

A-LEVEL

LAW

Unit 1 Law Making and the Legal System
Mark scheme

LAW01
June 2014

Version: 1.0 Final

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

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.

Further copies of this Mark Scheme are available from aqa.org.uk

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)**

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none">• 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.
1 mark	The work is characterised by: <ul style="list-style-type: none">• reasonable expression of ideas• the use of some specialist terms• errors of grammar, punctuation and spelling• errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none">• poor expression of ideas• limited use of specialist terms• errors and poor grammar, punctuation and spelling• errors obscure the clarity of the material.

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.

<p>Sound</p>	<ul style="list-style-type: none"> • The material will be generally accurate and contain material relevant to the Potential Content. • The material will be supported by generally relevant authority and/or examples. • It will generally deal with the Potential Content in a manner required by the question. <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<p>Clear</p>	<ul style="list-style-type: none"> • The material is broadly accurate and relevant to the Potential Content. • The material will be supported by some use of relevant authority and/or examples. • The material will broadly deal with the Potential Content in a manner required by the question. <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>
<p>Some</p>	<ul style="list-style-type: none"> • The material shows some accuracy and relevance to the Potential Content. • The material may occasionally be supported by some relevant authority and/or examples. • The material will deal with some of the Potential Content in a manner required by the question. <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>
<p>Limited</p>	<ul style="list-style-type: none"> • The material is of limited accuracy and relevance to the Potential Content. • The material will be supported by minimal relevant authority and/or examples. • The material will deal superficially with the Potential Content in a manner required by the question. <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	Describe the law-making process in Parliament.	[10 marks]
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Potential Content

(A) Description of law making procedure in House of Commons could include:

- description of procedure in the Commons: order of readings – first reading, second reading, committee stage, Report stage, third reading

(B) Description of law making procedure in House of Lords could include:

- role of the House of Lords as a revising chamber
- description of procedure in the Lords: order of readings – first reading, second reading, committee stage, Report stage, third reading
- description of the ping pong procedure in conjunction with House of Commons until final agreement has been reached on wording of all clauses. The Parliament Acts.
- reference to constitutional role of Queen in Parliament and effect of Royal Assent bringing a bill into force.

Note: for Sound B – at least two of the above points to be described.

Enhancement

- introduction of Bill by Minister for government bill or promoter for private member's bill
- reference to different forms of bills (Private, Public and Private Members)

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

0 2	Describe the influence on Parliament of any one of the following: <ul style="list-style-type: none"> • the Law Commission • the media • the pressure groups. <div style="text-align: right;">[10 marks]</div>
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Potential Content

(A) Description of Law Commission could include:

- who sits on the Commission and its aims
- how it chooses and then investigates an issue
- its role in codifying law with possible reference to example such as the recommendation for codifying criminal law eg Offences against the Person Act 1861
- its role in consolidating law with possible reference to examples eg Powers of Criminal Courts (Sentencing) Act 2000
- its role in recommending the repeal of old law, possible examples e.g. Law Reform (Year and a Day Rule) Act 1996, removal of double jeopardy rule.

Or

(A) Description of media as an influence could include:

- What is meant by media – radio, TV, Press, Internet, Social Media
- how media can influence Parliament such as campaigns, regular articles, features, follow up articles to events, specific events
- when they can influence – after an event such as Hillsborough or as part of a regular campaign e.g. immigration, EU membership
- effect of influence can be either no change in law or eventual change in the law eg Dangerous Dogs Act 1991 and recent amendment or Sara Payne campaign to name and shame paedophiles.

Or

(A) Description of pressure group as an influence could include:

- general description of meaning of pressure group, including reference to the different types of group (insider and outsider, sectional and cause groups)
- 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;
- how they influence - 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 - at least three of the above points should be described.

Mark Bands

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|--------|--|
| 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 3	Briefly discuss advantages and disadvantages of the influence on Parliament that you have described in your answer to question 02. [10 marks + 2 marks for AO3]
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Potential Content

(A) Advantages of the Law Commission could include:

- Commissioners have considerable legal expertise
- reports are well informed and researched, based on considerable evidence
- Law Commission is independent and non-political
- draft laws are presented with report.

Note: for Sound A - at least two of the above points should be briefly discussed, each supported by an example if appropriate.

(B) Disadvantages of the Law Commission could include:

- that only a small percentage of reports are accepted and acted on by Parliament
- lack of power – there is no obligation to consult Law Commission before any new law is introduced
- investigations can be lengthy
- several areas of law are investigated at one time – investigations may not be completely thorough.

Note: for Sound B - at least two of the above points should be briefly discussed, each supported by an example if appropriate.

