by candidates.

The most effective approach to answering this question was demonstrated by candidates who analysed and evaluated throughout their responses, thus accessing the AO2 and AO3 marks. Centres are reminded that the balance of the assessment objectives is equal on this specification – so equal attention should be paid by candidates to AO1 knowledge and understanding, AO2 analysis and AO3 evaluation. All three assessment objectives must be addressed to access the higher levels, and many candidates found their marks restricted here by a reliance on AO1 to the exclusion of AO2 analysis and AO3 evaluation.

#### Common strengths:

- The strongest responses were able to directly compare and contrast the three branches of government, with consistent judgements throughout their response as to whether or not the president or one of the other branches was the most powerful.
- Such responses would clearly set out the argument they intended to follow in their introduction, and then support that throughout their response with a range of developed points, supported by relevant, contemporary exemplification from across the branches of government.

- High-scoring responses were able to utilise a range of powers and also limitations that linked the branches together, for example, the presidential tendency to dominate foreign policy, but how this could be limited by the congressional power of the purse. This would be argued as a developed point, with often sophisticated analysis of the Constitution and other factors, such as the political climate or the presidential term of office, affecting how powerful each branch may be in relation to this area of discussion.
- Many high-level responses were well-substantiated, with a range of examples across all three branches of government.
- Very strong responses were able to discuss how the power of the president can ebb and flow, depending on the circumstances they find themselves in, exemplifying this with a range of examples over time.
- There were also some excellent discussions about the impact of divided government and the increase in partisanship and how this affects the use of the formal and informal presidential powers, and therefore their ability to become the most powerful branch.

### **Common weaknesses:**

- Responses in the lower levels tended to be more narrative-based. Such responses would be more focused on listing the powers of the president, following this up with description of the limitations on the power of the president, with an overall conclusion – usually that the president is most powerful. This meant that candidates missed out on valuable AO2 and AO3 marks, as there was often little, if any, attempt to draw comparisons between the powers of the different branches, and even less attempt to draw out a line of argument related to whether one branch is more powerful than the others.
- Narrative responses also tended to make simple, assertive judgements in the conclusion, often unsupported or contradicting the line of argument within the main body of the response. Some of these conclusions involved ‘sitting on the fence’ – where a candidate simply concluded that because of the constitutional checks and balances, no one branch can be most powerful, as the system was designed to make them all equally powerful.
- Responses that remained in Level 3 or below often also tended to focus on one branch to the exclusion of the others, or missed out one branch almost completely, usually Congress.
- A minority of responses unfortunately tried to turn this into an essay on whether or not the Supreme Court is the most powerful body. While this is certainly creditable, it was not the sole focus of the question, and so marks would have been limited for the lack of addressing the question, and the lack of range on all assessment objectives.
- Some candidates wasted time with very lengthy introductions that set out each and every factor they planned to include in their response. While a summary of such points may be helpful to organise a candidate’s work, in some cases these introductions went on for a page. In comparison to the rest of the response, this meant that candidates had written a substantial amount for little credit, and so often ran short on their analysis and evaluation later. This was particularly true for candidates who chose to answer this as their second extended response.

- There were a number of common factual errors here. For example, that legislation requires a 2/3 majority in Congress; that Trump's 'travel ban' was ruled unconstitutional by the Supreme Court; mixing up case names (Snyder v Phelps and Obergefell v Hodges was a common confusion); that Congress can veto the president's veto; that Congress can revoke executive orders and so on.

~~In the US~~

~~At the heart of the US governmental structure, a~~  
~~stem separation of p-~~

At the heart of the US political structure, is a stem constitutional  
 mandate for the separation of powers. Despite the  
 President being the most 'powerful man' in the US, it does  
 not mean he has to their constitutional powers such  
 as executive orders and checks over congress. It can  
 also be argued that congress is the most powerful branch  
 as they have both legislative and oversight authorities.  
 Furthermore, the power of the Supreme Court also arguably  
 exceeds that of the President. In order to be the most  
 powerful branch they must be able to check and  
 balance other branches and dominate over the legislative  
 agenda, by this criterion congress, rather than the  
 president are more powerful.

