

# Mark Scheme (Results) Summer 2010

GCE

## GCE Government & Politics (6GP04) Paper 4C

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## General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

No. 1	To what extent are the two chambers of Congress equal in power and influence?
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**Indicative content (*this is not an exhaustive account of relevant points*)**

In their most important role of legislating, the two houses are equal in power. A two thirds majority is required from both houses to override a presidential veto and to initiate a constitutional amendment. Both have a role in the impeachment process and votes are required in both houses to declare war. The House of Representatives has the exclusive power to begin the consideration of money bills and, should there not be an overall majority in the Electoral College, it has the power to elect the president, whereas the Senate elects the vice-president.

The Senate is usually seen, though, as more prestigious than the House of Representatives, because:

- There are only 100 Senators, compared to 435 House representatives.
- Senators have six year terms, compared to the two year terms of the House.
- The Senate's exclusive powers are more significant, especially the ratification of treaties and the confirmation of presidential nominees.
- The frequent use of the filibuster and the consequent need for a 60 vote 'supermajority' mean that the passage of legislation is more problematic than in the House, and gives senators of both parties a degree of leverage. The loss of the Democrats' supermajority, after the special election in Massachusetts in January 2010, meant that Democrats in the Senate were able to exert more influence over the final shape of health care reform than their colleagues in the House.
- It is not uncommon for representatives to seek to become senators, but next to never the other way.
- Serious congressional presidential and vice-presidential candidates have almost always come from the Senate, e.g. Obama, Biden and McCain.

LEVELS	DESCRIPTORS
<i>Level 3</i> (11-15 marks)	<ul style="list-style-type: none"> <li>• Full and developed knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.</li> <li>• Good or better ability to analyse and explain political information, arguments and explanations.</li> <li>• Sophisticated ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.</li> </ul>
<i>Level 2</i> (6-10 marks)	<ul style="list-style-type: none"> <li>• Satisfactory knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.</li> <li>• Sound ability to analyse and explain political information, arguments and explanations.</li> <li>• Adequate ability to construct and communicate coherent arguments, making some use of appropriate vocabulary.</li> </ul>
<i>Level 1</i> (0-5 marks)	<ul style="list-style-type: none"> <li>• Limited knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.</li> <li>• Poor ability to analyse and explain political information, arguments and explanations.</li> <li>• Weak ability to construct and communicate coherent arguments, making little or no use of appropriate vocabulary.</li> </ul>

No. 2	How effectively do the three branches of the Federal government check each other?
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**Indicative content (*this is not an exhaustive account of relevant points*)**

The system of checks and balances was framed to ensure that each branch depends on the others to carry out its functions, and none can become too powerful.

Evidence that the checks are too weak to be effective includes:

- The growth of judicial review has meant that the Supreme Court exercises almost uncheckable power over a wide range of public policy.
- The president has exploited his role as commander in chief to effectively take over Congress's power to declare war.
- Unified party control of the White House and Congress can lead to high levels of co-operation, e.g. the period of Republican control in 2002-06.
- The president can circumvent Congress through executive orders, executive agreements and recess appointments.
- The president can distort the intent of Congress through signing statements.

Evidence that the checks are too strong to be effective includes:

- Gridlock can occur when the presidency and Congress are controlled by different parties, e.g. the government shutdowns of 1995-96.

Evidence that the checks *are* effective includes:

- The constitution has worked for over 200 years and has only been amended 27 times.

