



ASSESSMENT and
QUALIFICATIONS
ALLIANCE

Mark scheme January 2004

GCE

Law

Unit LAW2

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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) Describe how lay magistrates are selected and trained.
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(15 marks)

Potential Content

- (A) Description of selection of lay magistrates, eg application, advisory committee, requirement of balance, role of Lord Chancellor's Department
- (B) Description of training, eg initial training, continuing training, role of Judicial Studies Board, mentoring

Mark Bands

- 12 - 15 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance in treatment between them (**max 13 for one sound, one clear**).
- 8 - 11 The candidate demonstrates a clear understanding of (A) and (B) (**max 8 for one**)
or
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 8**).
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (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.

- (b) Identify and explain the advantages and disadvantages of using lay people in the Magistrates' Court and the Crown Court. *(15 marks)*

Potential Content

- (A) Identification and explanation of advantages on role of lay people (ie lay magistrates and jurors), eg trial by peers, open justice, public confidence, fairness, limited number of appeals, cost
- (B) Identification and explanation of disadvantages on role of lay people (ie lay magistrates and jurors), eg perception of bias, lack of training, influence of media, limited representative nature

Note: the range of points made may be reduced if candidates concentrate on either jurors or lay magistrates

Mark Bands

- 12 - 15 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance between them (**max 13 for one sound, one clear**).
- 8 - 11 The candidate demonstrates a clear understanding of (A) and (B) (**max 8 for one**)
or
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 8**).
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (B) (**max 5 for identification only**).
- 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.

2

Total for this question: 30 marks

- (a) Michelle wants to claim compensation for the injuries she has suffered in an accident. Identify and briefly describe where she could obtain advice about a possible claim. (15 marks)

Potential Content

- (A) Identification and brief description of lawyer's role in giving advice, eg solicitors and/or barristers and/or para legals
- (B) Identification and brief description of non lawyer provision of legal services, eg CAB, Law Centres, Advice Centres and others, eg trade unions, insurance companies, AA, RAC, banks and building societies, telephone/internet

Mark Bands

- 12 - 15 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance in treatment between them (**max 13 for one sound, one clear**).
- 8 - 11 The candidate demonstrates a clear understanding of (A) and (B) (**max 8 for one**)
or
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 8**).
- 4 - 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (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 what is meant by a conditional fee (“no win - no fee”) arrangement. Comment on the advantages and disadvantages of “no win - no fee” deals. *(15 marks)*

Potential Content

- (A) Outline of no win - no fee deals, eg availability, need for insurance, loser pays costs in addition to damages, success fee
- (B) Comment on advantages, eg widening access to justice, compensates those injured
- (C) Comment on disadvantages, eg cost of insurance premium, limited availability

Mark Bands

- 12 - 15 The candidate deals with all three of (A)-(C) as follows:
max 15: two sound, one clear
max 13: one sound, two clear
max 12: three clear **or** one sound, one clear, one some.
- 8 - 11 The candidate deals with (A)-(C) as follows:
max 11: two clear, one some
max 10: one sound **or** two clear **or** one clear, two some
max 9: one clear, one some **or** three some
max 8: one clear **or** two some.
- 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.

3**Total for this question: 30 marks**

- (a) Describe the ways in which **both** inferior **and** superior judges are selected and appointed.
(15 marks)

Potential Content

- (A) Description of selection and appointment procedures for inferior judges, eg eligibility, advertisements, pool of candidates, interviews, appointment by Lord Chancellor
- (B) Description of selection and appointment procedures for superior judges, eg eligibility, secret soundings, invitation, appointment by Queen.

Mark Bands

- 12 – 15 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance in treatment between them (**max 13 for one sound, one clear**).
- 8 – 11 The candidate demonstrates a clear understanding of (A) and (B) (**max 8 for one or**
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 8**).
- 4 – 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (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.

- (b) Outline how a judge can be dismissed from office and comment on why it is important that it should be difficult to dismiss a judge. *(15 marks)*

Potential Content

- (A) Outline of dismissal, eg parliamentary petition, powers of Lord Chancellor in cases of incapacity and misbehaviour, fixed term appointments
- (B) Comment on dismissal, eg security of tenure, impartiality of decisions, independence from Executive, freedom from pressure

Mark Bands

- 12 – 15 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance between them (**max 13 for one sound, one clear**).
- 8 – 11 The candidate demonstrates a clear understanding of (A) and (B) (**max 8 for one**)
or
the candidate demonstrates a sound understanding of (A) or (B) (**max 10**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 8**).
- 4 – 7 The candidate displays some understanding by introducing consideration of any of the material in (A) - (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.

