

Centre Number						Candidate Number				
Surname										
Other Names										
Candidate Signature										

For Examiner's Use	
Examiner's Initials	
Question	Mark
1	
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TOTAL	



General Certificate of Secondary Education
June 2010

Law

41601

Unit 1 The English Legal System

Monday 7 June 2010 9.00 am to 10.30 am

You will need no other materials.

Time allowed

- 1 hour 30 minutes

Instructions

- Use black ink or black ball-point pen.
- Fill in the boxes at the top of this page.
- This paper is divided into **two** sections.
In **Section A**, answer **all** parts of **all** questions.
In **Section B**, answer **all** parts of **one** question only.
- You must answer the questions in the spaces provided. Do not write outside the box around each page or on blank pages.
- Do all rough work in this book. Cross through any work you do not want to be marked.
- Where appropriate, support your answers by referring to relevant statutes, cases or examples.

Information

- The marks for questions are shown in brackets.
- The maximum mark for this paper is 90.
- In questions 9(f), 9(g), 10(c) and 10(e)(v), you will be assessed on your ability to:
 - use good English
 - organise information clearly
 - use specialist vocabulary where appropriate.
 Answer these questions in **continuous prose**.

Advice

- You are advised to spend no more than 45 minutes on **Section A** and 45 minutes on **Section B**, and to read through all parts of a question before you start your answer.



J U N 1 0 4 1 6 0 1 0 1

Section A

Answer **all** parts of **all** questions in this section.

Carefully read the questions before you write down your answers.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

1

solicitor	barrister	lay magistrate	District Judge
Circuit Judge	WHO AM I?	Magistrates' Clerk	
District Judge (Magistrates Court)		High Court Judge	

Carefully read the descriptions of **each** of the people below. Look at the list in the box above and identify **which one** is being described. Write your answer in the space provided.

1 (a)

I work as a train driver.
 I sit part-time in court dealing with criminal cases.
 I am not paid for what I do in court.

.....
(1 mark)

1 (b)

Following a law degree, I qualified as a solicitor.
 I am employed by Her Majesty's Court Service and work in the Magistrates Court.
 I work as both an adviser and an administrator.

.....
(1 mark)

1 (c)

I used to be a practising barrister.
 I am now a full-time judge.
 I work in the County Court dealing mainly with Small Claims cases.

.....
(1 mark)

1 (d)

I qualified as a barrister 30 years ago.
 I am now a full-time judge.
 I work in the Royal Courts of Justice dealing with complex and high-value civil cases.

.....
(1 mark)

4



2 Below is a description of the training requirements to become a barrister. Fill in the gaps (a) to (g), choosing the correct word or phrase from the box.

Following A Levels, people who wish to become barristers will study for a

(a) at university.

Alternatively, students who take a different degree will have to follow a year's study

leading to the (b)

After that, people who wish to become barristers will have to join an

(c) and follow a year's

further study on the (d)

This is then followed by a period of

(e), usually working

with a qualified barrister. This period of practical training lasts for

(f) Finally, trainee

barristers will be (g),

at which point they are fully qualified.

degree	law degree	one year	two years	three years
Bar finals	Bar Vocational Course	legal practice course	Rolls of the Supreme Court	Inn of Court
pupillage	called to the Bar	training contract	Common Professional Exam	

(7 marks)

7

Turn over for the next question

Turn over ►



3

In a criminal case, a defendant who is found guilty can be sentenced in different ways. These sentences include:

- imprisonment for the most serious offences
- Community Orders (including Unpaid Work, Supervision, Drug Rehabilitation or Curfew Requirements) for offences which are seen as serious enough
- fines or discharges for offences which are seen as less serious.

In a civil case, the court can order a range of civil remedies. These include:

- damages
- an injunction.

In **each** of the following situations, state which **sentence** or **remedy** may be imposed by the court, and briefly explain **why**.

3 (a)

Alan, aged 27, has pleaded guilty to his seventh offence of theft. The pre-sentence report on Alan says that he has a serious drug problem. Alan's case is being dealt with at the Magistrates Court.

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(2 marks)

3 (b)

Bev is a law teacher in a Further Education College. One of her colleagues sent an e-mail about Bev to other staff which stated that Bev was not a good teacher. Bev is very angry because she always gets good results with her students.

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(2 marks)



3 (c) Christine, aged 45, has pleaded guilty in her local Magistrates Court to an assault on her husband, Des. Christine has no previous convictions. In court, she does not wish to explain why she assaulted Des.

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(2 marks)

3 (d) Eric signed an agreement to buy a particular mobile phone from Faisal’s shop for £200. Faisal did not have this phone in stock, but agreed to order one. When Eric went to collect his phone, the price had gone up to £220, which Eric refused to pay. The same phone was on sale in another shop in town for £215.

