



ASSESSMENT and
QUALIFICATIONS
ALLIANCE

Mark scheme January 2003

GCE

Law

Unit LAW2

Copyright © 2003 AQA and its licensors. All rights reserved.

The Assessment and Qualifications Alliance (AQA) is a company limited by guarantee registered in England and Wales 3644723 and a registered charity number 1073334
Registered address: Addleshaw Booth & Co., Sovereign House, PO Box 8, Sovereign Street, Leeds LS1 1HQ
Kathleen Tattersall: *Director General*

Unit 2: Dispute Solving

Assessment Objectives One and Two

General marking guidance

You should remember that your marking standards should reflect the levels of performance of candidates, mainly 17 years old, who have completed some part of the advanced subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as candidates penalise themselves in terms of the time they have spent.

Mark range

You should use the whole mark range available in the mark scheme. Where the candidate's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the candidate's answer does not deserve credit, then no marks should be given.

Levels of Response for essay marking

When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of Response marking relies on recognition of the highest level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?

Citation of authority

Candidates will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.

Assessment Objective Three**Quality of Written Communication**

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

- Level 3** Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling. **4-5 marks**
- Level 2** Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning. **2-3 marks**
- Level 1** Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning. **1 mark**
- Level 0** Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning. **0 marks**

1

Total for this question: 30 marks

- (a) Outline how someone currently studying for A levels can train and qualify **either** as a barrister **or** as a solicitor. (10 marks)

Potential content*Either*

- (A) Outline of academic training and qualification of barristers - degree entry, CPE Diploma for non-law degree, BVC, Pupillage, membership of Inn, calling to Bar

or

- (B) Outline of academic training and qualification of solicitors - degree entry, CPE/Diploma for non-law degrees, LPC, training contract, enrolled by Law Society

NB Reference to qualifying through legal executive route may enhance quality of (B).

Mark bands

- 8 - 10 The candidate demonstrates a sound understanding of either (A) or (B).
- 5 - 7 The candidate demonstrates a clear understanding of either (A) or (B).
- 3 - 4 The candidate displays some understanding by introducing consideration of any of the material in either (A) or (B).
- 1 - 2 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

If a candidate has covered (A) and (B) consider both and credit the stronger only.

- (b) Describe and compare the roles played by solicitors and barristers in defending a serious criminal case.
(20 marks)

Potential content

- (A) Description of solicitor's role, eg early advice (24 hour duty solicitor), advocacy at bail/custody, committal and pre-trial hearings, obtaining evidence, possible advocacy with increased right of audience
- (B) Description of barrister's role - advocacy, advice on presentation and possible appeals, presentation of appeal
- (C) Comparison of roles (which may emerge in the course of the descriptions) in (A) and (B)

Mark bands

- 16 - 20 The candidate demonstrates a sound understanding of the issues in which a sound explanatory background of (A) and (B) is used to make appropriate comparison as in (C).
- 11 - 15 The candidate demonstrates a sound understanding of either (A), (B) or (C) with some reference to the others
or
the candidate demonstrates a sound understanding of (A) and (B) only (**max 13**)
or
the candidate covers (A) – (C) so that the answer is broad and coherent, though a little superficial.
- 6 - 10 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

2

Total for this question: 30 marks

(a) Explain how jurors are chosen and the role of the jury in a Crown Court trial. (15 marks)

Potential content

- (A) Explanation of jury and selection and qualification, eg electoral roll, residence, ballot
- (B) Explanation of jury disqualification, ineligibility and excusal
- (C) Explanation of role of jury - listen to evidence and judges directions on law, secret discussions, verdict, majority verdicts

Mark bands

- 12 - 15 The candidate demonstrates a sound understanding of two of (A) - (C) making clear reference to the other.
- 8 - 11 The candidate demonstrates a sound understanding of one of (A) – (C) with some reference to the others
or
the candidate demonstrates a clear understanding of two of (A) - (C)
or
the candidate covers (A) - (C) so that the answer is broad and coherent, though a little superficial.
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 3 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

(b) Discuss the advantages and disadvantages of using a jury to hear a criminal trial. (15 marks)

Potential content

- (A) Advantages of use of jury, eg open justice, trial by peers, public confidence, fairness
- (B) Disadvantages of use of jury, eg perverse verdicts, feelings of bias, unrepresentative nature, selection procedures, influence, media pressure, complexity of issues

Mark bands

- 12 - 15 The candidate demonstrates a sound understanding of (A) and (B).
- 8 - 11 The candidate demonstrates a clear understanding of either (A) or (B) (**max 9**) with some reference to the other
or
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 - 3 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

3

Total for this question: 30 marks

- (a) Tribunals, Arbitration, Conciliation, Mediation and Negotiation are all methods of Alternative Dispute Resolution (ADR) which are used instead of taking cases to court. Briefly explain how any **three** of these attempt to resolve disputes. *(10 marks)*

Potential content

- (A) Brief explanation of one method
- (B) Brief explanation of second method
- (C) Brief explanation of third method

Mark bands

- 8 - 10 The candidate demonstrates a sound understanding of two of (A) - (C) making clear reference to the other.