~~On~~

~~On one hand, it can be thoroughly argued that the~~  
~~inherent powers of the president, would for them to be~~  
~~the most dominant~~



On one hand, it can be argued that the informal powers of the president allows for them to be the dominant governmental figure, as they are able to produce executive orders, which are the equivalent to pieces of legislation that does not require congressional approval. The increased use of these powers allows for the expanding role of the dominance of the president. As within his first 100 days, Biden signed over 60 executive orders, such as re-joining the US into the Paris Climate Accord. Thus, exercising presidential power, these orders may even be used to limit the supreme court, as Biden has announced he for Wade is overturned he will have an executive order enforcing abortion rights. Thus, the use of these powers allow for the president to dominate over congress, as their input is not needed, as well as the courts. Furthermore, the constitutional ability of the president to appoint supreme court judges, as Trump appointed 3 republicans, allows for the president to have excessive influence over the judiciary. Imposing judges who will vote in their favour.

However, the judicial branch notably has excessive power over the president, notably through the power of judicial review and their ability to strike down executive orders. For instance, within the case Trump v Hawaii, the court struck down Trump's

Executive order or the "Great Will". Even further than this, the courts have the ability to strike down presidential legislation, such as the gradual erosion of Obama care through court rulings such as the Hobby Lobby case. Thus, the legislative authority of the president over the courts is severely limited. Furthermore, appeals upon the supreme court by the president are virtually nonexistent. Specifically due to the security of tenure and the fixed salaries, there is no quorum of judges appointed with the favor of presidents. More notably shown through Kennedy, who was known as a swing justice, the courts are bound by their role to merely interpret the constitution, thus limiting their ability to curtail the president. Overall, the courts have become more impartial and the presidential checks upon the supreme court are inefficient to allow the dominance of the president.

### ~~Executive Orders, Legislation~~

Presidents also originally have legislative authority over congress, with their ability to introduce legislation to congress and put forth their legislative agenda in the state of the Union Address. Notable pieces of legislation, such as Obama care (the Affordable Care Act) were introduced in this manner. The president thus is able to be the most powerful branch in relation to legislation.

In accordance, even despite hyperpartisanship, the president has the ability to appeal to the media and gain public support, forcing congress to act, as Obama did with Obama care, or as Biden has recently done with gun education - he has issued statements pleading for congress to act. Although not significantly, their ability to veto legislation of congress is extremely significant to their duties. As the veto would be placed on legislation, and if after ten days, also Obama issued over 9, this president uses the veto as the legislative authority of the president. Further, the super-majority needed for the veto override, makes the veto inaccessible and underused.

However, likewise this is severely limited, the constitution considered the role of the president to be extremely removed from the legislative process, leading them to rely on what Newsday calls the "power of persuasion". As the president has no actual mandate within congress, who is the legislative branch. The example of Biden having to appeal to congress to implement an <sup>minimal</sup> stimulus is a clear example of this, as he has no authority within congress. This is caused by hyperpartisanship, where the parties frequently disagree. This is more notably shown as a criticism of presidential power in Obama's presidency, where a divided government

and a congress controlled by republicans prohibited him from passing anything of substance within his last term. However, his partisanship does not guarantee that all democrats will support Biden, as he is currently facing internal battles over his flagship legislation Build Back Better, with Democrat Senator Joe Manchin, on balance, as shown the president has almost no legislative authority over congress, thus making it a weaker branch of government.

6. Lastly, despite presidents being able to avoid congressional oversight through congress due to his partisanship and party renewal, it can now be argued that congressional oversight over the president allow them to be a much more feared branch. The ability of congress to impeach a president is significant in this matter, as happened with Johnson, Clinton and Trump although none were successful, the ability to enact the process shows significant restraints on their authority. Further, congress has the ability to approve over 1200 parts of the president's executive. More significantly, the supreme court and the senate, if unamiable, appointments may be scrutinized, such as with Harriet Miers. Although this process is diminished by the partisanship, with the republican senate refusing to allow Merrick Garland, Obama's nomination, this also prevents the systematic



reactions upon the president on balance, it can be seen the president is heavily checked by the oversight functions of congress.

Overall, despite the powers of the president, it can be argued that they are the least powerful branch out of both congress and the judiciary. Supreme court. The supreme court security of tenure allows them to be independent, despite being appointed by the president, it is important to note the supreme court has various powers such as being a review body; however, it remains more dominant than the executive with their tool of judicial review. Congress is arguably the most powerful branch as they have legislative and scrutiny authority over the president, and supreme court through person appointments, but more rarely with divided questions relating to the president's ability to pass legislation, overall the president is not the most powerful.