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(2 marks)

8

Turn over for the next question

Turn over ►



4 Each of the following boxes contains two statements. Sometimes both statements are correct, sometimes one is wrong. Tick the space provided if **both** statements are **correct**. Put a cross if **one** of the statements is **wrong**.

For example:

Birds fly.
Fish swim.

✓
.....

Dogs bark.
Cats whistle.

✗
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4 (a) Criminal law involves the State prosecuting people.
Civil law involves individuals suing each other.

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4 (b) You can go to prison if convicted of a criminal offence.
You can be fined for a civil offence.

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4 (c) Criminal cases must be proved beyond all reasonable doubt.
Civil cases must also be proved beyond all reasonable doubt.

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4 (d) The great majority of civil trials are decided by one person.
The great majority of criminal trials are decided by more than one person.

.....

4 (e) Criminal cases always start in the Magistrates Court.
Civil cases can start in different courts.

.....

5 marks)

5



5 In relation to the procedure for suing someone through the civil courts, identify any **three** key features of the Small Claims Track and any **three** key features of the Fast Track.

Small Claims Track

Feature 1

Feature 2

Feature 3

Fast Track

Feature 1

Feature 2

Feature 3

(6 marks)

6

Turn over for the next question

Turn over ▶



6 This is a diagram showing the **criminal court structure**.

(d)



(c) (Criminal Division)



(b)

(This arrow represents both appeals and committals)



(a)

In the spaces marked (a) to (d), write the names of the first instance (trial) and appeal courts.

(4 marks)

4



- 7 Both the government and other bodies provide legal advice and/or representation to people who are trying to deal with a legal problem or who are going to court. This applies to both civil and criminal cases.

Below is a list of statements (marked A to F) about the different types of help available to people who have a legal problem.

Statements

- A** Government-funded organisation which provides free advice, mostly from volunteers.
- B** Usually referred to as “no-win, no-fee”. The solicitor only gets paid if the client’s case is successful.
- C** The means by which an individual can protect himself against the cost of legal action, for example in a motoring case.
- D** Provide advice at the police station and will represent a client on first appearance in the Magistrates Court.
- E** Available in both civil and criminal cases to provide help to clients, when needed.
- F** Government-funded scheme for providing legal advice to people of limited financial means.

Match the statements with the types of help listed below. Write **one** letter (**A, B, C, D, E** or **F**) for each type in the Answer Box.

Types of help	Answer Box
Duty solicitors	
Legal Help	
Citizens Advice Bureaux	
Conditional Fee Arrangements	
Insurance	

(5 marks)

5

Turn over for the next question

Turn over ►



8 The table below refers to the differences between the work and roles of barristers and solicitors. In the spaces marked (a) to (f), write an appropriate word or phrase to show the relevant difference between barristers and solicitors.

Barristers	Solicitors
Barristers are governed by the Bar Council.	Solicitors are governed by the (a)
Barristers are bound by the (b) rule to represent a client once the brief has been accepted by their clerk.	Solicitors can pick and choose their clients and can refuse to advise or represent them.
Barristers have an automatic right of audience in any court in England and Wales.	Solicitors only have an automatic right of audience in the (c)
Barristers are generally self-employed and work for themselves.	Solicitors usually work in (d)
Barristers are employed indirectly by the client and work for an (e)	Solicitors are employed directly by the client and work for a (f)

(6 marks)

6



Section B

Answer **either** Question 9 **or** Question 10. Answer **all** parts of the question you choose.
Carefully read both questions before you write down your answers.

Where appropriate, support your answers by referring to relevant statutes, cases or examples.

9 Study the extract below and then answer **all** parts of the question which follows.

Criminal cases will be tried either in the Magistrates Court or in the Crown Court depending on:

- how serious the case is
- how the accused decides to plead
- whether or not the magistrates feel they have sufficient powers to sentence the accused.

Magistrates also have the power to grant or refuse applications for a warrant from the police. Magistrates can also grant or refuse bail to an accused person during the course of the trial. Bail can be granted unconditionally. Alternatively, the accused may be required to abide by certain bail conditions which may, for example, restrict his movements.

Lay people play an important role in running the criminal justice system. Lay magistrates, with the help of the Clerk, deal with the large majority of criminal cases which are tried by the criminal courts. In a trial in the Crown Court, the judge will sit with a jury of twelve members of the public. The jurors are chosen at random to try serious cases which have been committed for trial or sent for trial from the Magistrates Court.

Source: adapted from JOHN WILMAN *Brown GCSE Law* 9th edition, Sweet and Maxwell 2005

9 (a) (i) Explain **three** differences between the Magistrates Court and the Crown Court.

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Question 9 continues on the next page

Turn over ►



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(6 marks)

Extra space

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9 (a) (ii) Choose **one** of those differences. Briefly comment on **why** there is this difference.

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(2 marks)

9 (b) Describe, in outline, the role of a Magistrates' Clerk.

