

A-LEVEL

GOVERNMENT AND POLITICS

GOV4A The Government of the USA

Mark scheme

June 2014

Version: 1.0 Final

Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts: alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Assessment Writer.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

Further copies of this Mark scheme are available from aqa.org.uk

CRITERIA FOR MARKING AS/A2 GOVERNMENT AND POLITICS

Introduction

AQA's revised Government and Politics specification has been designed to be objectives-led in that questions are set which address the assessment objectives published in the specification. The assessment objectives for A Level and AS are the same, but the weightings are different at AS and A2. Details of the weightings are given in Section 4.2 of the specification.

The schemes of marking reflect these objectives. The mark scheme which follows is of the levels-of-response type showing that students are expected to demonstrate their mastery of the skills required in the context of their knowledge and understanding of Government and Politics. Mark schemes provide the necessary framework for examiners but they cannot cover all eventualities. Students should be given credit for partially complete answers. Where appropriate, students should be given credit for referring to recent and contemporary developments in Government and Politics.

Consistency of marking is of the essence in all public examinations. It is therefore of vital importance that assistant examiners apply the mark scheme as directed by the Principal Examiner in order to facilitate comparability with the marking of other options.

Before scrutinising and applying the detail of the specific mark scheme which follows, assistant examiners are required to familiarise themselves with the general principles of the mark scheme as contained in the Assessment Matrix.

At A2, generally speaking, there is no unambiguously 'right' or 'wrong' answer to the 30-mark questions. Answers will be judged on factors such as quality of the argument, depth of knowledge and understanding, a synoptic grasp of the subject, appropriateness of the examples and internal logic of the discussion. Where students are presented with a proposition to be discussed they may support it, reject it or adopt a balanced position.

There are no limits to the areas of knowledge that students may feel able bring to the discussion. Therefore the specification of requirements outlined in the mark schemes can only be indicative. Students are not expected to include all the material presented in order to access the full range of available marks. At the same time they may successfully include material from their particular studies which is not indicated in the scheme.

Using a levels-of-response mark scheme

Good examining is about the consistent application of judgement. Mark schemes provide a framework within which examiners exercise their judgement. This is especially so in subjects like Government and Politics, which in part rely upon analysis, evaluation, argument and explanation. With this in mind, examiners should use the Assessment Matrix alongside the detailed mark scheme for each question. The Assessment Matrix provides a framework ensuring a consistent, generic source from which the detailed mark schemes are derived. This supporting framework ensures a consistent approach within which students' responses are marked according to the level of demand and context of each question.

Examiners should initially make a decision about which Level any given response should be placed in. Having determined the appropriate Level the examiners must then choose the precise mark to be given within that Level. In making a decision about a specific mark to award, it is vitally

important to think first of the mid-range within the Level, where that Level covers more than two marks. Comparison with other students' responses to the same question might then suggest whether the middle mark is unduly generous or severe.

In making decisions away from the middle of the Level, examiners should ask themselves questions relating to student attainment, including the quality of language. The more positive the answers, the higher should be the mark awarded. We want to avoid 'bunching' of marks.

Levels mark schemes can produce regression to the mean, which should be avoided. A student's script should be considered by asking 'is it:

- precise in its use of factual information?
- appropriately detailed?
- factually accurate?
- appropriately balanced or markedly better in some areas than others?
- generally coherent in expression and cogent in development (as appropriate to the level awarded)?
- well presented as to general quality of language?

The overall aim is to mark positively, giving credit for what students know, understand and can do.

A2 GOVERNMENT AND POLITICS
GENERIC MARK SCHEME for questions with a total of 10 marks