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No. 3	What is the role of Committee Chairmen in Congress, and why have they been the subject of criticism?
Indicative content ( <i>this is not an exhaustive account of relevant points</i> )	
<p>Committee chairmen in the House of Representatives have traditionally been extremely powerful. They are able to:</p> <ul style="list-style-type: none"> <li>• pigeonhole bills, blocking their further progress</li> <li>• substantially rewrite bills</li> <li>• actively work with other members of the committee to promote a bill</li> </ul> <p>They have been criticised because, in the past, their appointment through seniority meant they have been able to run their committees as independent fiefdoms, for the benefit of themselves, their constituents and groups supporting them, and to disregard party and national interests. They may become one corner of an iron triangle. However, since 1994, successive Speakers have moved to restrict the power of committee chairmen by:</p> <ul style="list-style-type: none"> <li>• imposing term limits</li> <li>• disregarding seniority in appointment and rewarding party loyalty</li> <li>• intervening directly in the committees' proceedings to secure the outcome they want</li> </ul> <p>In the Senate, the tradition of unrestricted debate, the ability of a minority to block the passage of legislation and a more collegial atmosphere mean that chairmen have traditionally been less dominant than their House counterparts. Nevertheless, committee chairmen are still able to exercise significant influence, as was seen in the role of chairmen such as Max Baucus during the passage of the health care legislation in 2009-10</p>	
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No. 4	How much influence does the President have over the legislative process?
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**Indicative content (*this is not an exhaustive account of relevant points*)**

- The president attempts to set the legislative agenda for the year in the State of the Union address, and usually proposes the bulk of the most significant legislation each year.
- The extent of the president's influence over the legislative process depends on party control of Congress; if both houses of Congress are controlled by the opposing party to the president, Congress may well be resistant to his proposals, and the opposing party's leadership may even try to take the legislative initiative itself, as happened after the election of a Republican Congress in 1994.
- High poll ratings give the president increased authority and create a political cost for congressmen in opposing a popular president; conversely, poor ratings will weaken the president's authority and impose no costs on congressional opposition.
- A first term president will almost always have more influence than a second term president, and a second term president's influence will usually suffer a further decline after the mid-terms.
- The extent of the president's influence will depend on his success in exercising the 'power to persuade'; as well as using the White House staff, the president may become involved in the process personally, e.g. President Obama reportedly took some undecided representatives on Air Force One to press his case for health care reform. He can also use the presidential 'bully pulpit' to pressure Congress via public opinion, e.g. by using the weekly radio and Internet address, and it has become a standard technique for presidents to take policies 'on the road' to generate support and show personal commitment to the cause.
- At times of national emergency, Congress is likely to accede to anything the president wants, e.g. the very broad resolution passed in the wake of the attacks of September 2001.
- In extremis, the president can threaten to veto bills, although this can of course be over-ridden, and may in any event be counter-productive. President Clinton famously promised in the 1994 State of the Union to veto any bill which did not guarantee health coverage for all Americans, and no bill ultimately emerged from Congress at all.

