

Version 1.0



**General Certificate of Education  
June 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.*

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**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**

**0 1** Outline the following:

- the law-making process in the House of Lords **and**
- the doctrine of Parliamentary supremacy (sovereignty). *(10 marks)*

**Potential Content**

(A) Outline of process in the House of Lords:

- introduction of Bill by Minister for government Bill or promoter for private member's bill  
order of readings – first reading, second reading, committee stage (whole House),  
Report stage, third reading
- general amending role looking at legislation passed by Commons; if Bill has been  
amended, it goes through ping-pong procedure in conjunction with House of  
Commons until final agreement has been reached on wording of all clauses.

**Enhancement**

Reference to different forms of Bills (Private, Public and Private Members); possible reference to constitutional role of Queen in Parliament and effect of Royal Assent bringing a Bill into force; possible reference to Parliament Acts 1911 and 1949.

For Sound (A) – both bullet points to be outlined.

(B) Outline of doctrine of Parliamentary supremacy (sovereignty):

- legal supremacy (sovereignty) (highest form of law, must be applied by judges,  
Parliament not being able to bind its successors).

**Enhancement**

Political sovereignty – that the electorate can vote a Parliament out at the next election.

**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 clear, one some

**max 6:** one sound

**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.

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<b>0 2</b> Describe pressure groups as an influence on Parliamentary law making. (10 marks)
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**Potential Content**

- (A) Description of pressure group as an influence:
- general description of the meaning of pressure group, including reference to the different types of group (insider and outsider, sectional and cause groups)
  - how, when and whom they can influence – insider groups likely to be involved in the drafting of a bill and may be consulted by minister or civil servants; sectional groups likely to be consulted when legislation is being drafted that affects their group of members; consultation may be arranged following lobbying; direct action such as strikes or demonstrations likely to be used by outsider or cause groups who may not be consulted in law making process
  - the effect of influence by reference to campaigns or example(s) – successful such as Snowdrop, unsuccessful such as Fathers4Justice.

Note: for Sound (A) – all three bullet points to 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>0 3</b> Briefly discuss advantages <b>and</b> disadvantages of pressure groups as an influence on Parliamentary law making. <i>(10 marks + 2 marks for AO3)</i>
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**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

(A) Brief discussion of advantages of pressure groups as an influence could include:

- can raise public awareness of issue and keep Parliament/MPs in touch with issues of public concern
- many are non-political but can influence all political parties
- will have expertise on their issue
- for some groups, e.g. National Trust or TUC, the size of their membership means they can be representative of general public and be more influential as they will have large budgets and be able to afford media campaigns
- some groups can provide international experience and contacts
- insider groups have the ear of decision makers and can be consulted on proposed changes
- likely to be successful if they have media support.

(B) Brief discussion of disadvantages of pressure groups as an influence could include:

- undemocratic as leaders unlikely to be elected by membership
- they are not likely to be objective and to provide one side of an argument
- outsider groups can use undesirable/illegal tactics to get publicity and to promote their view
- can represent small number of members and have limited funds
- outsider groups unlikely to be consulted or influence decision makers
- unlikely to be successful if no media support for their issue.
- can have disproportionate influence

Note: for Sound (A or B) at least **two** bulleted points should be briefly discussed.

Alternatively Sound (A or B) can be awarded if **four** or more bulleted points are made without development.

**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 clear, one some  
**max 6:** one sound  
**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: <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>

**0 4** Statutory Instruments, By-laws and Orders in Council are all forms of delegated legislation. Briefly describe any **two** of these forms. *(10 marks)*

**Potential content**

- (A) Brief description of first form of delegated legislation.
- (B) Brief description of second form of delegated legislation.

Forms of delegated legislation could be:

- statutory instruments – the existence of law made by government ministers with delegated powers under authority of primary legislation (enabling Acts), example(s).
- By-laws – made by local authority and other bodies, require authority of enabling Act or government minister, example(s)
- Orders in Council – made by Privy Council, can make laws when Parliament is not sitting/use in emergencies/ dissolving Parliament/ reorganise responsibility of government departments/ commencement orders, example(s) of Orders

Note: for Sound (A) or (B) – all elements of each bullet point to be briefly described.

**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 clear, one some  
**max 6:** one sound  
**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.