Knowledge and Understanding: Recall, Select & Deploy	Skills: Analysis & Evaluation	Communication
AO1	AO2	AO3
<p>Level 4 (4 marks) The student demonstrates a comprehensive knowledge and understanding of political concepts, institutions and processes. The student fully addresses the requirements of the question and provides developed and effective to comprehensive interpretation. The answer also provides clear to accurate evidence and, where appropriate, good to excellent examples to illustrate points made.</p>	<p>Level 4 (4 marks) The student applies an excellent range of developed concepts and uses appropriate political theory to construct a clear and cogent explanation or argument.</p>	<p>Levels 3-4 (2 marks) The student communicates clearly and effectively in a sustained and structured manner, using appropriate political vocabulary. There are few, if any, errors of spelling, punctuation and grammar and the response should be legible.</p>
<p>Level 3 (3 marks) The student demonstrates good knowledge and understanding of political concepts, institutions and processes. The student clearly addresses the requirements of the question and provides sound interpretation and contextual awareness. The answer includes good examples to illustrate points made.</p>	<p>Level 3 (3 marks) The student applies a good range of developed concepts and uses appropriate political theory to construct a clear and cogent explanation or argument.</p>	<p>The answer has a clear sense of direction, is focused on the question and, where appropriate, has a conclusion which flows from the discussion.</p>
<p>Level 2 (2 marks) The student demonstrates limited knowledge and understanding of political concepts, institutions and processes. The student makes a limited attempt to address the requirements of the question and provides little to partial, but reasonably effective, interpretation. Answers offer limited evidence and few, or inaccurate, examples to illustrate points made.</p>	<p>Level 2 (2 marks) The student applies a limited range of concepts and makes limited use of political theory or ideas in developing an explanation or argument.</p>	<p>Levels 1–2 (1 mark) The student communicates explanations or arguments with limited clarity and effectiveness, using limited political vocabulary. The answer may lack either a clear focus on the question or a sense of direction.</p>
<p>Level 1 (1 mark) The student demonstrates little knowledge and understanding of political concepts, institutions and processes. The student makes little attempt to address the requirements of the question and provides little interpretation. Answers offer little evidence and few, or inaccurate, examples to illustrate points made.</p>	<p>Level 1 (1 mark) The student applies few concepts and makes little use of political theory or ideas in developing an explanation or argument.</p>	<p>There are frequent errors of spelling, punctuation and grammar and legibility may be a problem. A conclusion, where appropriate, may be offered but its relationship to the preceding discussion is modest or implicit.</p>
<p>0 marks No relevant response.</p>	<p>0 marks No relevant response.</p>	<p>0 marks No relevant response.</p>

A2 GOVERNMENT AND POLITICS**GENERIC MARK SCHEME for questions with a total of 30 marks**

Knowledge and Understanding: Recall, Select & Deploy	Skills: Analysis & Evaluation	Communication
AO1	AO2	AO3
<p>Level 4 (10–12 marks) The student demonstrates a comprehensive knowledge and understanding of political concepts/theories/institutions and processes and the relationships between them. A synoptic approach is fully developed, drawing appropriately on knowledge, perspectives and examples from a wide range of studies in government and politics. The answer fully addresses the requirements of the question and demonstrates excellent contextual awareness. The answer includes excellent examples to illustrate points made. The answer includes detailed and comprehensive interpretations or explanations, as well as accurate evidence and relevant examples, to illustrate points made.</p>	<p>Level 4 (10–12 marks) The student displays excellent awareness of the implications and demands of the question. There is an excellent and sustained focus on the specific question asked. There is clear and full evaluation of political institutions, processes and behaviour which displays a sophisticated awareness of differing viewpoints and recognition of issues. Appropriate parallels and connections are clearly identified, together with well-developed comparisons. A wide range of concepts is used and developed.</p>	<p>Level 4 (6 marks) The student communicates structured and sustained arguments, explanations and conclusions with clarity. Excellent use is made of political vocabulary to construct cogent and coherent arguments and explanations. The response should be legible, with few, if any, errors of spelling, punctuation and grammar. The answer has a clear sense of direction, culminating in a conclusion that flows from the preceding discussion.</p>
<p>Level 3 (7–9 marks) The student demonstrates sound knowledge and understanding of political concepts/theories/institutions and processes and the relationships between them. A synoptic approach is well developed, using a range of knowledge, perspectives and examples gained elsewhere in the study of government and politics. The answer clearly addresses the requirements of the question and demonstrates sound contextual awareness. The answer includes developed and effective interpretations or explanations and also clear evidence and good examples to illustrate points made.</p>	<p>Level 3 (7–9 marks) The student displays sound awareness of the implications and demands of the question. There is a clear focus on the question. There is a sound evaluation of political institutions, processes and behaviour which displays good awareness of differing viewpoints and recognition of issues. There is good recognition of parallels and comparisons. Appropriate concepts are used and developed.</p>	<p>Level 3 (4–5 marks) The student communicates arguments, explanations and conclusions well. Good use is made of political vocabulary to construct clear arguments and explanations. The response should be legible but there may be occasional errors of spelling, punctuation and grammar. The student produces an answer with a conclusion linked to the preceding discussion.</p>

