

Version 3.0



**General Certificate of Education  
January 2013**

**Law                      LAW01**

**Law Making and the Legal System**

**Unit 1**

**Final**

***Mark Scheme***

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

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.

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# **LAW01**

## **Assessment Objectives One and Two**

### **General Marking Guidance**

*You should remember that your marking standards should reflect the levels of performance of students, 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 students 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 student'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 student's answer does not deserve credit, then no marks should be given.*

### **Citation of Authority**

*Students 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 (QoWC)**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

## The level of understanding in AS Law – LAW01

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year-old, so the level of understanding required by these criteria will be that of the notional 17-year-old.

<b>Sound</b>	<ul style="list-style-type: none"> <li>• The material will be generally accurate and contain material relevant to the Potential Content.</li> <li>• The material will be supported by generally relevant authority and/or examples.</li> <li>• It will generally deal with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<b>Clear</b>	<ul style="list-style-type: none"> <li>• The material is broadly accurate and relevant to the Potential Content.</li> <li>• The material will be supported by some use of relevant authority and/or examples.</li> <li>• The material will broadly deal with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being fully rounded or developed.</p>
<b>Some</b>	<ul style="list-style-type: none"> <li>• The material shows some accuracy and relevance to the Potential Content.</li> <li>• The material may occasionally be supported by some relevant authority and/or examples.</li> <li>• The material will deal with some of the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content.</p>
<b>Limited</b>	<ul style="list-style-type: none"> <li>• The material is of limited accuracy and relevance to the Potential Content.</li> <li>• The material will be supported by minimal relevant authority and/or examples.</li> <li>• The material will deal superficially with the Potential Content in a manner required by the question.</li> </ul> <p>As a consequence, the concepts of the Potential Content will barely be established, as there will be many errors, omissions and/or confusion which almost completely undermine the essential elements of the Potential Content.</p>

**Section A: Law Making**

<b>0</b>	<b>1</b>	Briefly explain <b>both</b> of the following:	
		<ul style="list-style-type: none"> <li>• what is meant by the doctrine of Parliamentary supremacy (sovereignty)</li> <li>• the purpose and use of Green and White papers.</li> </ul>	<i>(10 marks)</i>

**Potential Content**

- (A) Brief explanation of doctrine of Parliamentary supremacy (sovereignty) could include –
- legal sovereignty (highest form of law, must be applied by judges),
  - political sovereignty, Parliament not binding successors.

Note: for Sound A - both of the above points should be briefly explained

- (B) Brief explanation of Green and White papers could include:
- for Green papers – purpose, who consulted, need and result of consultation
  - for White papers – purpose, effect of issue.

Note: for Sound B - both of the above points should be briefly explained each supported by an example

**Mark Bands**

- 8 – 10      The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 5 – 7      The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 3 – 4      The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 1 – 2      The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0          The answer contains no relevant information.

<b>0</b>	<b>2</b>	Outline the law-making process in Parliament.	<i>(10 marks)</i>
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### Potential Content

- (A) Outline of process in House of Commons could include: introduction, order of readings and outline of process, including role of committees

#### Enhancement

Drafting

Possible reference to public & private members bills

- (B) Outline of process in House of Lords, could include:
- introduction
  - order of readings
  - amending role
  - ping pong procedure in conjunction with House of Commons
  - constitutional role of Queen and effect of Royal Assent

Note: for Sound B - at least three of the above points should be outlined

#### Enhancement

Possible reference to different forms of bills.

Possible effect of Parliament Acts 1911 and 1949.

### Mark Bands

- 8 – 10      The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 5 – 7      The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 3 – 4      The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 1 – 2      The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0          The answer contains no relevant information.

<b>0 3</b>	Discuss disadvantages of Parliamentary law making.	<i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

- (A) Discussion of disadvantages of Parliamentary law making can include:
- delay in dealing with issues
  - political influences rather than genuine debate
  - non-democratic issues
  - complex language
  - piecemeal development of laws
  - need to read more than one document
  - compromise nature of process between Commons and Lords.

Note: for Sound A - at least three of the above points should be discussed

**Mark bands**

- 8 – 10      The student demonstrates a sound understanding of (A).
- 5 – 7      The student demonstrates a clear understanding of (A).
- 3 – 4      The student demonstrates some understanding of (A).
- 1 – 2      The student demonstrates limited understanding of (A).
- 0          The answer contains no relevant information.