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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 control could include:

- judicial review can be claimed on grounds of procedural *ultra vires*, examples such as imposition of tax, lack of consultation
- judicial review can be claimed on grounds of substantive *ultra vires*, examples
- judicial review can be claimed on grounds of unreasonableness, examples
- judicial review can be claimed on grounds of delegated legislation being in conflict with EU law, examples.

Note: for Sound (A) at least two of the bulleted points are described supported by a case example.

**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>	Discuss advantages of delegated legislation.	<i>(10 marks + 2 marks for AO3)</i>
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**REMEMBER TO AWARD A MARK FOR AO3****Potential Content**

(A) Discussion of advantages of delegated legislation could include:

- saves parliamentary time allowing parliament to focus on major issues
- that delegated legislation can be made quickly because it does not have to go through either/both houses and can be used in the case of emergency, with example(s)
- that often it is made for technical reasons to fill in the gaps in primary legislation and experts can be consulted for specific detail, example(s)
- flexibility – different rules can be introduced in different areas (by-laws) as required by local need, or to deal with specific issues, example(s)
- statutory instruments can complete the detail of framework Act, or deal with regular amendments, such as the change in the annual amounts of the minimum wage
- some form of control by either Parliament or the judiciary is possible
- some form of democracy involved, as by-laws made by local politicians and statutory instruments made by or in the name of elected ministers.

Note: for Sound (A) – at least **three** bulleted points should be discussed and, if appropriate, supported by an example.

Alternatively, Sound (A) can be awarded if **five** or more bulleted points are discussed without development.

**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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**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 7</b>	Outline the following: <ul style="list-style-type: none"> <li>• internal (intrinsic) aids to interpretation <b>and</b></li> <li>• external (extrinsic) aids to interpretation.</li> </ul>	<i>(10 marks)</i>
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### Potential Content

(A) Outline of internal aids could include:

- long and short titles
- preamble
- definitions,
- interpretation section
- schedule.

(B) Outline of external aids could include:

- authorised dictionary of the year the Act was passed
- an external treaty entered into by the UK, eg The Treaty of Rome if the word is defined there
- a report (such as a Law Commission report) on which Act is based
- if the word is included in the Interpretation Act 1978 ('he' includes 'she')
- if the word has been discussed in a parliamentary debate and included in a Hansard report.

Note: for Sound (A) or (B) - at least **two** of the bulleted points should be outlined supported by an example.

Alternatively, Sound (A) or (B) can be awarded if **four** or more bulleted points are outlined without examples.

### Enhancement

Definition of internal and/or external aids

### Mark bands

8 – 10	<p>The student deals with (A) and (B) as follows:</p> <p><b>max 10:</b> two sound</p> <p><b>max 9:</b> one sound, one clear</p> <p><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:</p> <p><b>max 7:</b> one clear, one some</p> <p><b>max 6:</b> one sound</p> <p><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</p> <p><b>or</b></p> <p>mistakes and confusion fundamentally undermine a more substantial attempt at explanation.</p>
0	<p>The answer contains no relevant information.</p>

<b>0 8</b> Describe the literal rule of statutory interpretation.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of literal rule could include
- judges giving words their ordinary natural (Oxford English) dictionary meaning, even if it results in an absurdity; case examples to illustrate the application of the rule.

**Enhancement**

Possible reference to words getting the same meaning throughout the Act; words in an old statute being given their meaning at the time of the passing of the Act.

Note: for Sound (A) the rule to be accurately described using at least one developed case example or at least two case examples briefly developed.

**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.



**0 9** Briefly discuss advantages **and** disadvantages of the literal rule.  
(10 marks + 2 marks for AO3)

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

- (A) Brief discussion of advantages could include:
- judges applying the will of parliament, and democratic as unelected judges are not making law, merely applying law passed by Parliament
  - predictable as the same meaning is given every time a word is used in an Act
  - the result is certain so lawyers can advise their clients on the likely outcome
- (B) Brief discussion of disadvantages could include:
- rigidity – judges have no discretion so if a bad precedent or absurd results made then judges cannot provide justice in individual cases, e.g. **Berriman**
  - the rule cannot be used if words to be interpreted are not in an Act or if the words can have more than one meaning
  - the rule assumes that the Act is perfectly written
  - possible need for Parliament to rectify error following case, e.g. **Fisher v Bell**
  - there is an assumption that Parliament meant the result which the rule achieves

Note: for Sound (A or B) at least **two** bulleted points should be briefly discussed, supported where appropriate, by examples.

