

# Mark Scheme January 2007

GCE

## GCE Government and Politics (6492)



## Unit 2 (6492): Governing the UK

	A01	A02	A03
1(a) Outline the powers of the House of Lords	5	0	0

The main legislative powers of the House of Lords are defined by the Parliament Acts of 1911 and 1949. Most importantly, the Lords has the power to delay non-money bills for up to one year with no power to delay money bills. In addition to this, the Lords has outright veto powers over a limited range of legislation, notably over bills to prolong the life of Parliament and over delegated legislation. The Lords also accepts a voluntary constraint, based on convention (the Salisbury-Addison doctrine), not to defeat, and therefore delay, policies contained in the governing party's manifesto at the previous election. The House of Lords also has judicial power in serving as the supreme court of appeal in the UK. The Lords can, more widely, exert influence the legislative and other debates it holds and the general scrutiny of government.

In marking this question, take account of the following issues:

- Knowledge and understanding of the legislative powers of the House of Lords. (AO1)
- Knowledge and understanding of the judicial powers of the House of Lords. (AO1)

Level 3 responses should provide a full and clear account of the Lords' legislative power and at least one other way in which the lords exercise power and influence.

Level 2 responses should provide a limited to sound account of the Lords' powers, and particularly of the delaying power.

Level 1 responses will provide only a weak or poor account of the powers of the House of Lords.

		AO1	AO2	AO3
1(b)	Explain the main differences between parliamentary government and presidential government.	10	0	5

Parliamentary government and presidential government are the two main ways in which liberal-democratic governmental systems are organised. They differ basically in terms of the relationship between the legislature and the executive, which, in turn, affects the distribution of policy-making power and the relationship between government and the people. The main differences between these two governmental systems are as follows:

- The most important distinction is that parliamentary systems of government are based on a fusion of powers between the legislature and the executive, such that government governs in and through the legislature, the two bodies overlapping and inter-locking. In contrast, presidential systems are based on a separation of powers between the legislature and the executive, which is designed to provide the basis for a system of checks and balances between the two branches of government.
- In a parliamentary system governments are formed as a result of parliamentary elections, the winning party or parties needing (usually) to have majority control of the legislature. In contrast, in presidential systems, the legislature and the executive are separately elected, and each is invested with a range of independent constitutional powers.
- In a parliamentary system the personnel of government are drawn from the legislature, usually from the leaders of the party or parties that have majority control. In contrast, in presidential systems, there is a strict separation of personnel, meaning, for example, that the president and the cabinet cannot sit in the legislature.
- In a parliamentary system, the executive or government is responsible to the legislature, in the sense that it rests on the legislature's confidence can be removed if it loses that confidence. This may precipitate a general, or parliamentary, election earlier than the full electoral term. In contrast, in presidential systems, the president and executive are not directly accountable to or removable by the legislature.
- In parliamentary systems, the executive can, in most cases, 'dissolve' the legislature, which it usually does in the hope of strengthening its control. This is another reason why electoral terms are flexible within a maximum limit. In contrast, in presidential systems, the president cannot 'dissolve' the legislature, and in all circumstances electoral terms are fixed.

In addition, other differences can be identified, including the following:

- In parliamentary systems, executive authority is usually collective (at least in theory), and based on the principle of collective cabinet government. In contrast, in presidential systems, executive authority is concentrated in the hands of the president, the cabinet and ministers merely being advisors responsible to the president.
- In parliamentary systems, the posts of head of government (usually a prime minister) and head of state (a constitutional monarch or a non-executive president) are distinct and separate. In contrast, in presidential systems, the president wears 'two hats', combining the roles of head of government and head of state.

In marking this question, take account of the following issues:

- Knowledge and understanding of parliamentary government. (AO1)
- Knowledge and understanding of presidential government. (AO1)

Level 3 responses should demonstrate a full and clear explanation of the main differences, highlighting the central difference between a fusion and separation of powers and at least two other major differences.

Level 2 responses should show a limited to sound understanding of at least the core differences between a fusion of powers and a separation of powers .

Level 1 responses will demonstrate a weak or poor understanding of the main differences between the two systems.