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No. 5	Why is the issue of the composition of the Supreme Court so controversial?
<b>Indicative content (<i>this is not an exhaustive account of relevant points</i>)</b>	
<p>The composition of the Supreme Court is controversial because of:</p> <ul style="list-style-type: none"> <li>• the power it exercises in modern day America. The constitution means what the court says it means, and this has given it effective control over many areas of public policy.</li> <li>• the life tenure of justices, which means a president's influence can persist many years after he has left office.</li> <li>• the recent polarisation of the court into closely matched liberal and conservative blocs, which has had the consequence that the appointment process has become highly politicised, and each nomination to the court is accompanied by intense lobbying, both for and against.</li> <li>• the desire of minority groups and the various regions of the country to see one of their own on the court. An aspect of Elena Kagan's nomination which has attracted comment is that her confirmation would result in there being three Jews and three natives of New York on the nine-member court; some argue that, as an unelected body, it is important for the court's legitimacy that it is representative of America.</li> </ul>	
<b>LEVELS</b>	<b>DESCRIPTORS</b>
<p><i>Level 3</i> (11-15 marks)</p>	<ul style="list-style-type: none"> <li>• Full and developed knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.</li> <li>• Good or better ability to analyse and explain political information, arguments and explanations.</li> <li>• Sophisticated ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.</li> </ul>
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No. 6	Does the Supreme Court have too much power for an unelected body?
Indicative content ( <i>this is not an exhaustive account of relevant points</i> )	
<p>Judicial review gives the Supreme Court immense power over the constitution, and, in recent years, judges have become arbiters over a wide range of public policy, most famously desegregation and abortion.</p> <p>This has given rise to a debate between conservatives, who believe that activist justices have gone far beyond the court's intended powers, and liberals, who argue the court's expanded role is necessary to preserve the constitution's values.</p> <p>Conservatives' arguments include:</p> <ul style="list-style-type: none"> <li>• The court, as an unelected branch, should adhere to the principle of legislative deference, i.e. it should only overrule legislation passed by the people's elected representatives if it unambiguously violates the constitution.</li> <li>• Because judicial review is not explicitly specified in the constitution, and the judiciary was envisaged by the framers as the 'least dangerous' branch, the court is effectively uncheckable.</li> <li>• If, in overriding legislators, the court is seen to sanction a particular political viewpoint as 'constitutional', e.g. in its striking down of the New Deal legislation of the 1930s, then it undermines its own legitimacy.</li> <li>• If some parts of the constitution are ambiguous, then - since it is impossible to show a clear violation - this should act as a brake on the expansion of judicial review, but instead, in the hands of liberals, has become the basis for it.</li> <li>• Judges are expert in law, not social policy, and consequently judge-made social policy is often ineffective and unworkable in practice.</li> </ul> <p>Liberals' arguments include:</p> <ul style="list-style-type: none"> <li>• For the constitutional values of liberty and equality to be upheld, the constitution needs to be a 'living constitution' and interpreted to meet the needs of modern society; if it is not, it will become increasingly irrelevant.</li> <li>• The combination of a separated system of government and risk-averse politicians means that legislation in contentious areas is unlikely to be passed, and that, if the court does not act, access to basic rights could be denied indefinitely.</li> <li>• Cases such as <i>Plessy v Ferguson</i> show that, if the court is willing to overturn only the most flagrant breaches of the constitution, basic rights will be denied.</li> <li>• There <i>are</i> checks on the court; for example, Congress can (and has) initiated constitutional amendments in response to its decisions.</li> <li>• Conservatives are inconsistent, as conservative judges are themselves willing to exploit constitutional ambiguities to advance their agenda, e.g. the Roberts court has struck down gun control legislation in cases such as <i>McDonald v Chicago</i></li> </ul>	

<b>AO1</b>	<b>Knowledge and understanding</b>
<i>Level 3</i> (9-12 marks)	Full and developed knowledge and understanding of relevant institutions, processes, political concepts, theories or debates
<i>Level 2</i> (5-8 marks)	Satisfactory knowledge and understanding of relevant institutions, processes, political concepts, theories or debates
<i>Level 1</i> (0-4 marks)	Poor knowledge and understanding of relevant institutions, processes, political concepts, theories or debates

<b>AO2</b>	<b>Intellectual skills</b>
<i>Level 3</i> (9-12 marks)	Good or better ability to analyse and evaluate political information, arguments and explanations, and identify parallels, connections, similarities and differences
<i>Level 2</i> (5-8 marks)	Sound ability to analyse and evaluate political information, arguments and explanations, and identify parallels, connections, similarities and differences
<i>Level 1</i> (0-4 marks)	Limited ability to analyse and evaluate political information, arguments and explanations, and identify parallels, connections, similarities and differences
<b>AO2</b>	<b>Synoptic skills</b>
<i>Level 3</i> (9-12 marks)	Good or better ability to identify competing viewpoints or perspectives, and clear insight into how they affect the interpretation of political events or issues and shape conclusions
<i>Level 2</i> (5-8 marks)	Sound ability to identify competing viewpoints or perspectives, and a reliable awareness of how they affect the interpretation of political events or issues and shape conclusions
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AO3	Communication and coherence
<i>Level 3</i> (7-9 marks)	Sophisticated ability to construct and communicate coherent arguments, making good use of appropriate vocabulary
<i>Level 2</i> (4-6 marks)	Adequate ability to construct and communicate coherent arguments, making some use of appropriate vocabulary
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Indicative content (*this is not an exhaustive account of relevant points*)

The American constitution divides responsibility for foreign policy between the president and Congress, and hence extends 'an invitation to struggle'.