#### Commentary:

This is a strong Level 5 response. The candidate makes a clear judgement at the outset, and mostly follows this through in the arguments and evidence presented. The AO1 is the strongest part of the response, but it is clear that all three assessment objectives merit a Level 5 award.

This response was not awarded full marks because, although it still reaches level 5, the AO3 judgement does wobble at times. For example, when discussing the Supreme Court, the candidate contradicts themselves by altering their line of argument to the Supreme Court being most powerful instead. This does not preclude a Level 5 award, and because the AO1 scores top Level 5 and the AO2 mid-Level 5, this response – on balance – merited a mid-Level 5 award.

### **Question 3b**

As with Question 3a, the most effective approach to answering this question was demonstrated by candidates who analysed and evaluated throughout their responses, thus accessing the AO2 and AO3 marks. Centres are reminded that the balance of the assessment objectives is equal on this specification – so equal attention should be paid by candidates to AO1 knowledge and understanding, AO2 analysis and AO3 evaluation. All three assessment objectives must be addressed to access the higher levels, and many candidates found their marks restricted here by a reliance on AO1 to the exclusion of AO2 analysis and AO3 evaluation.

#### **Common strengths**

- The strongest responses were able to directly compare and contrast the role of each institution in protecting constitutional and civil rights, with consistent judgements throughout their response as to whether or not one institution was more able to protect those rights than the other.
- Such responses would clearly set out the argument they intended to follow in their introduction, and then support that throughout their response with a range of developed points, supported by relevant, contemporary exemplification related to each institution.
- The strongest responses were able to accurately distinguish between constitutional and civil rights, often drawing links between them, with relevant evidence.
- High-scoring responses were able to refer to a range of rights, including constitutional and civil rights. Some responses often took a thematic approach, e.g. focusing on constitutional rights such as the second amendment, or civil rights such as abortion and the actions or lack of action/successes/problems with protecting such rights. This would be argued as a developed point, with often sophisticated analysis related to the Constitution and/or statute law, and how well the specific right is/has/has not been protected in relation to each institution.
- Many high-level responses were well-substantiated, with a range of examples related to both types of rights and both institutions.
- Very strong responses were able to discuss how the success/lack of success in protecting constitutional and civil rights has varied, depending on the circumstances they find themselves in, exemplifying this with a range of examples over time. There was some exceptional analysis of this related to the impact of presidential appointments and the approach taken by Supreme Court justices, most often linked to the issue of abortion and states' rights.

#### **Common weaknesses**

- Responses in the lower levels tended to be more narrative-based. Such responses would often simply describe Supreme Court cases related to rights rather than analyse and evaluate how well they have been able to protect them. This meant that candidates missed out on valuable AO2 and AO3 marks, as there was often little, if any, attempt to draw comparisons between the Supreme Court and Congress and their respective ability to

protect rights, and even less attempt to draw out a line of argument related to whether one branch is more able to do so than the other.

- Narrative responses also tended to make simple, assertive judgements in the conclusion, often unsupported or contradicting the line of argument within the main body of the response. Some of these conclusions involved 'sitting on the fence' – where a candidate simply concluded that because both are able to protect rights using the Constitution, one by interpreting it in cases, and the other by passing legislation, no one institution can protect rights more than the other as the system was designed to allow both a role.
- Responses that remained in Level 3 or below often also tended to focus on one branch to the exclusion of the others, or missed out one branch almost completely – usually the Supreme Court.
- As with Question 3a, some candidates wasted time with very lengthy introductions that set out each and every factor they planned to include in their response. While a summary of such points may be helpful to organise a candidate's work, in some cases these introductions went on for a page. In comparison to the rest of the response, this meant that candidates had written a substantial amount for little credit, and so often ran short on their analysis and evaluation later. This was particularly true for candidates who chose to answer this as their second extended response.
- There were a number of common factual errors here. For example, that legislation is the same as a constitutional amendment; that Roe v Wade had already been overturned (at that time, it was still only potential); that the Equal Rights Amendment failed because of Congress; that Congress has taken no action since the civil rights era; that the Supreme Court can be directly influenced by presidential appointments after taking up the role.
- Of the three essays, this was the most unbalanced, where some candidates completely missed out the section on Congress, or were only able to make vague references to the civil rights era. Such responses were most often limited to Level 1 or 2, at most, as there could be no AO2 or AO3 present without comparison to Congress and a consideration of whether one institution was more able to protect rights than the other.
- Responses that did include a discussion related to Congress often focused on historical examples only.
- Some candidates confused presidential action with congressional action, for example when referring to DACA.
- There were a number of responses where candidates made assumptions about representation in Congress, and how increasing diversity would automatically lead to more action taken to protect constitutional and civil rights. Such responses were rarely able to substantiate this with specific evidence.
- A common mistake was to focus on one issue, such as gun rights. This is, of course, a valid and excellent example to use; however, to focus on this to the exclusion of other factors would limit the marks available across all assessment objectives due to the lack of range.