GENERIC MARK SCHEME for questions with a total of 30 marks (continued)

Knowledge and Understanding: Recall, Select & Deploy	Skills: Analysis & Evaluation	Communication
AO1	AO2	AO3
<p>Level 2 (4–6 marks) The student demonstrates outline knowledge and understanding of political concepts/theories/institutions and processes and some awareness of the relationships between them. The answer makes a limited attempt to address the question and demonstrates contextual awareness covering part of the question. An attempt to develop a synoptic approach is made, using a limited range of knowledge, perspectives and examples gained more broadly in the study of government and politics. The answer includes a partial and reasonably effective attempt at interpretation or explanation, with some examples to illustrate points made.</p>	<p>Level 2 (4–6 marks) The student displays little awareness of the implications and demands of the question, resulting in a restricted focus. There is a limited evaluation of political institutions, processes and behaviour, which displays a partial awareness of differing viewpoints and issues. There is some recognition of basic parallels and comparisons. Arguments and explanations are undeveloped, with a limited use of concepts.</p>	<p>Level 2 (2–3 marks) The student communicates arguments and conclusions adequately, with a limited use of political vocabulary. There are frequent errors of spelling, punctuation and grammar and legibility may be a problem. A conclusion is offered but its relationship to the preceding discussion may be modest or implicit.</p>
<p>Level 1 (1–3 marks) The student demonstrates a slight and incomplete knowledge and understanding of political institutions and processes and a limited awareness of the relationships between them. A very limited attempt at synopticity is made, sometimes using superficial or inaccurate knowledge, perspectives and examples cited from elsewhere in their study of government and politics. There is little attempt to address the requirements of the question. There is only superficial awareness, if any, of the context of the question, with little interpretation and few, if any, examples, often inaccurately reported or inappropriately used.</p>	<p>Level 1 (1–3 marks) The student displays little awareness of the implications and demands of the question, and focus is lacking. Evaluation of political institutions, processes and behaviour is superficial. Analysis shows little awareness of differing viewpoints and issues. There is little, if any, recognition of parallels and comparisons. Arguments, explanations and use of concepts are superficial and naïve.</p>	<p>Level 1 (1 mark) The answer relies upon narrative that is not fully coherent. There is little or no use of political vocabulary. Errors in spelling, punctuation and grammar may be intrusive and the response may not be legible. A conclusion, if present, is not adequately related to the preceding discussion.</p>
<p>0 marks No relevant response.</p>	<p>0 marks No relevant response.</p>	<p>0 marks No relevant response.</p>

Topic 1**The Constitutional Framework of US Government****Total for this topic: 40 marks****(01)** Explain the concept of constitutional sovereignty in the USA.**[10 marks]**

This question requires students to examine the concept of sovereignty and to attempt to identify where sovereignty resides in the US political system.

The Constitution of the United States of America is the supreme law of the United States. Empowered with the sovereign authority of the people by the framers and the consent of the legislatures of the states, it is the source of all government powers, and also provides important limitations on the government that protect the fundamental rights of United States citizens.

This is a very important concept and one that all students should have awareness of. In the United States, no single political institution possesses sovereignty (some students may contrast this situation with that in the UK, where Parliament is sovereign – this synoptic assessment is best made in passing, rather than at length). In the USA, the Constitution occupies the ultimate place in the political system.

Constitutional sovereignty is not necessarily just defined in this way, however. Better students are likely to examine the idea of where sovereignty resides. The Constitution appears to imply the notion of popular sovereignty; in other words, with the people of the United States. In this analysis, the Constitution is the guarantor of the will of the people. Critics of the growth of federal government power might argue that it is in the states themselves that sovereignty should reside.

Clearly, this question may be open to a number of differing interpretations of the term. Students may refer, for example, to the concept of shared or dual sovereignty with regard to the states and the federal government. The best responses will recognise that there is perhaps some ambiguity and conflict about the concept of sovereignty in the USA and these responses will be rewarded accordingly.

AO1: 4

AO2: 4

AO3: 2

(02) 'A constitution written in the eighteenth century does not work in the twenty-first century.'
Discuss with reference to the USA. **[30 marks]**

Students are being invited to discuss the arguments about the relevance and practicality of the US Constitution in the present age. Some students may well attempt to mould their responses based on a different question about constitutional flexibility. Although there will be much of relevance in such responses, students who write exclusively in such terms will not normally achieve marks in the higher levels. The issue of flexibility, if deployed with other points, can contribute to a mark in the higher levels.