- 5 - 7 The candidate demonstrates a sound understanding of one of (A) – (C) (**max 6**) with some reference to an other
or
the candidate demonstrates a clear understanding of two of (A) - (C)
or
the candidate covers (A) - (C) so that the answer is broad and coherent though a little superficial.

- 3 - 4 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).

- 1 - 2 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.

- 0 The answer contains no relevant information.

(b) Discuss the advantages and disadvantages of ADR as an alternative to the courts. (20 marks)

Potential content

- (A) Advantages of ADR, eg cost, informality, lack of legal representation, efficiency, preservation of relationship, convenience, expertise, procedure
- (B) Disadvantages of ADR, eg funding, appeal rights, unpredictable decision, public awareness

Mark bands

- 16 - 20 The candidate demonstrates a sound understanding of (A) and (B), though there may be some imbalance in treatment between them.
- 11 - 15 The candidate demonstrates a clear understanding of either (A) or (B) (**max 13**) with some reference to the other
or
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 6 - 10 The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at description is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

4

Total for this question: 30 marks

Colin is arrested and detained at a police station on suspicion of committing a serious violent offence which is triable either way. He has to consider obtaining legal assistance for his present situation and for court appearances.

(a) Describe the different forms of legal advice and representation available to him. (20 marks)

Potential content

- (A) Description of different forms of legal advice, eg private funding, 24 hour duty solicitor, legal help, *pro bono*
- (B) Description of Criminal Legal Representation e.g. qualification (financial and interests of justice) and effect (advice and representation)

Mark bands

- 16 - 20 The candidate demonstrates a sound understanding of (A) and (B).
- 11 - 15 The candidate demonstrates a clear understanding of either (A) or (B) (**max 13**) with some reference to the other
or
the candidate covers both (A) and (B) so that the answer is broad and coherent, though a little superficial.
- 6 - 10 The candidate displays some understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Briefly discuss how well the different forms of advice and representation will meet Colin's needs.

(10 marks)

Potential content

- (A) Brief discussion of available funding, eg cost of private funding, level and availability of state funding
- (B) Brief discussion of effect of funding, eg quality of representation, requirement of contribution, no representation available

Mark bands

- 8 – 10 The candidate demonstrates a sound understanding of (A) and (B).
- 5 – 7 The candidate demonstrates a clear understanding of either (A) or (B) (**max 6**) with some reference to the other
or
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 3 – 4 The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 – 2 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at description is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

5

Total for this question: 30 marks

(a) Describe how judges can be appointed and dismissed.	(15 marks)
---	------------

Potential content

- (A) Description of appointment procedures for inferior and superior judges, eg statutory qualifications, advertisements, pool of candidates, secret soundings, appointment by Lord Chancellor
- (B) Description of dismissal procedures for inferior and superior judges, eg reasons for dismissal, possible dismissal following Parliamentary resolution, or by Lord Chancellor directly

Mark bands

- 12 - 15 The candidate demonstrates a sound understanding of (A) and (B).
- 8 - 11 The candidate demonstrates a clear understanding of either (A) or (B) (**max 10**) with some reference to the other
or
the candidate covers both (A) and (B) so that the answer is broad and coherent though a little superficial.
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) and/or (B).
- 1 - 3 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Outline the role carried out by judges and discuss how well they carry out this role. (15 marks)

Potential content

- (A) Outline of judge's role, e.g. court hearings, deciding liability and remedy, ruling on law and deciding sentence (possible reference to judicial role out of court, eg chairing inquiries will enhance answer)
- (B) Discussion of judicial role, eg judicial independence, confidence in legal system, upholding rule of law and individual rights, availability of appeal
- (C) Discussion of problems with judicial role, eg selection and appointment, being out of touch, lack of training, lack of specialism, issue of miscarriages of justice

Mark bands

- 12 - 15 The candidate demonstrates a sound understanding of the issues in which a sound outline as in (A) is used to discuss the issues as in (B) and/or (C).
- 8 - 11 The candidate demonstrates a clear understanding of two of (A) - (C)
or
the candidate demonstrates a sound understanding of (A) only (**max 9**)
or
the candidate covers (A) - (C) so that the answer is broad and coherent though a little superficial.
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (C).
- 1 - 3 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

Assessment grid

	AO1	AO2	AO3
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(× 2 from 5)	(× 2 from 5)	
AO3			5
Total marks	40	20	5
% of AS	18.5	9	2.5
% of A Level	9.25	4.5	1.25