(A) Advantages of media could include:

- raising issues of public concern with decision makers
- can support pressure groups
- can raise public awareness of an issue
- can generate public support

Note: for Sound A - at least two of the above points should be briefly discussed, each supported by an example if appropriate.

(B) Disadvantages of the media could include:

- creating a panic causing 'knee jerk' legislation
- may represent a small percentage of the population
- may not be able to effectively influence parliament.
- Ownership of the media source and possible bias

Note: for Sound B - at least two of the above points should be briefly discussed, each supported by an example, if appropriate.

(A) Advantages of pressure groups 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, eg 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.

Note: for Sound A - at least two of the above points should be briefly discussed, each supported by an example if appropriate.

(B) Disadvantages of pressure groups 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.
- Creating a panic causing 'knee jerk' legislation

Note: for Sound B at least two of the above points should be briefly discussed, each supported by an example if appropriate.

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.

AO3

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none">• 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.
1 mark	The work is characterised by: <ul style="list-style-type: none">• reasonable expression of ideas• the use of some specialist terms• errors of grammar, punctuation and spelling• errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none">• poor expression of ideas• limited use of specialist terms• errors and poor grammar, punctuation and spelling• errors obscure the clarity of the material.

0 4	Outline both of the following forms of delegated legislation: <ul style="list-style-type: none"> • by-laws and • Orders in Council. <p style="text-align: right;">[10 marks]</p>
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Potential content

(A) Outline of by-laws:

- how they are made – under delegated powers given by Local Government Act 1972 or other relevant statute and approved by government minister
- made by local authority for the benefit of the local authority area – example such as dog fouling
- made by other bodies such as smoking ban made by Transport For London or penalty fares made by train companies or professional bodies such as the FA or Law Society.

For Sound A all three points to be outlined with accurate examples in support for points 2 & 3.

(B) Outline of Orders in Council could include:

- made by Privy Council, who sits on Privy Council and when it meets
- Orders made in emergency
- Orders made when Parliament is not sitting
- Orders to transfer responsibilities between government departments
- Orders to implement European Directives.

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

0 5	Explain parliamentary controls on delegated legislation.	[10 marks]
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Potential Content

(A) Explanation of Parliamentary controls could include:

- affirmative resolution procedure
- negative resolution procedure
- repealing of primary legislation
- scrutiny committees
- asking questions of ministers.
- limits imposed by enabling Act

Note: for Sound A - at least three of the above points should be explained, supported, where appropriate, by an 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.

0 6	Discuss disadvantages of delegated legislation.	[10 marks + 2 marks for AO3]
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Potential Content

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

- undemocratic /sub-delegation
- volume
- lack of publicity
- lack of effective control
- limited scrutiny
- length & expense of judicial review.

Note: for Sound A - at least three of the above points should be discussed, supported where appropriate by an 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.

AO3

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none"> • 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.
1 mark	The work is characterised by: <ul style="list-style-type: none"> • reasonable expression of ideas • the use of some specialist terms • errors of grammar, punctuation and spelling • errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none"> • poor expression of ideas • limited use of specialist terms • errors and poor grammar, punctuation and spelling • errors obscure the clarity of the material.

0 7	Explain the mischief rule.	[10 marks]
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Potential Content

(A) Explanation of the mischief rule could include:

- That judges are looking at:
 - what was the old (common) law
 - what was the mischief (defect) in that law
 - how did Parliament intend remedying that defect
 - judge then gives effect to that intention.(Heydon's case)
- case illustration such as **Smith v Hughes, Kruhlak v Kruhlak**
- recognition of the mischief addressed by the result of the case, 'spirit of the law' approach.

Enhancement

Reference to **Heydon's** case, reference to ways of discovering the intention of Parliament.

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

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 8	Outline both of the following: <ul style="list-style-type: none"> • the purposive approach to statutory interpretation and • the ejusdem generis rule of language. <div style="text-align: right;">[10 marks]</div>
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Potential Content

(A) Outline of purposive rule could include:

- judges finding intention of parliament /broad approach
- case illustration such as Jones v Tower Boot Co., RCN v DHSS
- EU approach to statutory interpretation and/or applying Human Rights Act to legislation.

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

(B) Outline of the ejusdem generis rule could include:
That general words following specific words, case example(s) to support eg **Powell v Kempton Park Racecourse**.

Note: for Sound B – outline of the rule and a case 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.