Indicate the second question you are answering by marking a cross in the box . If you change your mind, put a line through the box  and then indicate your new question with a cross .

Chosen question number: Question 3(a)  Question 3(b)  Question 3(c)

Civil rights are protected by the Supreme Court, President and Congress. However, recently, Congress has been weak in its defence on civil rights, making the Supreme Court the most effective protector of civil rights in the US (also Constitutional rights).

Firstly, the Supreme Court has protected Constitutional & civil rights more effectively than Congress due to the first amendment. In *FEC v Citizens United* 2010, the Supreme Court ruled that limits placed on individuals wishing to donate / fund advertising campaigns for Presidential candidates were unconstitutional as it violated the 1<sup>st</sup> amendment - freedom of speech. This means that previous limits placed on campaign finance such as the BCRA 2002 & FECA 1971 were null and void and allowed further freedom of speech and rights to be fully utilised by individuals wanting to fund campaigns. This has meant that the

SC has protected the first amendment more than Congress. However, Congress, by passing the BCRA & FECA in 2002 & 1971 respectively has increased freedom of speech during elections as voters are less likely to be manipulated into voters and more likely to voice their own opinions. By stripping back campaign finance regulations, Trump was allowed to exploit social media bias by using third party firm Cambridge Analytica to manipulate undecided voters through the promotion of ads, into voting for him in 2016 - allowing Presidential elections to effectively be rigged by those who can spend the most - 2020 Biden outspent Trump by over \$300m. Therefore, Congress has protected constitutional & civil rights more effectively. Despite this, it can be argued that the FEC v CO 2010 ruling improved freedom of expression and Presidential elections as it improved the availability of information on candidates to voters and therefore, the Supreme Court has protected civil & constitutional rights more effectively.



Furthermore, the Supreme Court has protected Civil & Constitutional laws more effectively than Congress due to crucial abortion law rulings. Roe v Wade 1973, Planned Parenthood v Casey 1992, Whole Women's Health v Hellerstedt have all protected Women's right of access to abortion services - including the prevention of States from enforcing strict health & safety regulations on clinics, forcing them to shut down & placing an undue burden on pregnant women seeking an abortion in WH v Hellerstedt 2016. These rulings have been crucial in allowing women to have the choice in whether they keep the baby or not - especially black women who statistically access more abortions than any other group at 2% of pregnancies aborted being by black women. However, the Supreme Court recently, has not effectively protected abortion rights as the 6-3 ~~conservative~~ Conservative majority refused to rule the Texas Heartbeat Bill of 2021 (which made all abortions over 6 weeks

of pregnancy illegal, with no exceptions for rape, incest or potential harm to the mother) unconstitutional, even though the Justice Department issued a notice to the SC, which stated it should rule it unconstitutional. Congress' inactiveness in passing a federal law is actually protecting the 10th amendment which enshrines Federalism and gives States the right to regulate healthcare ~~including~~ & therefore, Congress is actually protecting the constitutional rights of States whilst the SC is clearly harming women's right to an abortion in Texas. However it could also be argued that the SC is protecting the 10th amendment by allowing Texas to regulate in this way and so the Supreme Court can be said to be more effectively protecting civil and constitutional rights in the US.

Lastly, the Supreme Court has protected civil and constitutional rights more effectively than Congress due to crucial rulings on the 2nd amendment, the 2nd amendment provides US citizens with

the right to bear arms. In 2008, Washington DC tried to implement a ban on handguns and enforce trigger locks on rifles. In DC v Heller 2008, the Supreme Court ruled that any barrier to firearms ~~violated~~ infringed on the 2<sup>nd</sup> amendment and therefore was unconstitutional. This meant that the 2<sup>nd</sup> amendment was protected by the Supreme Court. However, it could be argued that by doing so, it has violated Habeas Corpus and a root of the school shooting issue in the US. Congress has been more active in this area where after the Sandy Hook shooting of 2012, Obama's gun reform made it past the House but failed in the Senate. More proposals have since been made but actually, as this proposal failed, Congress protected the 10<sup>th</sup> amendment for the state of Massachusetts where today, to buy a gun, people must take part in psycho evaluations, gun training and a two-week cooling off period before the acquisition takes place. And therefore, Congress has been more active in protecting waters



Corpus & States' Rights than the Supreme Court when it comes to the 2nd amendment, therefore protecting civil and constitutional rights more effectively than the Supreme Court.