Students will be expected to highlight the key issues facing the framers when the US Constitution was being drawn up. There is also the need to balance the rights of individual states with the need to have a federal authority with credible powers. The need to check the powers of the various branches of federal government may also be examined. Furthermore, there is a need to enshrine the rights of citizens to ensure the protection of liberty. Synoptic assessment may be introduced at this point, by highlighting how such considerations work in the evolving UK constitution.

Most students will be expected to follow the wording of the question and offer analysis of how the Constitution is not fit for purpose. It could be argued that, from the perspective of the states, too much power has shifted to the federal government in Washington DC. Further analysis might focus on the growth in executive power during the twentieth century. In this respect, the wishes of the framers to provide for limited government can be evaluated. Such analysis is likely to argue that key constitutional devices such as the separation of powers and checks and balances have not stood the test of time.

Some responses may touch upon the issue of citizens' rights and argue that the Bill of Rights contains anachronisms that have created deeply unsatisfactory outcomes. The wording of the Second Amendment has created confusion among politicians and constitutionalists in the past.

Further analysis may identify the amendment process as a limitation. The onerous procedures requiring both substantial burdens of consent at both proposal and ratification stages make it very difficult to achieve change. Defenders of the system might highlight this point as a way of deterring capricious attempts at reform. Critics would argue that the process has seriously hindered key issues of public policy. The failure of the Equal Rights Amendment may be used as one example of this. Students should be credited for the use of appropriate alternative examples.

Fuller responses will be able to identify the constitutional changes that have enabled the US political system to keep pace with changing times. Changes to the way the Senate is elected, the term limits on the executive branch and changes to the voter franchise are three examples that may be cited in this respect. Indeed, it may be argued that little can prevent a measure that has widespread support from gaining the political traction necessary for constitutional change. The Eighteenth Amendment on prohibition might be used as an example in this respect.

The Constitution was not written in such a way that precludes that the USA is governed as if it were still in the eighteenth century. Political institutions have adapted to meet the times. Both houses of Congress have updated their internal procedures over the centuries. The executive branch has also increased the scope of its activities over the past century. Similarly, the relationship between the federal government and the states has also altered during this time.

Complete answers should mention the role of the Supreme Court in addition to some of the earlier points. The Court has been able to take the principles laid down by the Founding Fathers and adapt them to the times, even though the Constitution itself may be silent on a particular issue. The *Roe v Wade* case is a good example of this. Abortion is not mentioned in the Constitution, but the majority of justices were able to make the case relevant to privacy issues as outlined in the Fourteenth Amendment.

Descriptive responses that do not address the question as to whether the US Constitution is fit for the twenty-first century are likely to receive marks in Level 2 at best. In order to achieve marks in Level 3 and above, students need to offer a balanced response, offering analysis and examples on both sides of the debate posed by the question.

AO1: 12

AO2: 12

AO3: 6

Topic 2**The Legislative Branch of Government: US Congress****Total for this topic: 40 marks****(03)** Explain the importance of pork-barrel politics in the US Congress.**[10 marks]**

In essence, the term pork-barrel politics is derogatory in that it is used to describe the manner in which congressional politicians may offer their political support in exchange for benefits for their local areas. Typically, 'pork' involves funding for government programmes whose economic or service benefits are concentrated in a particular area but whose costs are spread among all taxpayers. Members of Congress expect government resources to be made available for infrastructure and other projects in return for their support. It may be argued that members of Congress are judged by their ability to deliver funds to their constituents.

The prominent Democrat Congressman and former speaker, Tip O' Neill, was instrumental in getting the House to approve funding for the 'Big Dig' (a major civil engineering, road tunnelling development costing more than \$14 billion) to relieve the urban congestion of his home town of Boston. More recently, in order to deal with the so-called 'fiscal cliff' in December 2012, Congress agreed a tax write-off for Hollywood. This was a \$20 million break for TV programmes or films shot in an economically depressed area of the United States.

Better responses will indicate more precisely the manner in which the process takes place (highlighting the role of members of the appropriation committees of the US Congress). There is considerable overlap between pork-barrel politics and the process known as 'earmarking'. In addition, students may mention the term 'log rolling'. None of these terms are synonymous, but students will not be required to offer precise distinctions between the terminology to achieve marks in the higher levels. Mention may also be made of the issue of the high incumbency rates among serving members of Congress. Additionally, very good responses may make the connection between the high level of spending and the country's high budget deficit.