0 9	Briefly discuss advantages and disadvantages of either the mischief rule or the purposive approach. [10 marks + 2 marks for AO3]
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Potential Content

Either

(A) Brief discussion of advantages of mischief rule could include:

- Avoidance of absurd and unjust outcomes as in for example Berriman
- Flexibility in allowing judges to apply law really intended by parliament – e.g. Smith v Hughes
- Judges can fill in the gaps in legislation to arrive at “right”/just result
- It saves parliament from having to pass an amending Act
- Allows judges to update law to take account of changing social conditions e.g. RCN v DHSS

(B) Brief discussion of disadvantages of mischief rule could include:

- Too much power given to unelected judiciary/encourages judicial law making/undemocratic
- Difficult to find the mischief in the legislation
- May be hard to find parliament’s intention
- It can lead to unpredictable results
- It can be said to be outdated and not fit to deal with current issues

Note: For Sound A or B – at least two of the above points should be briefly discussed supported, where appropriate, with case examples

OR

(A) Brief discussion of advantages of purposive approach could include:

- Avoidance of absurd and unjust outcomes as in for example Berriman
- Flexibility in allowing judges to apply law really intended by parliament – e.g. Jones v Tower Boot Co.
- Judges can fill in the gaps in legislation to arrive at “right”/just result
- It saves parliament from having to pass an amending Act
- It encourages a willingness to consider the work of the Law Commission
- Allows judges to update law to take account of changing social conditions e.g. RCN v DHSS
- Breadth of approach in allowing judges to consider real purpose of Act
- Modern approach, closer to the European model

(B) Brief discussion of disadvantages of purposive approach could include:

- Too much power given to unelected judiciary/encourages judicial law making/undemocratic
- Difficult to find the purpose or intention of the legislation
- It can lead to unpredictable results
- Allows judges too much power to be creative (more general freedom/licence allowed than in mischief rule)

Note: For Sound A or B – at least two of the above points should be briefly discussed supported, where appropriate, with case 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 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

AO3

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none"> • 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.
1 mark	The work is characterised by: <ul style="list-style-type: none"> • reasonable expression of ideas • the use of some specialist terms • errors of grammar, punctuation and spelling • errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none"> • poor expression of ideas • limited use of specialist terms • errors and poor grammar, punctuation and spelling • errors obscure the clarity of the material.

1 0	In the context of judicial precedent, briefly explain both of the following: <ul style="list-style-type: none"> • the hierarchy of the courts and • obiter dicta. <div style="text-align: right;">[10 marks]</div>
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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
- need for hierarchy.

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

(B) Brief explanation of obiter dicta could include:

- 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.

Note: for Sound B – at least two points briefly explained, supported where appropriate with a case 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.

1 1	Describe how judges can use both distinguishing and overruling and, consequently, not follow a binding precedent.	[10 marks]
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Potential Content

(A) Description of how judges can use distinguishing could include:

- what is distinguishing
- which court(s) can distinguish
- when a court can distinguish - in the context of an earlier decision in a different case.

Note: for Sound A - all three of the above points should be described. The description should be supported by at least one case/example such as **Balfour** and **Merritt** or **Brown** and **Wilson**.

(B) Description of how judges can use overruling could include:

- what is overruling
- which courts can overrule
- overruling its own decision – the Supreme Court/Court of Appeal

Note: for Sound B – all three of the above points should be described. The description should be supported by at least one case/example, such as **Hedley Byrne v Heller & Partners** which overruled **Candler v Crane Christmas; Herrington overruling Addie v Dumbreck; Young v Bristol Aeroplane**.

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.

1 2	Discuss disadvantages of judicial precedent. [10 marks + 2 marks for AO3]
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Potential Content

(A) Discussion of disadvantages of precedent could include:

- undemocratic
- case having to come to court
- case having to reach higher courts
- possible multiple reasons for decision can lead to confusion
- difficulty in identifying ratio
- number of precedents/diversity of law reporting.
- retrospective decisions
- uncertainty
- rigidity

Note: for Sound A - at least three of the above points should be discussed, supported where appropriate by an 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.

AO3

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none"> • 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.
1 mark	The work is characterised by: <ul style="list-style-type: none"> • reasonable expression of ideas • the use of some specialist terms • errors of grammar, punctuation and spelling • errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none"> • poor expression of ideas • limited use of specialist terms • errors and poor grammar, punctuation and spelling • errors obscure the clarity of the material.

1 3	Describe arbitration as a form of alternative dispute resolution.	[10 marks]
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Potential Content

(A) Description of Arbitration as a form of alternative dispute resolution could include:

- qualification and role of arbitrator
- how arbitration can come about (from a clause in the agreement)
- types of cases dealt with, eg commercial, consumer
- nature of hearing
- potential outcomes e.g. binding decisions
- limited possibility of appeal
- enforcement of award.