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(4 marks)



Extra space

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9 (c) (i) Identify **two** warrants which the police can apply for during the criminal process.

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(2 marks)

9 (c) (ii) Briefly explain what is meant by bail.

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(2 marks)

9 (c) (iii) Identify **three** reasons why the police or Crown Prosecutor may object to bail.

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(3 marks)

Question 9 continues on the next page

Turn over ►



9 (c) (iv) Identify **four** conditions which the magistrates may impose on bail.

Condition 1

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Condition 2

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Condition 3

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Condition 4

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(4 marks)

9 (c) (v) Briefly consider how successful any **two** of those conditions may be.

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(3 marks)

9 (d) Outline how lay magistrates are appointed.

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(3 marks)

9 (e) Describe how jurors **qualify** and are **selected** for jury service.

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(6 marks)

Extra space

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9 (f) Comment on the **advantages** of using lay magistrates within the criminal justice system. (**Answer in continuous prose.**)

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(5 marks)

Question 9 continues on the next page

Turn over ►



Extra space
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9 (g) Comment on the **disadvantages** of using juries to try serious criminal cases.
(Answer in continuous prose.)

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(5 marks)

Extra space
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45



Turn over for the next question

**DO NOT WRITE ON THIS PAGE
ANSWER IN THE SPACES PROVIDED**

Turn over ►



10 Study the extracts below and then answer **all** parts of the question which follows.

Extract 1

Parliament is responsible for approving new laws (legislation). The government introduces most ideas for new laws by presenting a Bill to Parliament. Before these ideas can become law, the House of Commons and the House of Lords must debate and vote on a Bill. Both the Commons and the Lords follow a set of stages.

To become law, a Bill must be agreed by both Houses. Either House can vote against a Bill, in which case it will not usually become law, but there are exceptions. The Commons can pass the same Bill two years in a row, in which case it can become law without the agreement of the Lords. The Lords do not usually challenge Bills about government finance but may delay them for a month.

The Queen has to approve all new laws – this is called giving the Royal Assent – but, in practice, the Queen would not withhold her consent. When a Bill is given Royal Assent, it becomes an Act of Parliament.

Source: adapted from Parliament's website, <http://www.parliament.uk/about/how/role/legislation.cfm>

Extract 2

Practice Statement [1966] 3 All ER 77

Before judgments were given in the House of Lords on July 26, 1966, LORD GARDINER, L.C., made a statement on behalf of himself and the Lords of Appeal in Ordinary (Law Lords). A student summarised this statement as follows:

“The Law Lords regard the use of precedent as a very important basis for deciding what is the law and how it should apply to individual cases. It gives the law a degree of certainty that people can rely on in their everyday lives, as well as a structure for the development of legal rules.

“However, the Law Lords do realise that sticking too closely to earlier precedents may lead to injustice in later cases. It may also prevent the law from developing as it should. So they intend to change the way precedent is applied in the House of Lords. Earlier decisions of the House of Lords will be treated as normally binding, but the Law Lords are prepared to overrule a previous precedent when it appears right to do so.

“This announcement is only intended to apply to the House of Lords and does not apply to other courts.”

Source: adapted from *All England Law Reports* (LexisNexis Butterworth) 1966



10 (a) Before passing an Act of Parliament, the government will often issue both a **Green Paper** and a **White Paper**.

Explain the purposes of these two documents.

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(4 marks)

Extra space

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10 (b) With reference to the passing of an Act of Parliament, explain what is meant by the following terms. In your answer, you may find it helpful to refer to **Extract 1**.

First and Second Readings

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Question 10 continues on the next page

Turn over ►



Committee Stage

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House of Lords

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Royal Assent

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(12 marks)

Extra space

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10 (c) Comment on the advantages **and** disadvantages of the system of law making by Parliament. In your answer, you may find it helpful to refer to **Extract 1**.
(Answer in continuous prose.)

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(5 marks)

Extra space

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10 (d) Under English law, Parliament is said to be **supreme**.

10 (d) (i) Briefly explain what this term means.

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(2 marks)

Question 10 continues on the next page

Turn over ►



10 (d) (ii) Identify and briefly discuss **one** example of a recent change in the law which Parliament has made.

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(3 marks)

10 (d) (iii) Identify and briefly discuss **one** way in which the supremacy of Parliament can be limited.

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(4 marks)

Extra space

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10 (e) When referring to the system of case law and judicial precedent:

10 (e) (i) outline what is meant by the hierarchy of the courts;

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(3 marks)

10 (e) (ii) with reference to **Extract 2** and judicial precedent, explain the position of the House of Lords within the court hierarchy;

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(3 marks)

10 (e) (iii) briefly explain, using an example, what is meant by a persuasive precedent;

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(2 marks)

Question 10 continues on the next page

Turn over ►