**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 clear, one some  
**max 6:** one sound  
**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.

**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>

**1 0** In the context of judicial precedent:

- outline what is meant by the term *obiter dicta* **and**
- briefly describe the relevance of law reports.

(10 marks)

**Potential Content**

(A) Outline of *obiter dicta*:

- other things said by the way
- the non-binding part of the decision which does not have to be followed by other judges
- may be persuasive in later cases

(B) Brief description of relevance of law reports could include:

- the need for reporting to publicise judgements, and statements of law for lawyers and judges, and being used as precedent in later cases
- an accurate and authorised record of the reasons for the decision
- examples of different series of reports
- content of report
- written by specialist lawyers.

Note: for Sound (A) outline supported, where appropriate by an example.

For Sound (B) at least **three** bullet point points to be briefly described.

**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 clear, one some
- max 6:** one sound
- 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</b>	<b>1</b>	Describe how judges can avoid following a precedent when sitting in the Supreme Court.	<i>(10 marks)</i>
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**Potential Content**

(A) Description of how judges in the Supreme Court can avoid binding precedent

- Using the 1966 Practice Direction,
- Alternative powers to overrule or distinguishing a previous precedent

**Enhancement**

Disapproving or any other method of avoiding precedent

**Note**

Reversing a precedent is not within the specification. However an answer which refers to reversing in the context of overruling or otherwise avoiding a precedent can be credited.

Note: for Sound (A) – description of both bullet points supported by case example(s).

**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.           |

**1 2** Briefly discuss advantages **and** disadvantages of judicial precedent.  
(10 marks + 2 marks for AO3)

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

- (A) Brief discussion of advantages of precedent could include:
- flexibility - dealing with new situations as they arise, or updating out-of-date rules as in *R v R* and/or *Herrington*
  - dealing with real, as opposed to theoretical, cases
  - providing detailed rules for later cases
  - just, as judges are impartial and basing their decisions on legal rules
  - authoritative – especially in decisions of Supreme Court and Court of Appeal due to the numbers and experience of judges in court.
  - certainty
  - time saving
- (B) Brief discussion of disadvantages of precedent could include:
- the undemocratic nature of law making, as judges' role can be said to be applying law passed by Parliament rather than making law
  - in order to make precedent there is need for case to come to court, especially the higher courts which may be a lottery based on the lawyer's advice and funding
  - in some cases each judge may give a different reason for their decision which may result in the difficulty for later judges/lawyers identifying *ratio*
  - the number of precedents made and the difficulty of finding an authoritative law report.
  - rigidity – bad decisions difficult to change
  - uncertainty
  - retrospective nature of decision

Note: for Sound (A or B) at least **two** of the above points should be briefly discussed, supported by example(s).

**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 clear, one some  
**max 6:** one sound  
**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.

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**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>

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## Section B: The Legal System

**1 3** Civil cases can be dealt with by the courts or by means of alternative methods of dispute resolution. Briefly explain any **two** of the following alternative methods:

- Negotiation
- Mediation
- Conciliation.

*(10 marks)*

### Potential Content

(A) Brief explanation of first form of dispute resolution

(B) Brief explanation of second form of dispute resolution

#### Negotiation

- who carries out the negotiation – the parties, their lawyers or unqualified representatives
- possible forms of negotiation – face to face, using telephone, email or conference calls
- types of dispute can be dealt with
- process – continued talking/contact until resolution made or fails
- successful outcome is agreement which is enforceable if the parties formally agree

#### Mediation

- process can arise through agreement or requirement, as with family disputes
- mediator will be qualified in mediation and possibly area of dispute
- commercial or family disputes can be settled using this method
- process is the mediator passing messages between parties until they reach agreement between themselves
- successful outcome is agreement which is enforceable if the parties formally agree

#### Conciliation

- qualified conciliator conducts the resolution process
- process is the conciliator passing messages between parties and advising parties on their respective positions
- type of cases dealt with - likely to be employment or commercial cases
- successful outcome is agreement which is enforceable if the parties formally agree

Note: for Sound (A or B) at least **three** bullet points briefly explained,

### 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 clear, one some

**max 6:** one sound

**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 4</b> Describe dispute resolution by tribunals.	<i>(10 marks)</i>
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**Potential Content**

(A) Description of dispute resolution by tribunals could include:

- composition of panel
- how tribunals can come about – statutory or disciplinary, and examples of cases heard
- tier structure
- more formal nature of hearings where evidence may be given on oath and use of lawyers/representatives
- outcome will be a legally enforceable award
- there may be a right to an appeal based on legal reasons.