Critics of pork-barrel politics argue that it essentially amounts to localism driving national policy. John McCain has been a staunch critic of the practice and made combatting it a key plank of his campaign for the US presidency in 2008. Wider criticisms have highlighted pork-barrel politics as a form of pay back by members of Congress to individuals who have helped to bankroll their campaigns. Better students might highlight the potential for corrupt practices. Tom DeLay's activities are said to have fallen into this category.

There is evidence for a decline in the importance of pork-barrel politics. The Democratic majority elected to the House of Representatives in 2006 imposed some tough new ethics rules. When Republicans retook the House in 2010, they aimed to symbolise a clean break with DeLay-era practices by adopting a blanket ban on earmarks. Very good responses may evaluate the efficacy of this tough approach.

AO1: 4

AO2: 4

AO3: 2

(04) 'Gridlock is an inevitable consequence of the US system of government.' Discuss.

[30 marks]

Gridlock refers to the difficulty that Congress has passing laws which fulfil a party's political agenda in a legislature that is nearly evenly divided, or in which the two houses, or the executive and the legislature, are controlled by different political parties. In United States politics, gridlock frequently refers to occasions when the House of Representatives and the Senate are controlled by different parties, or by a different party from the party of the president. Gridlock may also occur within the Senate, when no party has a filibuster-proof majority.

Students should be able to identify the main reasons for gridlock. In the first place, there are the consequences of the constitutional separation of powers and checks and balances. Examples such as the use of the filibuster in the Senate (which can effectively kill off legislation) may be used to illustrate this point. Furthermore, mention may be made of the workings of the congressional committee system which are also able to consign legislation into political oblivion.

A second reason is the political context of Congress. It has often been difficult for policy to be prosecuted effectively because of the various checks that exist to block it, made more difficult in periods of divided government. Currently the House of Representatives is controlled by a different party to that controlling the Senate and the White House.

Better students could argue that divided government is made even more problematic in an era of increased partisanship; this division might lead to more acute consequences. The shut-down of Washington government in the mid-1990s and 2013 might be used to illustrate the point. This contrasts with earlier periods where a more bipartisan climate was in evidence.

The 112th Congress has been regarded as one which was epitomised by gridlock. Very little legislation was passed during these two years. This has added to the falling esteem of Congress by American voters. Many see Congress as suffering from a 'do-nothing' mentality, failing to get to grips with many areas of public concern, including social security and immigration.

Recent showdowns over the 'fiscal cliff' and the failed attempts to achieve even modest reforms to gun control laws, in spite of widespread public approval for background checks for those wishing to purchase a gun, show that gridlock remains a feature of political life on Capitol Hill.

In order to achieve the higher levels of mark in this question, students will be expected to offer evaluation of the points that appear to support the question. While it is not realistic to expect a response to show that there is no gridlock in the system, the key discriminator in the question is the word 'inevitable'. Furthermore, this is a question about the US Congress and students need to concentrate on this in order to achieve marks in the higher levels.

Clearly, there have been many examples of bipartisan co-operation in Congress over the years. The McCain-Feingold legislation on election funding could be cited as an example here. There is no inevitability of gridlock, just a likelihood if compromise cannot be reached. The Founding Fathers framed the Constitution on the assumption of compromise rather than factionalism. In this sense, gridlock is not an inevitable consequence of the system of government, but of the prevailing climate of political polarisation.

AO1: 12

AO2: 12

AO3: 6

Topic 3**The Executive Branch of Government****Total for this topic: 40 marks****(05) Examine the role and importance of the federal agencies in US government. [10 marks]**

The federal agencies are part of the federal bureaucracy. Many of these agencies are granted a degree of autonomy in order to perform specific roles that are the overall responsibility of a government department. The Federal Bureau of Investigation is an agency of the Department of Justice. There are also many agencies that exist independently of government departments. NASA is an example of an independent executive agency.

The heads of the federal agencies are known as 'directors' and are appointed by the president (and are therefore subject to the Senate confirmation process). They are not members of the cabinet, however. Better responses might highlight the fact that a number of federal agencies have become departments in their own right. An example of this is the Department for Veterans' Affairs. Clearly, this is an indication of the increased importance attached to the particular area of policy.