Since the end of World War Two, and the emergence of America as a world superpower, the president has assumed control for the overall direction of foreign policy. Nevertheless, Congress still retains a significant role; the broad pattern in the president's relationship with Congress has been that, in periods of tension or conflict abroad, Congress will defer to the president, but if there is no immediate threat to national security, it will attempt to assert its interests. The federal bureaucracy and public opinion may also restrain the president.

Evidence which suggests that the president has come to dominate foreign policy includes:

- *US v Curtiss-Wright*, establishing the principle of executive supremacy, and the subsequent reluctance of the courts to take up cases involving foreign policy.
- The use of executive agreements to circumvent the need for Senate approval of treaties
- President Truman's dispatch of forces to Korea without congressional authorisation
- President Johnson's use of the Gulf of Tonkin resolution to escalate the war in Vietnam
- The massing of 500,000 troops in Saudi Arabia before President G.H. Bush sought a congressional vote on the first Gulf War.
- The bombing campaign in Kosovo, the first major use of force conducted despite an explicit refusal by Congress to authorize it.
- The manipulation of the timing of the vote on the second Gulf War

Evidence which suggests that Congress has a significant role includes:

- The eventual refusal to continue funding brought the war in Vietnam to a close
- The legislation passed in the aftermath of Vietnam, e.g. the War Powers Act
- The sanctions on South Africa passed over President Reagan's veto in 1986.
- The legislation passed by the Republican Congress despite presidential reluctance, e.g. the Helms-Burton Act 1995 and the Iraq Liberation Act 1997
- The refusal to renew fast track trade authority for President Clinton in 1994 and President G.W. Bush in 2007.
- The rejection of the Comprehensive Test Ban Treaty in 1999.
- The attempts by congressional leaders to run an alternative foreign policy to the president's, e.g. Nancy Pelosi's visit to Syria in 2007.

There are other restraints:

- Public opinion - post-Vietnam, presidents have been cautious about committing ground troops to conflict, and policy may reflect an anticipation of unfavourable public reaction.
- Federal bureaucracy - the two federal departments most concerned with foreign policy, Defense and State, will have their own agenda, which may be inconsistent with the president's. Additionally, conflict between them may hamper him.
- Supreme Court - in a series of cases, the court ruled against G.W. Bush administration's policy on detention of terrorist suspects.

<b>AO1</b>	<b>Knowledge and understanding</b>
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No. 8	Can the Bill of Rights be respected while the threat of terrorism remains?
Indicative content ( <i>this is not an exhaustive account of relevant points</i> )	
<p>Attitudes to civil liberties at times of national crisis are broadly determined by ideology. Conservatives would tend to be more favourable to restrictions on liberties to protect national security, whereas liberals would claim that protection of liberty should continue to be a fundamental value.</p> <p>Conservative arguments for attenuating the Bill of Rights include:</p> <ul style="list-style-type: none"> <li>• Security is the highest priority of government, and consequently, measures such as investigating library records under the Patriot Act, ‘coercive interrogation’ of terrorist suspects, and trying terrorists in military courts are acceptable and necessary.</li> <li>• The courts are available as a safeguard should any excessive measures be taken.</li> <li>• Past erosions of liberty have not become permanent, and when they have been seen subsequently to be excessive, compensation has been given.</li> </ul> <p>Liberal arguments for upholding the Bill of Rights include:</p> <ul style="list-style-type: none"> <li>• The use of oppressive measures undermines America’s claim to be a beacon of freedom, and may have the effect of exacerbating the conditions which give rise to terrorism.</li> <li>• It is the rights of vulnerable minorities that are at greatest risk.</li> <li>• The courts are an inadequate safeguard, as they have acquiesced in what have subsequently been seen to be excessive measures.</li> <li>• There is a danger that ‘temporary’ measures may become permanent.</li> </ul>	
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