	AO1	AO2	AO3
1(c) How effective is Parliament in scrutinising the work of the executive?	10	15	5

Parliament scrutinises the work of the executive through forcing the government to explain and defend its actions. The key mechanisms through which the Commons and Lords carry out their scrutiny roles include the following:

- Parliamentary questions require that ministers, including the prime minister on Wednesday, provide oral or written answers to questions raised by MPs or peers.
- Debates in the Commons and the Lords can call ministers, including the prime minister, to account. Examples of these would include debates on the Queen's Speech or on motions of no-confidence, debates initiated by opposition parties on so-called Opposition Days, adjournment debates (which provide an opportunity to raise general or constituency issues), and emergency debates (which are rare but may be conceded by the Speaker).
- Early day motions do not result in debate but allow MPs to express views on matters of general concern.
- Standing and select committees, particularly those in the House of Commons, allow for the scrutiny of ministers and senior civil servants away from the parliamentary floor. Such committees have the power to send for 'persons, papers and records'.
- Letters to ministers provide a mechanism through which MPs can force ministers to address issues raised by their constituents.

However, the effectiveness of parliament in holding the executive to account is often severely limited. The key limitations on Parliament in this respect include the following:

- The most significant of these is that the combination of a parliamentary system of government and a majoritarian electoral system ensures that the executive, in most cases, enjoys majority control of the House of Commons. This, in normal circumstances, ensures that governments are rarely defeated in parliamentary debates. This also significantly undermines the effectiveness of select committees, whose composition reflects that of the Commons as a whole. However, governments do not (in modern circumstances) have majority control of the House of Lords, which means that if Parliament is going to defeat government legislation or embarrass the government of the day, it is more likely to happen in the Lords than in the Commons.
- Party unity also tends to make parliamentary scrutiny less effectiveness because, in most circumstances, governing party MPs see their primary role and responsibility as supporting the government of the day, rather than scrutinising it. However, in the event majority-party disunity, backbench MPs can be highly effective in checking the power of the executive.
- The size of the government's majority in the Commons is an important factor, in that the larger the majority the government has, the weaker will be both opposition parties and its own backbenchers. This has been particularly evident following landslide victories by both the Thatcher and Blair governments.
- The subordinate powers and status of the House of Lords weakens the scrutinising role of Parliament, in that it has restricted legislation powers. However, it may often be more effective than the commons in scrutinising the executive because governments typically do not enjoy executive control. Governments defeats in the Lords are therefore much more common than in the commons.
- The scrutinising role of Parliament may now have largely been transformed to the mass media.

In marking this question, take account of the following issues:

- Knowledge and understanding of the key mechanisms through which Parliament scrutinises the work of the executive. (AO1)
- Explanation of how these mechanisms are effective in bringing about scrutiny. (AO2)
- Evaluation and analysis of the effectiveness of Parliament's scrutinising role. (AO2)

Level 3 answers should show a full and balanced understanding of both how Parliament scrutinises the work of the executive and of how effective it is in this respect.

Level 2 responses should demonstrate a limited to sound understanding of at least the mechanisms through which scrutiny is carried out, and some understanding of their effectiveness.

Level 1 responses will offer a weak or poor understanding of Parliament's scrutinising role, or their knowledge of the mechanisms is not supported by an ability to evaluate their effectiveness.

	A01	A02	A03
2(a) What is a constitution?	5	0	0

A constitution is, broadly, the rules that govern government, and as such constitutions limit the exercise of government power by defining how and by whom it can be exercised. A constitution can thus be seen as a set of rules, written and unwritten, that seek to establish the duties, powers and functions of the various institutions of government. It also regulates the relationship between these institutions, and defines the relationship between the state and the individual. The balance between written (legal) and unwritten (customary or conventional) rules varies from system to system. Constitutions come in various forms, the key classifications being between 'written' or codified constitutions and 'unwritten' or uncoded constitutions.

In marking this question, take account of the following issues:

- Knowledge and understanding of the nature and purpose of a constitution. (A01)
- Knowledge and understanding of how constitutions allocate duties, powers and functions to government institutions. (A01)

Level 3 responses should provide a clear and full definition of the nature of a constitution, particularly by recognising that constitutions define powers and institutional relationships. Answers should be supported by appropriate examples.

Level 2 responses should show a limited to sound understanding of at least one accurate feature of a constitution.

Level 1 responses will demonstrate a weak or poor understanding of the nature of a constitution.