**Enhancement**

Note: for Sound (A) at least **three** bullet points 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.           |

**1 5** Briefly discuss advantages **and** disadvantages of dispute resolution by tribunals.  
(10 marks + 2 marks for AO3)

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

- (A) Brief discussion of advantages of Tribunals could include:
- expertise of panel – a qualified lawyer or judge in charge of proceedings/specialist knowledge of panel
  - that legal reasons for decisions are given and recorded
  - lower cost compared with courts, perhaps because of greater informality of proceedings and lesser need for legal representation as compared to courts
  - speed compared to courts/ taking pressure off courts
  - that they provide a possible public forum for airing a dispute, as compared with negotiation, mediation or conciliation.
- (B) Brief discussion of disadvantages of Tribunals could include:
- possible influence of chair over the other panel members
  - the cost of tribunal hearing due to initial fee and the need to pay for lawyers and the lack of public/state funding; this may lead to an imbalance between parties where one party can afford a lawyer and the other cannot
  - hearings are formal compared with other methods of ADR
  - appeals only available against legal reasons for decisions; high costs of taking an appeal as lawyers likely to be required
  - hearings and appeals may be reported, which may lead to adverse publicity.

Note: for Sound (A or 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 clear, one some  
**max 6:** one sound  
**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.

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**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 6</b> An either-way offence, such as Actual Bodily Harm (ABH), can be tried either in the Magistrates Court or in the Crown Court. Describe the role of lay magistrates when dealing with an either-way offence. <span style="float: right;"><i>(10 marks)</i></span> |
|--|

**Potential Content**

- (A) Description of role of lay magistrates in either way cases:
- pre-trial – plea before venue process, power to commit (send) for trial to the Crown Court, pre-trial review if offence to be tried summarily, sentence or commit for sentence following guilty plea, bail or custody if case is adjourned for any reason, decision on funding.
  - trial as summary offence – hearing evidence as bench of three, deciding guilt/innocence as unanimous/majority decision.
  - post-trial – deciding sentence with reference to maximum sentencing powers; committing case to Crown Court for sentence if their powers are insufficient.

Note: for Sound (A) – all three points to be described.

**Enhancement**

Appeal role

**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>1 7</b> Describe how jurors qualify <b>and</b> are selected for service in a Crown Court trial. <i>(10 marks)</i>
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**Potential Content**

(A) Description of jury **qualification and selection:**

- **qualification** – age limits, being on electoral register, residence
- **reasons for not qualifying** - disqualification, deferral, excusal, or other good reason for not serving
- **selection** – initial selection by JCSB, in jury waiting room and in court, challenges, swearing in.

Note: for Sound (A) all three points have to be described.

**Enhancement:**

Vetting

**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.

**1 8** Discuss **one** of the following:

- advantages of using lay magistrates in the criminal justice system
- advantages of using jurors in the criminal justice system.

*(10 marks + 2 marks for AO3)*

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

**Either**

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

- public confidence in trial by peers, long established, reduction of professional involvement
- fairness of open trial/justice
- limited number of appeals
- cost compared to judge only trials.
- Representative e.g. gender, ethnicity

**Or**

(A) Discussion of advantages of jurors could include:

- long established approach of trial by peers, public confidence in system, reduction of professional involvement
- fairness of open trial/ justice
- jury equity.
- elimination of bias

Note: for Sound (A) at least **three** of the above points should be discussed, supported, where appropriate, by examples.

**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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**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 9</b> Describe how a person is trained <b>and</b> qualifies to become a barrister. <i>(10 marks)</i>
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**Potential Content**

- (A) Description of training and qualifying process:
- academic training – degree entry, CPE/GDL for non-law degree, BVC/BPTC
  - qualifying – enrolling with Bar Council and Inns of Court, residential training weekends (alternative to dining), pupillage, call to Bar.