**AO3**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>



<b>0</b>	<b>4</b>	Describe how statutory instruments, as a form of delegated legislation, are made and used.	<i>(10 marks)</i>
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**Potential content**

- (A) Description of making and use of statutory instruments could include:
- the existence of law made by government ministers with delegated powers under authority of primary legislation
  - the role of ministers when consulting
  - drafting and laying before Parliament
  - completing detail of framework of parent Act
  - use for updating laws
  - other uses e.g. commencement orders, implementation of EU directives
  - allowing experts to be involved,

Note: for Sound A - at least three of the above points should be described with examples

**Enhancement**

Possible reference to scrutiny in Parliament.

**Mark bands**

- |        |                                                        |
|--------|--------------------------------------------------------|
| 8 – 10 | The student demonstrates a sound understanding of (A). |
| 5 – 7  | The student demonstrates a clear understanding of (A). |
| 3 – 4  | The student demonstrates some understanding of (A).    |
| 1 – 2  | The student demonstrates limited understanding of (A). |
| 0      | The answer contains no relevant information.           |

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<b>0 5</b>	Describe judicial controls on delegated legislation.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of judicial controls could include:
- judicial review on grounds of procedural *ultra vires*
  - judicial review on grounds of substantive *ultra vires*
  - unreasonableness
  - conflict with EU law/ECHR.

Note: for Sound A - at least two of the above points should be described supported by a case example.

**Enhancement**

imposition of tax.

**Mark bands**

- 8 – 10 The student demonstrates a sound understanding of (A).
- 5 – 7 The student demonstrates a clear understanding of (A).
- 3 – 4 The student demonstrates some understanding of (A).
- 1 – 2 The student demonstrates limited understanding of (A).
- 0 The answer contains no relevant information.

<b>0 6</b>	Briefly discuss advantages <b>and</b> disadvantages of delegated legislation as a form of law making. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

(A) Brief discussion of advantages of delegated legislation could include:

- Speed
- Saving parliamentary time
- Expertise/local knowledge
- flexibility
- completing detail of framework Act
- some form of control possible
- some form of democracy involved.

(B) Brief discussion of disadvantages of delegated legislation could include:

- undemocratic,
- volume,
- lack of publicity,
- need for control,
- limited scrutiny and control of Executive power,
- delegated powers to impose tax (e.g. through budget),
- length and expense of judicial review.

Note: for Sound A or B - at least two of the above points should be briefly discussed

**Mark bands**

8 – 10	The candidate deals with (A) and (B) as follows: <b>max 10:</b> two sound <b>max 9:</b> one sound, one clear <b>max 8:</b> one sound, one some <b>or</b> two clear.
5 – 7	The candidate deals with (A) and (B) as follows: <b>max 7:</b> one sound <b>or</b> one clear, one some <b>max 5:</b> one clear <b>or</b> two some.
3 – 4	The candidate demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges <b>or</b> mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

**A03**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"><li>• clear expression of ideas</li><li>• a good range of specialist terms</li><li>• few errors in grammar, punctuation and spelling</li><li>• errors do not detract from the clarity of the material.</li></ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"><li>• reasonable expression of ideas</li><li>• the use of some specialist terms</li><li>• errors of grammar, punctuation and spelling</li><li>• errors detract from the clarity of the material.</li></ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"><li>• poor expression of ideas</li><li>• limited use of specialist terms</li><li>• errors and poor grammar, punctuation and spelling</li><li>• errors obscure the clarity of the material.</li></ul>

<b>0 7</b>	<p>Outline <b>both</b> of the following:</p> <ul style="list-style-type: none"> <li>• internal (intrinsic) aids to interpretation</li> <li>• <b>one</b> of the rules of language.</li> </ul> <p style="text-align: right;"><i>(10 marks)</i></p>
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**Potential Content**

(A) Outline of internal (intrinsic) aids could include:

- long and short titles
- preamble
- definitions
- schedules
- interpretation section.

Note: for Sound A –at least two of the above points should be outlined

**Enhancement**

Definition of internal (intrinsic) aid

Marginal notes

(B) Outline of **one** of the rules of language could include:

- the *ejusdem generis* rule – general words following specific words, example(s)
- the *noscitur* rule – meaning of word to be found from context, example(s)
- the *expressio* rule – expression of one thing implies exclusion of another, example(s).