		AO1	AO2	AO3
2(b)	Distinguish between a codified constitution and an uncoded constitution.	10	0	5

A codified constitution is a constitution in which the key constitutional provisions are collected together within a single legal document, popularly known as a 'written' constitution, or 'the constitution'. The classic example of a codified constitution is the US Constitution written in 1787. Codified constitutions have the following features:

- They are authoritative in the sense that the codified constitution constitutes 'higher' law, indeed, the highest law of the land. A codified constitution thus establishes a two-tier legal system, with constitutional law standing above statute law made by the executive.
- Codified constitutions are entrenched, in the sense that they are difficult to amend or abolish. The procedures for establishing the constitution and subsequently revising it are more complex and difficult than the procedures for enacting and amending ordinary statute laws.
- Codified constitutions are judiciable, in that being a legal document, the judiciary has the ultimate authority to define the interpretation of constitutional rules. The judiciary is thus the final constitutional arbiter.

Uncodified constitutions are not based on a single authoritative document. The classic example of an uncoded constitution is the UK constitution. The major features of an uncoded constitution are as follows:

- Uncoded constitutions draw on a variety of sources. Chief amongst these in the UK are statute law, which is made by Parliament, common law, conventions, various works of authority that clarify and explain the constitution's 'unwritten' elements, and EU laws and treaties.
- They are not entrenched, meaning that constitutional laws are no different from statute laws, either in terms of their authority or how they are made. In other words, Parliament can change the constitution by enacting statute law.
- They are not judiciable, in that judges cannot challenge Parliament's ability to make or unmake statute laws, including those that are constitutionally significant.

In marking this question, take account of the following issues:

- Knowledge and understanding of the features of a codified constitution. (AO1)
- Knowledge and understanding of the features of an uncoded constitution. (AO1)

**Level 3** responses should demonstrate a full and clear understanding of key differences between codified and uncoded constitutions.

**Level 2** responses should show a limited to sound understanding of some differences between codified constitutions and uncoded constitutions.

**Level 1** responses will demonstrate a weak or poor understanding of either or both codified constitutions or uncoded constitutions, and an inadequate understanding of the differences between them.

	AO1	AO2	AO3
2(c) Should the UK constitution remain uncoded?	10	15	5

The UK's uncoded constitution has a variety of strengths. These include the following:

- Uncoded constitutions are relatively flexible, and can therefore be responsive and adaptable to changing political and other circumstances. The flexibility of the UK constitution stems primarily from the fact that Parliament can change it through the normal processes of statute law. Thus, since 1997, devolution has been introduced in Scotland and Wales, referendums have been more widely employed, and a Human Rights Act has been enacted.
- Drawing on long-established traditions and conventions, as well as common law, the UK's uncoded constitution has the benefit that it is rooted in history and has an organic character, unlike 'artificial' coded constitutions.
- Being uncoded, the UK constitution locates ultimate constitutional authority in Parliament. The advantage of this is that, as MPs are elected and in view of the dominance of the Commons over the Lords, the constitution is broadly responsive to democratic pressures.
- The uncoded constitution protects against the tyranny of the judiciary, a danger embodied in any coded constitutional system. Concerns about judges being the ultimate constitutional arbiters arise from the fact that they are both non-elected and socially unrepresentative of the larger society.

Nevertheless, the UK's uncoded constitution has stimulated deep controversy and widespread criticism. The most significant criticisms made of the UK constitution include the following:

- The main criticism of the UK constitution centre around the principle of parliamentary sovereignty, which vests in Parliament absolute and unlimited power, reflected in the ability to make, amend or repeal any law it wishes, including constitutional laws. This, it is argued, has resulted in 'elective dictatorship'. Elective dictatorship results from the ability of a government to act in any way it pleases as long it maintains majority control of the House of Commons. This occurs because the sovereign power vested in Parliament is in practice exercised by the majority party in the Commons, and thus invests almost unrestricted power in the leaders of that party, the prime minister and cabinet. The disadvantages of an elective dictatorship include that it allows governments, between elections, to act in arbitrary ways and to pose threats to individual rights and liberties. Examples of this could include the ability of successive governments to resist pressures for devolution until 1997 and the maintenance of the single-member plurality electoral system for the House of Commons because it benefits the governing parties even though it seriously distorts electoral representation.
- The UK constitution has increasingly been criticised because of the inadequate protection it provides individual rights and civil liberties, as has been evident with legal challenge to anti terrorism legislation.
- Until the passage of the Human Rights Act, any such rights were based on little more than the common law assumption that 'everything is permitted if it is not prohibited'. The Human Rights Act does not give citizens inalienable rights, and therefore does not constitute an entrenched Bill of Rights because its provisions can be set aside by Parliament and in practice by the government of the day.
- A further disadvantage of an uncoded constitution is that it is weak in establishing core values and principles upon which the political system is based, and which may give citizens a clearer sense of civic allegiance. A coded constitution may therefore have educational benefits, perhaps especially in an increasingly multicultural society.