**Enhancement**

Finding place in chambers.

Note: for Sound (A) both bullet points to 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.



**2 0** Briefly explain where a person, injured in an accident, could obtain legal advice **and** representation in order to sue for damages, **and** outline how this could be paid for.  
(10 marks)

**Potential Content**

- (A) Brief explanation of possible sources of advice and representation:
- Legal sources – solicitor, Community Legal Service, law centres
  - Non legal sources, such as CAB, claims company, internet, trade union, insurance company, motoring organisation.
- (B) Outline how claim could be paid for (or financed) could include:
- Legal Help and/or Legal Aid (Representation) in certain very limited cases
  - private funding
  - ‘no win no fee’ conditional fees
  - via insurance policy or union membership.
  - pro bono

Note: for Sound (A) **both** bullet points to be briefly explained. For Sound (B) at least **two** bullet points to be outlined.

**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 clear, one some  
**max 6:** one sound  
**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.

**2 1** Briefly discuss advantages **and** disadvantages of the methods of obtaining funding for advice and representation in civil cases. *(10 marks + 2 marks for AO3)*

**REMEMBER TO AWARD A MARK FOR AO3**

**Potential Content**

- (A) Brief discussion of advantages could include:
- for those of very limited means or who are suffering from a disability; legal help provides source of advice; legal representation provides sources of funding of court action
  - 'no win no fee' allows claims from those who could not afford court action or would not qualify for legal aid
  - funding provided by insurance or union benefiting members
  - private funding allowing choice of representative.
- (B) Brief discussion of disadvantages could include:
- general expense, particularly of court action
  - limited availability of state funding
  - cost of insurance policies required for 'no win no fee' cases, threshold test for 'no win no fee' cases
  - insurance or union funding only available to members and provided certain conditions are satisfied.
  - limited availability of law centres and CAB

Note: for Sound (A or 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 clear, one some  
**max 6:** one sound  
**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.

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**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>2</b>	<b>2</b>	Describe the work of a judge in a civil claim for damages.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of work of judge in civil claim could include:
- pre-trial – dealing with pre-trial issues (e.g. tracking), acting as trial manager
  - trial – hearing evidence and legal submissions, ruling on legal issues during trial, deciding liability, deciding damages and award of costs.

**Enhancement**

- reference to availability of remedies other than damages
- availability and role in appeals.

Note: for Sound (A) both bullet points to 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> Describe how judges are selected <b>and</b> appointed.	<i>(10 marks)</i>
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**Potential Content**

- (A) Description of selection and appointment of judges could include:
- selection – eligibility, advertisements for posts, application, testing, promotion, reference to Judicial Appointments Commission (JAC) and consideration of application
  - appointment – for inferior judges appointment by Minister of Justice and Lord Chancellor after recommendation by JAC; for superior judges appointment by Queen, after recommendation by JAC.

**Enhancement**

- swearing in
- choice of appeal judges from first instance judges when vacancy arises.

**Note:** for Sound (A) – both bullet points to 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>2</b>	<b>4</b>	Briefly discuss advantages <b>and</b> disadvantages of the selection and appointment process for judges.	<i>(10 marks + 2 marks for AO3)</i>
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**REMEMBER TO AWARD A MARK FOR AO3****Potential Content**

- (A) Brief discussion of advantages of selection and appointment process could include:
- legal knowledge of appointees who have knowledge of court rules and procedure
  - selection methods provide choice of best applicants
  - independence of JAC.
- (B) Brief discussion of disadvantages of selection and appointment process could include:
- best lawyers may not apply, predominance of barristers applying
  - judiciary is not representative of sexual/racial/educational mix of country
  - judges may not be experienced/knowledgeable in area of law they are required to deal with in court
  - limited training given for appointees.

Note: for Sound (A or 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: <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 student deals with (A) and (B) as follows: <b>max 7:</b> one clear, one some <b>max 6:</b> one sound <b>max 5:</b> one clear <b>or</b> 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 <b>or</b> mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

**AO3**

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<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)**

	AO 1	AO 2	AO 3		
<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				
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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				
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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				
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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				
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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				
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1	5				
<b>Topic: The Criminal Courts and lay people</b>					
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1	6				
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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				
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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				