**Mark bands**

8 – 10	<p>The student deals with (A) and (B) as follows:  <b>max 10:</b> two sound  <b>max 9:</b> one sound, one clear  <b>max 8:</b> one sound, one some <b>or</b> two clear</p>
5 – 7	<p>The student deals with (A) and (B) as follows:  <b>max 7:</b> one sound <b>or</b> one clear, one some  <b>max 5:</b> one clear <b>or</b> two some</p>
3 – 4	<p>The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)</p>
1 – 2	<p>The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  <b>or</b>  mistakes and confusion fundamentally undermine a more substantial attempt at explanation</p>
0	<p>The answer contains no relevant information.</p>

<b>0</b>	<b>8</b>	Describe the mischief rule.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of the mischief rule can include:
- judges are looking at gaps/defects in the law.
  - Process – Heydon’s case. What was the old law? What was the defect? What was Parliament’s intention? Act to be interpreted accordingly.
  - Case(s) and/or example(s) to illustrate.

Note: for Sound A - all of the above points should be described

**Mark bands**

- |        |                                                        |
|--------|--------------------------------------------------------|
| 8 – 10 | The student demonstrates a sound understanding of (A). |
| 5 – 7  | The student demonstrates a clear understanding of (A). |
| 3 – 4  | The student demonstrates some understanding of (A).    |
| 1 – 2  | The student demonstrates limited understanding of (A). |
| 0      | The answer contains no relevant information.           |

<b>0 9</b>	Briefly discuss advantages <b>and</b> disadvantages of the mischief rule. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

- (A) Brief discussion of advantages of mischief rule can include:
- avoidance of inappropriate outcomes of literal rule
  - flexibility
  - attempt to follow the will of Parliament.

Note: for Sound A – at least two of the above points should be briefly discussed

- (B) Brief discussion of disadvantages of mischief rule can include:
- limitations on use
  - judicial law making/undemocratic
  - difficult to find mischief
  - inconsistency.

Note: for Sound B - at least two of the above points should be briefly discussed

**Mark bands**

- 8 – 10 The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 5 – 7 The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0 The answer contains no relevant information.

**A03**

<b>2 marks</b>	The work is characterised by some or all of the following: clear expression of ideas a good range of specialist terms few errors in grammar, punctuation and spelling errors do not detract from the clarity of the material.
<b>1 mark</b>	The work is characterised by: reasonable expression of ideas the use of some specialist terms errors of grammar, punctuation and spelling errors detract from the clarity of the material.
<b>0 marks</b>	The work is characterised by: poor expression of ideas limited use of specialist terms errors and poor grammar, punctuation and spelling errors obscure the clarity of the material.



<b>1</b>	<b>0</b>	Briefly explain the 'hierarchy of the courts' <b>and</b> <i>ratio decidendi</i> .	<i>(10 marks)</i>
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**Potential Content**

- (A) Brief explanation of 'hierarchy of courts' could include:
- outline of court structure (either civil and/or criminal)
  - which courts bind others
  - which courts are bound, (including by their own decisions)
  - significance of the hierarchy.

Note: for Sound A - at least three of the above points should be briefly explained

- (B) Brief explanation of *ratio decidendi* could include:
- that it is the legal reason for the decision
  - the binding part of the decision
  - to be followed by other judges.

Note: for Sound B - all of the above points should be briefly explained, supported by an example

**Mark Bands**

- 8 – 10      The student deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear
- 5 – 7      The student deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some
- 3 – 4      The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)
- 1 – 2      The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0            The answer contains no relevant information.

<b>1 1</b>	<p>Briefly explain how, and when, judges can avoid having to follow a precedent:</p> <ul style="list-style-type: none"> <li>• by overruling a precedent, <b>and</b></li> <li>• by distinguishing a precedent.</li> </ul> <p style="text-align: right;"><i>(10 marks)</i></p>
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### Potential Content

(A) Brief explanation of overruling could include:

- what is overruling
- who can overrule
- example of use - previous and current case.

(B) Brief explanation of distinguishing could include:

- what is distinguishing
- which court can distinguish
- example of use – in the context of an earlier decision in a different case.