Overall, the Supreme Court has been more effectively in protecting the 10th amendment, 1st amendment, 2nd amendment and abortion rights in the US. However, some of their actions/rulings could also be argued to have infringed on other rights that are crucial to US citizens such as habeas corpus.

**This is a Level 5 response. The candidate makes a clear judgement in the introduction, which is followed through in most of the essay. The first section of the response, focused on issues related to freedom of speech, is the strongest. Here, the candidate skilfully weaves together arguments related to the Supreme Court, contrasts this with congressional action, then defends the original point about the significance of the Supreme Court with a relevant, substantiated counter-argument.**

**A similar approach is taken to arguments related to abortion and gun control.**

**Overall, the balance of this essay is a little skewed towards the Supreme Court, and so the final mark awarded was towards the lower end of the level. More coverage of Congress would have lifted this to the top of the level.**

### **Question 3c**

As with Questions 3a and 3b, the most effective approach to answering this question was demonstrated by candidates who analysed and evaluated throughout their responses, thus accessing the AO2 and AO3 marks. Centres are reminded that the balance of the assessment objectives is equal on this specification – so equal attention should be paid by candidates to AO1 knowledge and understanding, AO2 analysis and AO3 evaluation. All three assessment objectives must be addressed to access the higher levels, and many candidates found their marks restricted here by a reliance on AO1 to the exclusion of AO2 analysis and AO3 evaluation.

#### **Common strengths**

- The strongest responses were able to directly compare and contrast the role of both political parties and interest groups in determining the outcome of presidential elections, with consistent judgements throughout their response as to whether or not one group was more influential than the other.
- Such responses would clearly set out the argument they intended to follow in their introduction, and then support that throughout their response with a range of developed points, supported by relevant, contemporary exemplification related to each group, related to specific presidential elections.
- High-scoring responses were able to refer to a range of factors, including campaign finance, the primaries and caucuses, endorsement and the role of the individual presidential candidates. The factor identified would then be argued as a developed point, with often sophisticated analysis related to the degree of influence this gives political parties and/or interest groups over the outcome of presidential elections.
- Many high-level responses were well-substantiated, with a range of examples related to both political parties and interest groups.
- Very strong responses were able to discuss how the influence of interest groups and political parties may vary between presidential elections, depending on a range of criteria including – but not solely limited to – political and/or economic circumstances, the term of office, i.e. is re-election being sought, the impact of the electoral system itself, and were able to exemplify the criteria chosen with a range of examples over time.

#### **Common weaknesses**

- Responses in the lower levels tended to be more narrative-based. Such responses would often simply describe methods used by interest groups in general, or describe the ideology of the political parties, rather than address the questions directly. This meant that candidates missed out on valuable AO2 and AO3 marks, as there was often little, if any, attempt to discuss the role either group plays in presidential elections, or any attempt to draw comparisons between the respective influence of each group. This meant the line of argument was often very weak, assertive or even missing in some responses.