Students will be expected to be able to identify some of the more important agencies and credit should be given for explanations of these. One of the most high-profile agencies has been the Federal Reserve, established in 1913, whose responsibilities include oversight of the US banking sector and monetary policy.

In order to achieve the higher-level marks, students should be able to examine the importance of the federal agencies. The best responses are likely to point out that, with so many agencies in existence, it is difficult to generalise. Agencies such as the Federal Reserve have been at the heart of US economic financial regulation for decades and may be seen as an indispensable arm of the executive. By contrast, after its monumental achievements in the 1960s, the space agency NASA has seen its fortunes fade in recent decades, largely the result of economic constraints and, to some degree, mission failure.

Some candidates may discuss the importance of agencies with respect to Presidential power by referring to problems posed by allegations of agency capture, iron triangles and clientelism.

Responses may offer some synoptic analysis by mentioning the adoption of executive agencies in the UK in the 1980s (as a consequence of the Ibbs 'Next Steps' report). Students who do not make synoptic evaluation are not to be prevented from achieving maximum marks.

Students who do not answer the question substantially on agencies but on the wider federal bureaucracy, cannot achieve high-level marks for this question. Such responses are likely to achieve no more than Level 2 marks.

AO1: 4

AO2: 4

AO3: 2

(06) Assess the significance of the cabinet in the executive branch of US government.

[30 marks]

Students should be able to correctly identify the nature of the cabinet in the US government. The cabinet in the USA is the group of advisers selected by the president to help him in the decision-making process and aid him in the co-ordination of the work of the federal government. Members of the cabinet are heads of the executive departments. There were originally three such departments; there are now 15 of them.

Responses may include synoptic comparison with the UK by mentioning the different status and relationships of the US cabinet. There is no 'primus inter pares' and, unlike the UK, there is no notion of collective government. The president is ultimately responsible and answerable for policy (both failures and successes) of the government.

Members of the cabinet are not drawn from the US Congress and members of the Senate or the House must resign their seats if they wish to take up a role in the federal government. In choosing members of the cabinet, the president might want to pick up on the expertise of individuals who have made outstanding contributions to their particular fields.

Better responses will attempt to examine the impact of the cabinet in US politics. Some presidents have attempted to make their administrations relevant to the country. President Clinton declared that he wanted a cabinet that 'looked like America'. In this respect it may be important for the cabinet to be a broad reflection of American society. This may mean including individuals from different racial groups (George W Bush included two African Americans, Colin Powell and Condoleezza Rice, in his administration in 2001). Women have been a regular feature of the cabinet since the mid-1970s.

The president may choose an ideologically divergent cabinet. In 2008, President Obama asked Robert Gates (appointed by George Bush) to remain as Defense Secretary. Better responses might pick up on the point that, in this particular case, the president was sending an important message to America's allies and enemies that there was to be no change in the US position on defence policy.

The best responses will examine the importance of the cabinet and may reflect that the body is probably less important collectively than are the individuals within it. Some, such as Kissinger, exerted great influence in his time in government. Similarly, Hillary Clinton is said to have been one of the most powerful Secretaries of State. Clearly, however, there are some individuals whose position does not merit such status and power. Some government departments are very large and have massive budgets (Defence, for example). The heads of these departments clearly wield tremendous influence. Reference to alternative centres of political power within the executive branch, such as EXOP, should be credited when evaluating the significance of the cabinet.

However, there is no parity between the president and his cabinet. This is the only word in the final analysis. There is no competition for the president's position (unlike, perhaps, in the UK). This creates a very different political dynamic compared to some countries with parliamentary governments. Better responses may examine the differing cabinet dynamics under various presidents.

AO1: 12
AO2: 12
AO3: 6

Topic 4**The Judicial Branch of Government: The Supreme Court****Total for this topic: 40 marks****(07)** Explain the practice and importance of judicial review.**[10 marks]**

Students should be able to clearly demonstrate an understanding of the term in the question. The Supreme Court has the power to declare actions of the executive, Acts of Congress, acts or actions of state governments and treaties, unconstitutional. There should also be an understanding that judicial review is not mentioned explicitly in the US Constitution. Better responses will be able to highlight the case of *Marbury v Madison* in 1803, as the first recognised occasion when the Supreme Court exercised the power of judicial review.