Note: for Sound A or B - all of the above points should be briefly explained

### Mark bands

8 – 10	<p>The student deals with (A) and (B) as follows:  <b>max 10:</b> two sound  <b>max 9:</b> one sound, one clear  <b>max 8:</b> one sound, one some <b>or</b> two clear</p>
5 – 7	<p>The student deals with (A) and (B) as follows:  <b>max 7:</b> one sound <b>or</b> one clear, one some  <b>max 5:</b> one clear <b>or</b> two some</p>
3 – 4	<p>The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)</p>
1 – 2	<p>The answer consists of brief, fragmented comments or examples so that no coherence explanation emerges  <b>or</b>  mistakes and confusion fundamentally undermine a more substantial attempt at explanation</p>
0	<p>The answer contains no relevant information</p>

<b>1</b>	<b>2</b>	Discuss advantages of judicial precedent.	<i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

- (A) Discussion of advantages of precedent could include:
- certainty
  - flexibility
  - dealing with real cases
  - providing detailed rules for later cases
  - just
  - authoritative and impartial decisions.

Note: for Sound A - at least three of the above points should be discussed

**Mark bands**

- 8 – 10            The student demonstrates a sound understanding of (A).
- 5 – 7             The student demonstrates a clear understanding of (A).
- 3 – 4             The student demonstrates some understanding of (A).
- 1 – 2             The student demonstrates limited understanding of (A).
- 0                  The answer contains no relevant information.

**AO3**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

<b>1</b>	<b>3</b>	<p>Sarah has been seriously injured in an accident and intends to claim compensation for her injuries. Outline <b>both</b> of the following:</p> <ul style="list-style-type: none"> <li>• the civil courts (including appeal courts) in which her claim for compensation may be heard</li> <li>• the process of negotiation as an alternative method of dealing with her claim.</li> </ul> <p style="text-align: right;"><i>(10 marks)</i></p>
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**Potential Content**

- (A) Outline of relevant courts for Sarah could include
- County Court or High Court (QBD) with possible reference to financial limits.
  - Appeals to Court of Appeal and Supreme Court with possible reference to grounds of appeal and orders that the appeal court can make.

Note: for Sound A – both of the above points should be outlined

- (B) Outline of negotiation could include reference to:
- who carries out the negotiation – Sarah, or her representative and where
  - possible forms of negotiation
  - outcomes and effect of conclusion.

Note: for Sound B - all of the above points should be outlined

**Mark bands**

- 8 – 10            The candidate deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear.
- 5 – 7            The candidate deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some.
- 3 – 4            The candidate demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 1 – 2            The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0                The answer contains no relevant information.

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<b>1 4</b>	Describe arbitration as a form of dispute resolution.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of arbitration could include:
- qualification/expertise of arbitrator
  - how arbitration can come about (from a clause in the agreement)
  - types of cases dealt with - possible reference to commercial and/or consumer arbitration
  - nature of hearing/process
  - outcome, enforcement of award.
  - limited possibility of appeals

Note: for Sound A - at least four of the above points should be described

**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 demonstrates some understanding of (A).
- 1 – 2             The candidate demonstrates limited understanding of (A).
- 0                  The answer contains no relevant information.

<b>1 5</b>	Briefly discuss advantages <b>and</b> disadvantages of arbitration. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

- (A) Brief discussion of advantages of arbitration could include:
- speed
  - informality
  - control of process by parties
  - expertise of arbitrator
  - limited need for legal representation
  - effect of award
  - cost compared to court
  - privacy.
- (B) Brief discussion of disadvantages of arbitration could include:
- lack of funding and representation
  - possible imbalance between parties
  - availability of process dependent on agreement
  - cost/availability of specialist arbitrator
  - limited appeal rights.

Note: for Sound A or B - at least two of the above points should be briefly discussed

**Mark bands**

- 8 – 10            The candidate deals with (A) and (B) as follows:  
**max 10:** two sound  
**max 9:** one sound, one clear  
**max 8:** one sound, one some **or** two clear.
- 5 – 7            The candidate deals with (A) and (B) as follows:  
**max 7:** one sound **or** one clear, one some  
**max 5:** one clear **or** two some.
- 3 – 4            The candidate demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
- 1 – 2            The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges  
**or**  
mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
- 0                The answer contains no relevant information.