- Narrative responses also tended to make simple, assertive judgements in the conclusion, often unsupported or contradicting the line of argument within the main body of the response. Some of these conclusions involved 'sitting on the fence' – where a candidate simply concluded that both can influence presidential elections equally as they can finance and they can campaign for individual candidates.
- Responses that remained in Level 3 or below often also tended to focus on interest groups. Such responses often paid very little attention to the role of political parties, and in some lower-scoring cases, missed out political parties entirely.
- Similarly, lower-scoring responses often focused on elections in general, and so included uncreditable points related to congressional elections.
- As with the other essays, some candidates wasted time with very lengthy introductions that set out each and every factor they planned to include in their response. While a summary of such points may be helpful to organise a candidate's work, in some cases these introductions went on for a page. In comparison to the rest of the response, this meant that candidates had written a substantial amount for little credit, and so often ran short on their analysis and evaluation later.
- Of the three essays, this was the least well answered, with a surprising number of candidates unable to make relevant or substantiated points related to the influence of either interest groups or political parties on presidential elections, often simply describing the influence of the groups – usually mainly interest groups – in general. These responses were most often limited to Level 1 or 2, at most, as there was so little attempt to argue a case focused on the view given in the question, and so there was no AO2 or AO3 present.
- Responses that did include a discussion related to political parties often focused on ideology or made assertions about voting behaviour with no explicit link to presidential elections, and no substantiation.
- It is worth noting that the range of evidence provided to substantiate arguments was the narrowest on this essay. For example, references to interest groups focused almost exclusively on the NRA, often with very repetitive points about financing and supporting the Republicans, and for political parties, focusing almost exclusively on the 2016 Trump/Clinton election. While the quality of the substantiation is, of course, the most important factor when awarding levels, for some candidates who had almost one-example responses, they found their overall marks limited across the assessment objectives because the narrowness of their exemplification was then reflected in the range of arguments they were able to present. It is worth considering using a variety of examples when considering the main influences on the outcome of presidential elections to ensure that candidates have an array of arguments at their disposal for analysis and evaluation.

45.

Indicate the second question you are answering by marking a cross in the box . If you change your mind, put a line through the box  and then indicate your new question with a cross .

Chosen question number: Question 3(a)  Question 3(b)  Question 3(c)

A number of factors are influential in the process of presidential elections, and influencing their outcomes. Of these factors and organisations, it is fair to suggest that Interest Groups (IGs) are not most effective, and that Political parties are. // one ~~method~~ lens through which influence and effectiveness ~~can~~ can be assessed is in regard to <sup>campaign financing</sup> ~~finance~~. Finance has massive importance in the US presidential race - with some suggest that the extent of money's influence in the system can actually be the decider of an election. Indeed, there is evidence to suggest this, for example - most recently in ~~the~~ the 2020 election Joe Biden significantly outperformed trump and <sup>perhaps</sup> as a result, won the election. With this concept in mind, interest groups (IGs) are of obvious importance. IGs in the US essentially act as a ~~vehicle~~ 'vehicle' of cash flow, allowing money to overcome campaign finance laws. This is because Acts <sup>such as</sup> ~~like~~ the Bipartisan Campaign Reform Act (2002) placed limitations on the amount of ~~money~~ 'hard money' (money directly to a candidate's fund) that could be

raised. This grows the importance of IGs, as they are now the 'fund' which money flows into - allowing for massive expenditure on Presidential runs, with both Biden and Trump raising more than \$400 million each in IGs donations/funding. This suggests that the importance of IGs in relation to finance, and finance's impact on elections, makes them the most influential factor on elections. However, whilst sustaining an argument in the assessment of money as hugely influential on Presidential elections, no one can question whether IGs are more important than political parties in this scope. Whilst it is true that the 'official' role of parties in financing election campaigns pre-2002 has been limited by the BCRA, their influence has not truly diminished as IGs hold such obvious affiliations - and are not truly an important body, rather they are a 'loophole' which political parties use to exploit campaign finance laws. This is evident from strictly partisan IGs, such as the NRA essentially only working with the Republican Party - having only one Democrat Congressman that they support. Thus, on balance whilst IGs have grown in practical importance - they continue to represent the importance of political parties in terms

of finance and thus are not more important/efficient.  
// Next, we can assess whether LGs  
~~are~~ have grown in influence due to  
changes in the political consensus of the  
USA. This refers to the concept of partisan  
dealignment. Indeed, for the majority of the  
last ~~50~~ ~50 years, people increasingly  
viewed the main two parties as essentially  
the same entity. This prompted that 'split  
ticket voting' to become more common, where  
non-partisanship was ~~evident~~ evident in that people  
voted for Republican Presidents, but Democrat  
Senators (for example). This decline of Partisanship  
can make LGs more influential! This is because  
as 'bread' party issues decline, single-issue  
politics become more important. For example,  
today ~1/3 of Americans are members of  
LGs, the majority of which are 'single-issue'  
'causal' groups, seeking to represent a cause  
- such as a better environment. This is because  
single issue cause LGs to influence elections,  
as Presidents increasingly fight for a great  
range of LGs ~~supporters~~ to support them in order  
to win over as many of these 'causes' supporters.  
For example, during the invisible primary many believe  
the key aim of candidates is to