4**Total for this question: 30 marks**

(a) Describe the stages in qualifying as a solicitor.	(10 marks)
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Potential Content

(A) Description of qualifying stages of Solicitors, eg degree entry, CPE/Diploma for non-law degree, LPC, training contract, enrolling in Law Society

Note: Reference to qualifying through Legal Executive route may enhance quality of (A) or compensate for minor deficiencies

Mark Bands

- 8 - 10 The candidate demonstrates a sound understanding of (A).
- 5 - 7 The candidate demonstrates a clear understanding of (A).
- 3 - 4 The candidate displays some understanding by introducing consideration of any of the material in (A).
- 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 or confusion.
- 0 The answer contains no relevant information.

(b) Describe and compare the work of a solicitor and a barrister.	(20 marks)
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Potential Content

- (A) Description of solicitor's work, eg negotiation, initial advice on contentious work when assessing merits of claim, preparation of claim, obtaining evidence, possible advocacy with increased rights of audience, solicitor advocates, advice on non-contentious work in areas such as conveyancing, probate, family and commercial work
- (B) Description of barrister's work, eg initial legal opinion, advocacy, advice on presentation and possible appeals, presentation of appeal
- (C) Comparison of work based on A and B

Note: mention of lawyers' work outside the professions such as in local government, CPS and companies can be credited and could enhance quality of (A) and (B)

Mark Bands

- 16 - 20 The candidate deals with all three of (A)-(C) as follows:
max 20: two sound, one clear
max 18: one sound, two clear
max 16: three clear **or** one sound, one clear, one some.
- 11 - 15 The candidate deals with (A)-(C) as follows:
max 15: two clear, one some
max 14: one sound **or** two clear **or** one clear, two some
max 13: one clear, one some **or** three some
max 11: one clear **or** two some.
- 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.

5**Total for this question: 30 marks**

- (a) There are a variety of ways to resolve a civil dispute other than an action in court. Describe the range of alternatives available, using examples to illustrate your answer. (20 marks)

Potential Content

- (A) Description of the work of tribunals, eg personnel, methods of dealing with disputes
- (B) Description of Arbitration, eg personnel, methods of dealing with disputes
- (C) Description of other methods of ADR, eg Mediation, Conciliation, Negotiation and Ombudsman

Note: the use of examples will enhance the quality of the work
Description of all forms of ADR as in (C) may compensate for any deficiencies in descriptions of (A) and/or (B)

Mark Bands

- 16 – 20 The candidate deals with all three of (A)-(C) as follows:
max 20: two sound, one clear
max 18: one sound, two clear
max 16: three clear **or** one sound, one clear, one some.
- 11 – 15 The candidate deals with (A)-(C) as follows:
max 15: two clear, one some
max 14: one sound **or** two clear **or** one clear, two some
max 13: one clear, one some **or** three some
max 11: one clear **or** two some.
- 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 description is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Comment on the advantages and disadvantages of Alternative Dispute Resolution (ADR).
(10 marks)

Potential Content

- (A) Comment on advantages of ADR, eg informal, self representation, use of experts, speed, convenience, less confrontational attitude, lower costs
- (B) Comment on disadvantages of ADR, eg use of precedent and authority, (limited) appeals to court system, enforcement of awards, restrictions on legal aid, imbalance between parties

Note: the advantages and disadvantages may emerge through a comparison with court-based resolutions

Mark Bands

- 8 - 10 The candidate demonstrates a sound understanding of (A) and (B), although there may be some slight imbalance in treatment between them (**max 8 for one sound, one clear**).
- 5 - 7 The candidate demonstrates a clear understanding of (A) and (B) (**max 5 for one**)
or
the candidate demonstrates a sound understanding of (A) or (B) (**max 6**)
or
the candidate demonstrates some understanding of (A) and (B) (**max 5**).
- 3 - 4 The candidate displays some understanding by introducing consideration of any of the material in (A) -(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 and confusion.
- 0 The answer contains no relevant information.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

UNIT 1	AO1	AO2	AO3
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(x2 from 5)	(x 2 from 5)	
AO3 (Quality of written communication for the paper as a whole)			5
Total marks	40	20	5
% of the AS	18.5	9	2.5
% of the A Level	9.25	4.5	1.25