**A03**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"><li>• clear expression of ideas</li><li>• a good range of specialist terms</li><li>• few errors in grammar, punctuation and spelling</li><li>• errors do not detract from the clarity of the material.</li></ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"><li>• reasonable expression of ideas</li><li>• the use of some specialist terms</li><li>• errors of grammar, punctuation and spelling</li><li>• errors detract from the clarity of the material.</li></ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"><li>• poor expression of ideas</li><li>• limited use of specialist terms</li><li>• errors and poor grammar, punctuation and spelling</li><li>• errors obscure the clarity of the material.</li></ul>

<b>1</b>	<b>6</b>	<p>Outline <b>both</b> of the following:</p> <ul style="list-style-type: none"> <li>• the trial <b>and</b> appeal courts that can hear adult criminal cases</li> <li>• the types of cases dealt with by these courts.</li> </ul> <p style="text-align: right;"><i>(10 marks)</i></p>
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**Potential Content**

- (A) Outline of trial and appeal courts could include:
- Magistrates Courts and Crown courts as trial courts
  - Crown Court, Court of Appeal (Criminal Division) and Supreme Court as appeal courts.

- Outline of types of cases dealt with could include:
- summary offences with possible reference to example
  - either way offences with possible reference to example
  - indictable only offences with possible reference to example.

Note: for Sound A - all of the above points should be outlined.

**Enhancement**

Possible reference to Divisional Court of QBD and/or European Court of Human Rights.  
Possible reference to grounds for appeal and orders made by appeal courts.

**Mark bands**

**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 demonstrates some understanding of (A).
- 1 - 2            The candidate demonstrates limited understanding of (A).
- 0                The answer contains no relevant information.



<b>1</b>	<b>7</b>	Outline the qualifications for appointment as a lay magistrate. Briefly explain the training undertaken by a lay magistrate following appointment.	<i>(10 marks)</i>
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**Potential Content**

(A) Outline of lay magistrate’s qualifications could include:

- age
- key (personal) qualities
- disqualified/ineligible groups.

Note: for Sound A – all the above points must be outlined

**Enhancement**

Possible reference to local justice area; balance on bench and requirements of bench; Swearing of Oath of allegiance.

(B) Brief explanation of training of lay magistrates could include:

- reference to responsibilities of Judicial Studies Board and court clerk
- initial compulsory training
- initial mentoring
- on-going training and appraisal.

Note: for Sound B - at least three of the above points should be outlined

**Enhancement**

Possible reference to:

- chairmanship training
- specialist panel training, ie youth court
- domestic violence panel.

**Mark bands**

8 – 10	The candidate deals with (A) and (B) as follows: <b>max 10:</b> two sound <b>max 9:</b> one sound, one clear <b>max 8:</b> one sound, one some <b>or</b> two clear.
5 – 7	The candidate deals with (A) and (B) as follows: <b>max 7:</b> one sound <b>or</b> one clear, one some <b>max 5:</b> one clear <b>or</b> two some.
3 – 4	The candidate demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges <b>or</b> mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

<b>1 8</b>	Discuss advantages of using lay persons (juries <b>and</b> lay magistrates) in the criminal justice process. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

(A) Discussion of advantages of lay persons could include:

- long established trial by peers
- open justice
- public confidence
- fairness
- representative nature
- limited number of appeals
- cost compared to judge only trials
- reduction of professional involvement
- local knowledge
- shared decision making.

Note: for Sound A - at least three of the above points should be discussed and both juries and lay magistrates must be referred to.

**Mark bands**

- 8 - 10      The student demonstrates a sound understanding of (A).
- 5 - 7      The student demonstrates a clear understanding of (A).
- 3 - 4      The student demonstrates some understanding of (A).
- 1 - 2      The student demonstrates limited understanding of (A).
- 0          The answer contains no relevant information.

**AO3**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

<b>1</b>	<b>9</b>	Describe how a person trains and qualifies to become a solicitor.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of training and qualification of solicitor could include:
- degree entry/ GDL for non-law graduates
  - Legal Executive route
  - LPC
  - training contract
  - membership of Law Society/application to be admitted to Roll of Solicitors.

