

Support Materials

English Legal System G141

Exemplar Candidate Answers

These materials should be read alongside the approved specimen question papers and mark schemes.

Question 6

Tyrone, aged 16, has missed the last bus and has to walk home. It is 2am and a police officer driving past in a police car sees Tyrone and stops. The police officer tells Tyrone to empty his pockets and Tyrone refuses. The police officer then grabs Tyrone's shoulder, pushes him into the police car and takes him to the local police station.

- (a) Describe the powers the police have to stop and search an individual on the street.[18]**
- (b) Advise Tyrone on whether the police officer acted lawfully with regard to stop and search and the arrest. [9]**

QWC [3]

Total Marks [30]

Specimen Answer A

6 (a) Under section 1 of the Police and Criminal Evidence Act (PACE 1984) The police have many powers to stop and search an individual. If a police officer stops an individual they must tell the individual their name, station and their reason for searching them. They must also produce a report to be available to the individual within 24 hours. If an individual is stopped then they can only be asked to remove a coat jacket and gloves, they cannot be asked to remove a hat this is due to religious purposes. If they believe there are stolen goods hidden under the hat they can be taken to the police station or a van to remove the hat.

A section 60 area can be declared with the permission of the magistrates. A section 60 area is one where any individual can be stopped and searched without a reason. A section 60 area can be declared in anticipation of violence/ it can only be a section 60 for 24 hours.

(b) The police officer appears not to be acting lawfully because he didn't tell Tyrone his name, station and why he had stopped him to search him. Tyrone has not committed an arrestable offence or refused to give his name or address, therefore the police officer had no right to arrest him. Another thing the police officer has acted unlawfully on is that he did not tell Tyrone he was being arrested and did not give him a proper caution. The police man maybe used more than reasonable force.

Marks

Part a) would be awarded **9 marks**, which is a level 2 answer. There is some accurate information but it is limited with many major points left out.

Part b) would be awarded **7 marks** (top of level 3). Many of the main points have been noted and applied to the situation but reasonable suspicion should have been discussed to get into level 4.

QWC would be awarded **3 marks** as it fulfils the criteria for level 3.

Giving a total of **19 marks** out of 30.

Specimen Answer B

6 a) Under S1 Police and Criminal Evidence Act 1984 (PACE) as amended. The police have the power to stop and search a person if they have reasonable suspicion that they will find stolen goods or prohibited articles. Reasonable suspicion is described in Code A of the police codes of practice as not to include appearance or previous record but should be based on what an ordinary person would regard as suspicious.

The police officer must tell the suspect why they have stopped them and what they expect to find also they have to say their name, and station so they can be identified.

Only outer coat, jacket and gloves can be removed for the search and a written report must be produced of the search.

Under the criminal Justice and Public order Act 1994 the police have the right to stop and search anyone in a specified area for up to 24 hours if a senior police officer has declared that area to be subject to S 60 searches. There does not have to be any reasonable suspicion of anything, for this type of search. Other Acts also give powers to the police such as the Misuse of Drugs Act 1971 and the Terrorist Act 2000..

b) There is no apparent reason to stop and search or arrest Tyrone as there does not appear to be any crime committed or any reason to suspect him of having any stolen goods or prohibited articles. The reason for stopping him seems to be his age and the time of night it is arguable that this might be regarded as reasonable suspicion, however the police officer has not identified himself or told Tyrone why he is being searched. In Osman this resulted in an unlawful search. There is no mention of any crime that the police officer believed Tyrone to be connected with so there is no reason to arrest Tyrone and the pushing into the police car may be more than reasonable force. Tyrone has also not been cautioned, told he is under arrest or given a reason. For these reasons both the stop and search and the arrest are unlawful.

Marks

Part a) would be awarded the full **18 marks**. Although it is very concise all the main points are covered in some detail.

Part b) would be awarded **9 marks**. All the points of discussion are covered and a reasoned conclusion is formulated.

QWC would be awarded **3 marks**.

Giving a total of **30 marks** out of 30.

Specimen Answer C

a) The powers that the police have to stop and search someone are under the Police and Criminal Evidence Act 1984 or PACE. Sections 1-7 state they have the power to stop and search someone. The police have the power to stop and search someone when they are suspicious they have committed a crime. If the police think someone has stolen goods on them then they can search them. If they believe they maybe carrying prohibitid articles on them then the police can stop and search them.

The policeman must tell someone their name and station and why the search is happening.

b) Tyrone should do what the policeman says. He will get into trouble because he is not obeying the policeman. The policeman should of told him his name and stashion and why he is being arrested and searched so he might get in trouble to.

Marks

Part a) would be awarded **8 marks**. It is a level 2 answer with some of the basic points of detail. It has mentioned PACE, correctly identifying the relevant sections, but is not very accurate on the criteria for stop and search. It has also identified that police need to identify themselves and give a reason for the search but that is all.

Part b) would be awarded **4 marks**. It just gets into level 2 as it has identified a few areas where the policeman has not complied with the rules on stop and search and arrest.

QWC would be awarded **2 marks** as it fulfils all the criteria for a level 2 in the assessment levels.

Giving a total of **14 marks** out of 30.