Note: for Sound A - at least five 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.

1 4	<p>Outline both of the following:</p> <ul style="list-style-type: none"> • the civil courts, including appeal courts, that can hear a civil claim for compensation and • the process of mediation as an alternative method of dispute resolution <p style="text-align: right;">[10 marks]</p>
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Potential Content

(A) Outline of courts could include:

- Small Claims Court, County Court or High Court depending on amount of claim
- Appeals within County Court (from District Judge to Circuit Judge) and appeals to Court of Appeal and Supreme Court with possible reference to grounds of appeal and orders that appeal courts can make.

Enhancement

Reference to tracking.

Note for Sound A – both bullet points to be outlined.

(B) Outline of the process of mediation could include:

- how process comes about
- who acts as mediator /role
- types of cases dealt with, eg family disputes, neighbour disputes, pre-small claims
- nature of mediation process
- potential outcome and lack of appeal.

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

Mark bands

8 - 10	<p>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</p>
5 - 7	<p>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</p>
3 - 4	<p>The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B)</p>

- 1 - 2 The answer consists of brief, fragmented comments or examples so that no coherence explanation emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation
- 0 The answer contains no relevant information.

1 5	Briefly discuss advantages and disadvantages of using civil courts to deal with a claim of negligence [10 marks + 2 marks for AO3]
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Potential Content

(A) Brief discussion of advantages of using civil courts in negligence claim could include:

- resolution by impartial tribunal
- authority of court
- legal expertise
- hearing of all evidence
- possible public hearing
- certain outcome
- right of appeal
- Availability of funding options.

Note: for Sound A - at least two of the above points should be briefly discussed, supported, where appropriate, by an example and must be compatible with claims for negligence.

(B) Brief discussion of disadvantages of using civil courts in negligence claim could include:

- cost and possible award of costs
- formality
- possible lack of legal representation and imbalance between parties
- (lack of) speed and efficiency of process
- lack of convenience as fixed court dates and times
- adversarial nature of process
- likely publicity
- lack of state funding.

Note: for Sound B - at least two of the above points should be briefly discussed, supported, where appropriate, by an example and must be compatible with claims for negligence.

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.

AO3

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none"> • 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.
1 mark	The work is characterised by: <ul style="list-style-type: none"> • reasonable expression of ideas • the use of some specialist terms • errors of grammar, punctuation and spelling • errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none"> • poor expression of ideas • limited use of specialist terms • errors and poor grammar, punctuation and spelling • errors obscure the clarity of the material.

1 6	Describe the process of qualification, selection and appointment of lay magistrates. [10 marks]
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Potential Content

- (A) Brief description of qualification, selection and appointment of lay magistrates could include:
- Qualification – age, living/working within area, responding to advert
 - Selection – interviews by local advisory committee, key (personal) qualities with possible reference to judicial aptitude
 - Appointment – balance and requirements of bench, recommendation to Minister of Justice by Local Advisory Committee, background checks, formal appointment by Lord Chancellor.

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

Enhancement

Reference to disqualified groups, initial training, swearing-in.

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 7	Explain the role of jurors in a Crown Court trial.	[10 marks]
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Potential Content

(A) Explanation of role of jury could include:

- general role – decider of facts and verdict
- listening to evidence, cross examination and summing up by prosecution and defence
- listening to judge's summing up of evidence and legal directions
- secret discussion, unanimous & majority verdicts
- public announcement of verdict.

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

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	<p>Discuss disadvantages of using either:</p> <ul style="list-style-type: none"> • jurors or • lay magistrates <p>in the criminal justice process.</p> <p style="text-align: right;">[10 marks + 2 marks for AO3]</p>
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Potential Content

Either

(A) Discussion of disadvantages of use of jurors could include:

- returning of perverse verdicts
- possible bias and selection issues
- influence within jury or from outside
- media pressure /misuse of media sources
- complexity of issues
- how juries reach their verdicts.
- cost of jury trial

Or

(A) Discussion of disadvantages of use of lay magistrates could include:

- perverse/inconsistent sentencing
- feelings of possible bias towards police/prosecution
- make up of panel and selection issues
- influence by clerk or within panel
- complexity of issues.

Note: for Sound A - at least three of the above points should be discussed, supported where appropriate by a case or example or statistical evidence.

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

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none">• 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.
1 mark	The work is characterised by: <ul style="list-style-type: none">• reasonable expression of ideas• the use of some specialist terms• errors of grammar, punctuation and spelling• errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none">• poor expression of ideas• limited use of specialist terms• errors and poor grammar, punctuation and spelling• errors obscure the clarity of the material.