Note: For Sound A - at least three of the above points should be described

**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 demonstrates some understanding of (A).    |
| 1 - 2  | The candidate demonstrates limited understanding of (A). |
| 0      | The answer contains no relevant information.             |

<b>2 0</b>	Briefly explain where, and from whom, a person arrested for a serious criminal offence could obtain legal advice and representation <b>and</b> outline how this advice and representation could be paid for. <span style="float: right;"><i>(10 marks)</i></span>
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**Potential Content**

- (A) Brief explanation of where and from whom legal advice and representation is available could include:
- 24 hour duty solicitor
  - duty solicitor at Magistrates Court (first appearance only)
  - representation at Magistrates and Crown Courts by solicitor and barrister.

Outline of how legal advice and representation could be paid for could include:

- private finance
- free 24 hour duty solicitor scheme at police station
- free duty solicitor at Magistrates Court (subject to limits of types of case)
- Legal Representation Order for Magistrates and Crown Court hearings.

**Enhancement**

Possible reference to:

- qualifying tests (means and interests of justice)
- State schemes may be free or contributory.

Note: For Sound A - both aspects of the question must be addressed

**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 demonstrates some understanding of (A).    |
| 1 - 2  | The candidate demonstrates limited understanding of (A). |
| 0      | The answer contains no relevant information.             |

<b>2</b>	<b>1</b>	Discuss disadvantages of the methods of funding advice <b>and</b> representation in criminal cases. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

(A) Discussion of disadvantages of methods of advice funding could include:

- in theory 24 hour/7 day a week cover, in practice cover is patchy
- advice may be by telephone only
- quality issues relating to advice given at police station
- high costs associated with private funding.

Methods of representation could include:

- limitations on duty solicitors in Magistrates Court (first appearance only, does not extend to minor motoring and non-imprisonable offences)
- financial constraints on Criminal Legal Representation orders, e.g. low financial limits, family rather than accused's income assessed, high financial contributions, narrow tests for interests of justice (assessed on money rather than justice)
- high costs of private funding (dual fees – both solicitors and barristers).

Note: for Sound A - both aspects of the question must be addressed

**Mark bands**

8 - 10	The student demonstrates a sound understanding of (A).
5 - 7	The student demonstrates a clear understanding of (A).
3 - 4	The student demonstrates some understanding of (A).
1 - 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

**AO3**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>

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<b>2 2</b>	Describe the work of a judge in a Crown Court criminal trial	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of work of judge in criminal trial could include
- pre-trial directions
  - keeping order in court
  - ruling on law
  - directing jury on law and evidence
  - passing sentence following guilty verdict.

Note: for Sound A - at least four of the above points should be described

**Mark bands**

- 8 - 10            The student demonstrates a sound understanding of (A).
- 5 - 7            The student demonstrates a clear understanding of (A).
- 3 - 4            The student demonstrates some understanding of (A).
- 1 - 2            The student demonstrates limited understanding of (A).
- 0                The answer contains no relevant information.

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<b>2 3</b>	Explain how a judge can be dismissed from office.	<i>(10 marks)</i>
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**Potential Content**

- (A) Explanation of dismissal of judges could include:
- powers of Lord Chief Justice, in conjunction with Lord Chancellor and Secretary of State for Justice, in cases of incapacity and misbehaviour for inferior level judges
  - parliamentary petition for superior level judges.

Note: for Sound A - both of the above points should be explained

**Enhancement**

Possible reference to:

- expiry of fixed term appointments
- suspension
- role of Office for Judicial Complaints.

**Mark bands**

- 8 - 10      The student demonstrates a sound understanding of (A).
- 5 - 7      The student demonstrates a clear understanding of (A).
- 3 - 4      The student demonstrates some understanding of (A).
- 1 - 2      The student demonstrates limited understanding of (A).
- 0          The answer contains no relevant information.

<b>2</b>	<b>4</b>	Discuss why it is, <b>and</b> should be, difficult to dismiss a judge from office. <i>(10 marks + 2 marks for AO3)</i>
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**Potential Content**

- (A) Discussion of why it is and should be difficult to dismiss a judge could include:
- reference to judicial independence
  - freedom to make the ‘just’ decision
  - freedom from influence of the parties, advocates, press and government
  - upholding the Rule of Law
  - maintaining public confidence in law and judicial system.