In marking this question, take account of the following issues:

- Knowledge and understanding of the advantages of the UK's uncoded constitution. (AO1)
- Knowledge and understanding of the disadvantages of the UK's uncoded constitution. (AO1)
- Evaluation and analysis of the competing arguments. (AO2)



Level 3 responses should demonstrate a clear and reliable understanding of key arguments and an ability to evaluate them with appropriate examples.

Level 2 responses should demonstrate a limited to sound understanding of relevant arguments.

Level 1 responses will show a weak or poor understanding of the relevant arguments.

	AO1	AO2	AO3
3(a) Define collective ministerial responsibility.	5	0	0

Collective ministerial responsibility is a long-established constitutional convention. It defines the relationship both between Parliament and the executive and between ministers within the cabinet and government. It implies that government rests collectively on the confidence of Parliament, in practice the House of Commons. This implies that the government can be removed if it loses that confidence, in practice through an adverse vote on an issue of confidence or a 'major' issue. This would, then, precipitate a general election. However, the more common understanding of collective ministerial responsibility is the implication that the cabinet makes decisions collectively, each member (including the prime minister) being equal, and that members of the cabinet and other ministers are therefore obliged to support government policy in Parliament and in public. The convention implies that if ministers are unwilling or unable to support government policy they should resign or face being sacked. The convention thus ensures that ministers 'sing from the same hymn sheet'.

In marking this question, take account of the following issues:

- Knowledge and understanding of the convention's implications for the relationship between government and Parliament. (AO1)
- Knowledge and understanding of the implications of the convention for cabinet and government unity. (AO1)
- Knowledge and understanding of the circumstances in which ministers may resign or be sacked under the convention. (AO1)

Level 3 responses should show a clear and full understanding of at least the requirement of cabinet and government unity, and the basis it provides for ministerial resignations. Answers should be supported by a relevant example.

Level 2 responses should show a limited to sound understanding of at least one key feature.

Level 1 responses will demonstrate a weak or poor understanding of collective ministerial responsibility.

	AO1	AO2	AO3
3(b) What are the functions of the cabinet?	10	0	5

The cabinet is a committee of senior ministers, mainly heads of government departments. The main functions of the cabinet include the following:

- The key function of the cabinet is to make formal government decisions; a policy becomes 'official' once approved by the cabinet. This reflects the theory that the cabinet is the pinnacle of the UK executive, and is based on the principle of cabinet government, the belief that policy-making responsibility is shared within the cabinet, the prime minister being 'first' in name only. However, the cabinet in practice often does little more than give formal approval to decision effectively made elsewhere.
- The cabinet plays a crucial role in co-ordinating government policy and activities. As a 'clearing house' through which key policy proposals are raised and discussed, the cabinet is a forum that ensures that there is an overview of developments that are taking place in different departments and parts of the executive. This function is also carried out through the work of cabinet committees and via the Cabinet Office.
- The cabinet provides a final court of appeal for disagreements between ministers or between departments that cannot be resolved at a lower level.
- The cabinet manages parliamentary business in that it considers, on a weekly basis, the schedule of bills passing through the Commons and the Lords, also taking account of the strength of party and parliamentary support for particular government measures. These discussions are facilitated by the presence of the chief whip.
- The cabinet can, in certain circumstances, undertake the crisis management of emergencies. The best example of this is through the formation of so-called 'war cabinets', allowing the prime minister to make key military decisions in conjunction with key members of the cabinet.

In answering this question, take account of the following issues:

- Knowledge and understanding of the functions of the cabinet. (AO1)
- An awareness of a range of cabinet functions. (AO1)

Level 3 responses should offer a full and clear explanation of the policy and coordinating functions of the cabinet and at least one other function

Level 2 responses should demonstrate a limited to sound understanding of the functions of the cabinet.

Level 1 responses will demonstrate a weak or poor understanding of one function of the cabinet.