1 9	<p>Alan intends to make a claim for negligence. Outline the following:</p> <ul style="list-style-type: none"> • where he could obtain legal advice and • how Alan's claim could be paid for. <p style="text-align: right;">[10 marks]</p>
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Potential Content

(A) Outline of possible sources of advice could include reference to and outline of:

- solicitor
- Community Legal Service
- CAB or other charity
- claims company
- internet
- trade union
- insurance company
- motoring organisation.
- law centres

Note – credit can be given for other credible sources of advice

Note: For Sound A - at least three of the above points should be outlined, supported, where appropriate, by an example.

(B) Outline how claim could be paid for (or financed) could include:

- Legal Help
- private funding
- no win no fee conditional fees
- via insurance policy, via union membership
- pro bono.

Note – credit can be given for other credible sources of funding.

Note: For Sound B - at least three of the above points should be outlined, supported, where appropriate, by an example.

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.

2 0	Outline the training and qualification of both solicitors and legal executives. <div style="text-align: right;">(10 marks)</div>
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Potential Content

(A) Outline of training and qualification of solicitors could include:

- obtaining degree in Law or obtaining degree in another subject followed by GDL
- studying LPC course with possible reference to content of course
- training contract with reference to skills acquired
- admittance to and enrolment in the Law Society.

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

(B) Outline of training and qualification of legal executives could include:

- initial CILEx Level 3 Professional Diploma in Law and Practice and CILEx Level 6 Professional Higher Diploma in Law and Practice and possible reference to content of course
- with qualifying law degree alternative courses leading to the CILEx Graduate Fast-track Diploma with possible reference to content of course
- studying alongside qualifying employment
- membership of CILEX.

Note: for Sound B - at least two 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.

2 1	Compare and contrast the roles of defence solicitors and defence barristers in a Crown Court criminal case. [10 marks + 2 marks for AO3]
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Potential Content

(A) Comparison and contrast of roles could include:

- Initial instruction of barrister by solicitor, initial researching and obtaining evidence by solicitor rather than barrister; liaising with CPS over charges, witnesses, evidence to be used at trial, date and procedure at trial – by either solicitor or barrister
- initial magistrates court and preliminary pre-trial hearings for consideration of bail/custody, legal representation and referral to Crown Court – usually covered by solicitor though could be covered by barrister

Comparison and contrast of conduct of trial could include

- advocacy in court including reference to opening and closing speeches, examination and cross examination of witnesses - usually performed by barrister (and/or QC) though could be covered by solicitors with extended rights of audience
- solicitor advocate role with extended rights of audience

Enhancement material

- Advice on possible appeal by either/both solicitor and barrister.
- Conduct of possible appeal usually by barrister (and/or QC) though could be covered by solicitors with extended rights of audience.

For Sound A – at least three of the above points should be addressed.

Note: for top of sound there must be an explicit comparison and contrast made between the roles

Mark bands

- | | |
|--------|--|
| 8 - 10 | The student demonstrates a sound understanding of (A). |
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| 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

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none">• 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.
1 mark	The work is characterised by: <ul style="list-style-type: none">• reasonable expression of ideas• the use of some specialist terms• errors of grammar, punctuation and spelling• errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none">• poor expression of ideas• limited use of specialist terms• errors and poor grammar, punctuation and spelling• errors obscure the clarity of the material.

2 2	Describe how judges are trained.	[10 marks]
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Potential Content

(A) Description of judicial training could include:

- training being responsibility of Judicial Studies Board
- provision of initial practical training, eg how to run a court, sitting with experienced judges and visits
- annual continuing training and induction courses when receiving new responsibilities
- regular mentoring scheme.

Note: for Sound A - at least three 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.

2 3	Explain how judges can be dismissed.	[10 marks]
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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 considering dismissal of superior level judges.

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

Enhancement

any of:

- reference to expiry of fixed term appointments
- reference to suspension where appropriate
- reference to role of Office for Judicial Complaints for public to make complaints about individual judges.

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 4	Discuss why it is important that it should be difficult to dismiss a judge. [10 marks + 2 marks for AO3]
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Potential Content

(A) Discussion of why it should be difficult to dismiss a judge could include:

- reference to judicial independence/ separation of powers
- freedom to make the 'just' decision/ upholding the Rule of Law
- freedom from influence of the parties, advocates, press and government
- maintaining public confidence in law and judicial system.

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

Note: reference to immunity from suit is not related to dismissal and should not be credited

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

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none"> • 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.
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ASSESSMENT GRID

(To show the allocation of marks to Assessment Objectives)

A Level Law (LAW01)

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