gagner as much IG support as possible, in the form of endorsements - for example, the paper candidates fighting for the highest 'grade' from the NRA political Victory Fund PAC. However, there is evidence to the contrary. Whilst dealignment and single issues have been the dominant force since 1950 (in a broad sense), recent years have actually seen a rapid rise in partisanship, as parties become more polarised. For example, split ticket voting is 'dead' - in 2018 every single state that elected Republican Congress people would go on to vote Trump in 2020. This suggests that parties have not declined, and party affiliation remains incredibly important to success. Similarly, again we have seen IGs themselves diminish their influence by 'falling in line' with this partisan era, for example ~~pro-life~~<sup>pro-choice</sup> groups such as the 'Now' work solely with Democrats, whilst pro-life groups such as Faith 2 Action work only with Republicans. This rise in partisanship means that IGs again lose their importance as an influential factor on presidential elections, and party decline is essentially proven incorrect. Thus, on balance again whilst IGs are a key factor of the political system political parties

remain most important in influencing the outcome of an election.

Finally, one could also suggest IGs to be most important due to their ability to exploit other factors that affect the outcome of Presidential elections. For example, a key influence on Presidential outcomes - particularly those involving an incumbent is national crisis and public opinion. If handled poorly, these crises cause such people angry from incumbents - for example Trumps poor response to BLM protests in <sup>2019/20</sup> 2020, or his mismanagement of COVID-19. This can be 'exploited' by IGs. For example, in support of Joe Biden, Democrat SuperPACs pushed images of COVID wards to reinforce Trump's mismanagement, or published his tweet "when the looting starts the shooting starts" (in response to BLM protests). However, one could also suggest that parties actually have more influence even in this scope. For example, this general theme of highlighting general failures of the incumbent can be done 'better' by parties - as they are actually within the system. For example, by 2020 the Democrats in congress increasingly faulted Trump. And received good credit



for actually handling COVID better, in helping to create CARES Act. Thus, LGs are ~~the~~ not as important as parties here.

To conclude, both LGs and political parties are highly influential in dictating or affecting the outcome of a Presidential election. However, partisanship in society, and within other factors such as the LG system itself mean that they have not 'displaced' political parties in being the most effective at influencing outcomes. This 'position' remains with political parties.

(Total for Question 3 = 60 marks)

#### Commentary:

This is a Level 5 response. This candidate clearly addresses the question and attempts analysis and evaluation focused on the view in the question throughout. The response is less successful at evaluating the

**influence of each group, swinging back and forth between the importance of interest groups in one point, then arguing actually political parties are more important, and so this stays at the bottom of Level 5.**

## **Paper Summary**

Based on their performance on this paper, candidates are offered the following advice:

- 12-mark questions do not require an introduction or a conclusion – many candidates wasted time structuring their responses in the same way that they would answer a 30-mark essay.
- 12-mark responses must be directly and explicitly comparative between the US and the UK throughout the response.
- Candidates must carefully read the question to ensure they answer it as effectively as possible, e.g. looking for topic words or phrases, checking for similarities or differences.
- Comparative theories are only required for Q02.
- Comparative theories should be embedded within the points made for Q02, rather than simply referred to in passing: there is a cap at Level 3, 9 marks, if candidates do not have some relevant explanation of a comparative theory in their responses.
- Substantiation is essential to access high-level AO1 marks in all questions.
- For extended-response questions (Q03a, Q03b and Q03c), introductions should set out the judgement candidates will argue throughout their essay – this should summarise rather than be a detailed start to the essay.
- Many responses included introductions spanning a page which wasted time.
- The strongest responses set out criteria for discussion in the introduction and structure the essay around them with debate and exemplification to support the arguments made.
- Candidates should avoid a narrative approach, as this invites description rather than analysis (AO2) and evaluation (AO3).
- Analysis (AO2) and evaluation (AO3) should be integrated within the essay rather than 'bolted-on' at the end.
- 30-mark essay responses must cover both aspects of the question to access the higher levels.
- 30-mark essay responses must cover both views presented in the question to access beyond Level 2.
- There is no requirement to compare US and UK in the 30-mark questions.
- Centres should remind candidates that the strongest responses include a range of relevant and contemporary evidence that directly and explicitly supports the arguments being made.
- Timing is crucial: it was notable on the second 30-mark response that many candidates ran out of time and so did not complete their answer.

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