	A01	A02	A03
3(c) To what extent do prime ministers dominate the cabinet?	10	15	5

In theory, prime ministers do not dominate the cabinet, as the UK has a system of collective cabinet government in which the prime minister features merely as 'first amongst equals'. However, this view has been widely and roundly rejected, with allegations becoming more common that the UK has a system of prime ministerial government or a presidential system of government. Prime ministers can dominate the cabinet in a variety of ways. These include the following:

- The prime minister has significant powers of patronage. The prime minister appoints, promotes, demotes and sacks all members of the cabinet. This enables the prime minister to choose cabinet members who are either personally loyal or ideologically sympathetic to him/her. Patronage powers also engender in cabinet members subservience to a prime minister who can make or break their political careers. Prime ministers control the workings of the full cabinet in a variety of ways. This includes their ability to determine when, and how frequently, cabinet meetings take place. (Tony Blair has held cabinet meetings only once a week and they last sometimes a little over an hour.) In addition, the prime minister effectively shapes the cabinet's agenda and chairs cabinet meetings, giving him/her both the ability to structure cabinet debate and to sum up cabinet conclusions.
- The prime minister exercises significant control over the cabinet system. This applies in their ability to set up, staff and appoint the chairs of cabinet committees, whose recommendations are then seldom rejected by the full cabinet. Similarly, prime ministers use the Cabinet Office as, in effect, a tool of prime ministerial government.
- A prime minister's control of the cabinet stems, in large part, from the prime ministers role as party leader and 'brand image' of the party itself. Loyalty to, and support for, the prime minister within the cabinet is therefore linked to the perception that the government is strong and the party is electorally viable.

However, prime ministers do not have unchecked power within the cabinet, and they cannot emancipate themselves entirely from the constraints of cabinet government. This can be seen in a variety of ways and in a variety of circumstances.

- In their management of the cabinet and in the appointment and sacking of cabinet members, the prime minister has got to take account of a variety of factors. These include that the cabinet needs to be relatively representative of the party in parliament in ideological terms, and that certain senior cabinet members may enjoy such a level of party support and public recognition that they are, effectively, unsackable.
- Prime ministers are only, in practice, as powerful as their cabinets allow them to be. No prime minister can survive without broad cabinet support, and the sacking of senior ministers can erode the prime minister's authority within Parliament and his/her public standing. This was aptly demonstrated by Thatcher's sacking of key cabinet figures from the late 1980s onwards, and, most starkly, in the loss of cabinet support that provoked her resignation in 1990.
- A prime minister's ability to dominate his/her cabinet is also dependant on political circumstances, and in particular the government's popularity and chances of being re-elected. Crudely, prime ministers are powerful within their cabinets when they are seen as electoral benefits to their party and they become weak or vulnerable once they are seen as electoral liabilities.

In answering this question, take account of the following issues:

- Knowledge and understanding of how prime ministers can influence and control the cabinet. (A01)
- Knowledge and understanding of limitations on the prime minister in controlling their cabinet. (A01)
- Evaluation and analysis of the power balance between prime ministers and cabinets. (A02)

**Level 3** responses should demonstrate a clear and reliable understanding of both sides of the argument, leading to a balanced conclusion supported by appropriate evidence from more than one prime minister.

**Level 2** responses should demonstrate a limited to sound understanding of how prime ministers

control their cabinet and of limitations upon them, although some of these points may be generalised and not focused sufficiently on the relationship between the cabinet and the prime minister.

Level 1 responses will show a weak or poor understanding of the relationship between prime ministers and cabinets.

	A01	A02	A03
4(a) What is the judiciary?	5	0	0

The judiciary is the branch of government that is empowered to decide legal disputes. Its central function is therefore to adjudicate the meaning of law, in the sense that judges interpret or 'construct' law. Judges carry out this function through their administration of court processes and procedures, including the clarification of points of law for a jury and the making of legal decisions in the absence of a jury. Judges may also chair government enquiries or royal commissions. There is a hierarchy within the judiciary reflected in the system of courts from magistrates courts, crown courts and county courts through to the high court, the court of appeal and the House of Lords.

In answering this question, take account of the following issues:

- Knowledge and understanding of the relationship between judges and the law. (A01)
- Knowledge and understanding of the relationship between judges and the court system. (A01)

Level 3 responses should demonstrate a clear and full understanding of the nature of the judiciary.

Level 2 responses should show a limited to sound understanding of the nature of the judiciary.

Level 1 responses will show a weak or poor understanding of the nature of judiciary.