Note: for Sound A - at least three of the above points should be discussed

**Enhancement**

Practical difficulties

**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 demonstrates some understanding of (A).
- 1 - 2             The candidate demonstrates limited understanding of (A).
- 0                 The answer contains no relevant information.

**AO3**

<b>2 marks</b>	The work is characterised by some or all of the following: <ul style="list-style-type: none"> <li>• clear expression of ideas</li> <li>• a good range of specialist terms</li> <li>• few errors in grammar, punctuation and spelling</li> <li>• errors do not detract from the clarity of the material.</li> </ul>
<b>1 mark</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• reasonable expression of ideas</li> <li>• the use of some specialist terms</li> <li>• errors of grammar, punctuation and spelling</li> <li>• errors detract from the clarity of the material.</li> </ul>
<b>0 marks</b>	The work is characterised by: <ul style="list-style-type: none"> <li>• poor expression of ideas</li> <li>• limited use of specialist terms</li> <li>• errors and poor grammar, punctuation and spelling</li> <li>• errors obscure the clarity of the material.</li> </ul>



**ASSESSMENT GRID**

(To show the allocation of marks to Assessment Objectives)

**A Level Law (LAW01)**

	AO1	AO2	AO3		
<b>Topic: Parliamentary Law Making</b>					
Question <table border="1"><tr><td>0</td><td>1</td></tr></table>	0	1	10	0	
0	1				
Question <table border="1"><tr><td>0</td><td>2</td></tr></table>	0	2	10	0	
0	2				
Question <table border="1"><tr><td>0</td><td>3</td></tr></table>	0	3	0	10	2
0	3				
<b>Topic: Delegated Legislation</b>					
Question <table border="1"><tr><td>0</td><td>4</td></tr></table>	0	4	10	0	
0	4				
Question <table border="1"><tr><td>0</td><td>5</td></tr></table>	0	5	10	0	
0	5				
Question <table border="1"><tr><td>0</td><td>6</td></tr></table>	0	6	0	10	2
0	6				
<b>Topic: Statutory Interpretation</b>					
Question <table border="1"><tr><td>0</td><td>7</td></tr></table>	0	7	10	0	
0	7				
Question <table border="1"><tr><td>0</td><td>8</td></tr></table>	0	8	10	0	
0	8				
Question <table border="1"><tr><td>0</td><td>9</td></tr></table>	0	9	0	10	2
0	9				
<b>Topic: Judicial Precedent</b>					
Question <table border="1"><tr><td>1</td><td>0</td></tr></table>	1	0	10	0	
1	0				
Question <table border="1"><tr><td>1</td><td>1</td></tr></table>	1	1	10	0	
1	1				
Question <table border="1"><tr><td>1</td><td>2</td></tr></table>	1	2	0	10	2
1	2				
<b>Topic: The Civil Courts and other forms of dispute resolution</b>					
Question <table border="1"><tr><td>1</td><td>3</td></tr></table>	1	3	10	0	
1	3				
Question <table border="1"><tr><td>1</td><td>4</td></tr></table>	1	4	10	0	
1	4				
Question <table border="1"><tr><td>1</td><td>5</td></tr></table>	1	5	0	10	2
1	5				
<b>Topic: The Criminal Courts and lay people</b>					
Question <table border="1"><tr><td>1</td><td>6</td></tr></table>	1	6	10	0	
1	6				
Question <table border="1"><tr><td>1</td><td>7</td></tr></table>	1	7	10	0	
1	7				
Question <table border="1"><tr><td>1</td><td>8</td></tr></table>	1	8	0	10	2
1	8				
<b>Topic: The Legal Profession and other sources of advice, and funding</b>					
Question <table border="1"><tr><td>1</td><td>9</td></tr></table>	1	9	10	0	
1	9				
Question <table border="1"><tr><td>2</td><td>0</td></tr></table>	2	0	10	0	
2	0				
Question <table border="1"><tr><td>2</td><td>1</td></tr></table>	2	1	0	10	2
2	1				
<b>Topic: The Judiciary</b>					
Question <table border="1"><tr><td>2</td><td>2</td></tr></table>	2	2	10	0	
2	2				
Question <table border="1"><tr><td>2</td><td>3</td></tr></table>	2	3	10	0	
2	3				
Question <table border="1"><tr><td>2</td><td>4</td></tr></table>	2	4	0	10	2
2	4				