The Supreme Court is able to hear cases either on appeal or (in limited circumstances) as the original court, which challenges either the actions of politicians and officials or even Acts of Congress. Some students may draw a synoptic distinction with judicial review in the UK. In effect, the US Supreme Court can rule an action or Act as unconstitutional and strike it down. Better responses will be illustrated with examples.

The best responses will evaluate the power of judicial review by perhaps suggesting that most of the cases heard by the Supreme Court are not politically controversial. Furthermore, the extent to which the Court extends into the political world depends on the prevailing judicial philosophy of the time.

AO1: 4

AO2: 4

AO3: 2

(08) 'The Supreme Court is essentially the guardian of the US Constitution.' Discuss.

[30 marks]

The question paraphrases the words of Alexander Hamilton and, in order to achieve the highest marks for this question, students should offer a well-argued, balanced and illustrated response.

Students should be able to understand the constitutional, historical and political context of the Supreme Court for a full understanding of its work and roles. The Founding Fathers established this as the highest court to settle disputes between states and citizens and states and the federal government. During the early history of the United States, the Court inferred its power of judicial review and, given that appointments to the Court are essentially political, its powers should be seen in this context.

Most responses should understand the role of the Supreme Court in the settling of disputes. In so doing, there should be a recognition that the Court is attempting to uphold the US Constitution. There should be appropriate use of Court judgements to illustrate the point being made. The following are only intended as examples and are not a prescriptive or exclusive guide for examiners. Students should be rewarded for the use of any appropriate example of cases. In the case of *Miranda v Arizona* in 1966, the Court ruled on the rights of arrested persons. In the case of *Engel v Vitale* in 1962, there was a ruling about freedom of religion and the saying of prayers in public schools. Better responses might also mention Supreme Court cases of major political significance such as *United States v Richard Nixon* in 1974, which was to lead to the first resignation of a US president. In all these cases it can be argued that the Supreme Court has attempted to uphold the Constitution.

Better responses are likely to highlight the nature of the Constitution itself and particularly the fact that there is often a lack of clarity and vagueness in its wording. Indeed, the wording of the Article 3, dealing with the Supreme Court itself, is one of the vaguest of all. Such vagueness is both a strength and a weakness. On the one hand, it enables the Constitution to be applied by the Court to contemporary times and avoids the Constitution becoming an anachronism. On the other hand, it gives judges significant powers of interpretation which might lead to decisions being made which, in the eyes of some, may go against what the Founding Fathers originally intended. Better responses are likely to identify cases where the Court's interpretation has been criticised. The case of *Roe v Wade* in 1973 was condemned by those opposed to abortion, claiming that the Court had over-reached itself and gone beyond any reasonable interpretation of the Constitution. In *Texas v Johnson* in 1989, the Supreme Court struck down the Texas statute that outlawed flag desecration, ruling that a man who had set fire to the US flag was exercising his First Amendment (freedom of expression) rights. Critics of the ruling argued that categorising flag burning as 'expression' was perverse.

Many critics of the Supreme Court have been conservatives who have criticised judicial activism during the 1950s and 1960s that have enabled the Court to stray into the political realm and make decisions on areas such as religious rights, affirmative action and capital punishment. These criticisms were shared by successive US presidents who have used their powers of appointment to attempt to rein in the Court's activism.

The best responses should highlight that criticism of the Court comes from other sources as well. In the nineteenth century the Court made judgements which some would argue made a mockery of the words of the Constitution. The *Dredd Scott* and *Plessey v Ferguson* cases might be

highlighted as examples here. Such responses should also offer up-to-date analysis of recent Court rulings that have questioned the Court's credibility in upholding and defending the Constitution. The case of *Citizens United v FEC* in 2010 has been criticised by those who are concerned by the power of money in US election campaigns (although in counter-evaluation, it could be argued that the ruling upheld key First Amendment rights).

Students should be credited if they mention the appointment process. This is essentially motivated by political, rather than constitutional considerations. Presidents seek to influence the shape and philosophy of the Supreme Court and preserve their own influence on the political system long after their own term of office comes to an end.

The best responses are likely to offer a balanced analysis of the question, expressing both arguments in favour of the contention in the question and those against.

AO1: 12

AO2: 12

AO3: 6

ASSESSMENT OBJECTIVE GRID

A2 Assessment Objective	Marks allocated by Assessment Objective 10-mark question	Marks allocated by Assessment Objective 30-mark question	Total Marks by Assessment Objective
AO1	4	12	16
AO2	4	12	16
AO3	2	6	8
Total	10	30	40