		AO1	AO2	AO3
4(b)	What is judicial neutrality, and how is it upheld in the UK?	10	0	5

Judicial neutrality is the principle that judges, when carrying out their professional role, do not subscribe to any form of partisanship or commitment. They refuse to 'take sides', in the sense of holding moral, political or ideological beliefs that intrude on the process of legal decision-making. In other words, judges are neutral if they make court ruling and legal decisions strictly on the basis of legal criteria. The neutrality of the UK judiciary is upheld in a variety of ways. These include the following:

- The process of legal training and their lengthy experience, usually as a barrister, is intended to ensure that judges operate according to a set of professional ethics that enable them to keep personal prejudices and biases to one side, concentrating instead on legal matters.
- Attempts in recent years have been made to broaden the judiciary in terms of their backgrounds and life experiences. This is applied through changes that have enabled judges to be appointed from the ranks of solicitors, and not merely barristers, and in a trend towards the appointment of more female and ethnic minority judges, although these processes are at an early stage in terms of changing the complexion of the judiciary.
- The use of legal precedent and the possibility that cases may go to appeal help restrict the influence of personal views.
- Judges are prohibited from taking an active part in party politics, and certainly from standing as a parliamentary candidate. Although senior judges sit in the House of Lords, their contribution to debate is expected to be strictly non - positional.

In answering this question, consider the following issues:

- Knowledge and understanding of the nature of judicial neutrality. (AO1)
- Knowledge and understanding of mechanisms designed to uphold judicial neutrality. (AO1)

Level 3 responses should demonstrate a clear understanding of the nature of judicial neutrality and of ways in which judicial neutrality is upheld.

Level 2 responses should demonstrate a limited to sound understanding of the nature of judicial neutrality, and show an awareness of at least one way in which judicial neutrality is upheld.

Level 1 responses will show a weak or poor understanding of judicial neutrality and fail to show an appropriate grasp of how it is upheld.

		AO1	AO2	AO3
4(c)	To what extent do judges constrain Parliament and the executive?	10	0	5

The role of judges within an uncodified constitutional system is limited in the sense that they cannot make larger decisions about the constitutional basis of the actions of either Parliament or the executive. Judges in the UK, therefore, have a narrower capacity to constrain Parliament and the executive than, say, judges in the USA can constrain Congress and the presidency. In particular, judges cannot challenge or overturn Acts of Parliament. The capacity of judges to constrain the executive depends on the exercise of judicial review. Judicial review is the power of judges to review the actions of ministers in the light of the powers that have been delegated to them by Parliament. Judges can therefore determine that ministers have acted *ultra vires*, or beyond their legal authority. There has been evidence since the 1980s of a greater willingness of judges to use their powers of judicial review, perhaps based on the growth of a human-rights culture within the UK judiciary. Examples of this can be seen in clashes between the judiciary and Conservative Home Secretaries in the 1990s and over the Matrix Churchill case. A further way in which judges can constrain the executive is through their role in chairing public enquiries, such as the Scott Enquiry on the arms to Iraq scandal in 1996 and the 2003 Hutton Enquiry into the circumstances surrounding the death of the weapons inspector, David Kelly.

The passage of the Human Rights Act in 1998 has widened the opportunities available for the judiciary to challenge Parliament and the executive. In the first place, it makes it possible for a court to issue a 'declaration of incompatibility' if it is believed that an Act of Parliament is in conflict with the HRA. Although Parliament may uphold the Act in question, this at least forces ministers and Parliament to review the issue and consider amending or repealing the law in Parliament. A variety of cases have been brought under the HRA highlighting concerns about ministers' powers as set out in 'secondary' legislation. These include, in 2004, a House of Lords' judgement on the detention of terrorist suspects in Belmarsh Prison, and the 2006 Immigration Tribunal judgement on the treatment of nine Afghan men who had hijacked an airplane.

In answering this question, consider the following issues:

- Knowledge and understanding of the ways in which judges can constrain Parliament and the executive. (AO1)
- Knowledge and understanding of the limitations of judges in constraining Parliament and the executive. (AO1)
- Evaluation and analysis of the extent to which judges constrain Parliament and the executive.

Level 3 responses should demonstrate a clear and balanced understanding of the implications of judicial review and the HRA, and to distinguish, as appropriate, between Parliament and the executive. Suitable examples should be provided.

Level 2 responses should demonstrate a limited to sound understanding of the relationship between judges and Parliament and the executive, although there may be less balance in their answers or little distinction made between Parliament and the executive.

Level 1 responses will show a weak or poor understanding of the relationship between judges and Parliament and the executive.



