



GCSE

Law

41601 The English Legal System
Mark scheme

4160
June 2016

Version 1.0: Final Mark Scheme

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.

Level of response marking instructions

Level of response mark schemes are broken down into levels, each of which has a descriptor. The descriptor for the level shows the average performance for the level. There are marks in each level.

Before you apply the mark scheme to a student's answer read through the answer and annotate it (as instructed) to show the qualities that are being looked for. You can then apply the mark scheme.

Step 1 Determine a level

Start at the lowest level of the mark scheme and use it as a ladder to see whether the answer meets the descriptor for that level. The descriptor for the level indicates the different qualities that might be seen in the student's answer for that level. If it meets the lowest level then go to the next one and decide if it meets this level, and so on, until you have a match between the level descriptor and the answer. With practice and familiarity you will find that for better answers you will be able to quickly skip through the lower levels of the mark scheme.

When assigning a level you should look at the overall quality of the answer and not look to pick holes in small and specific parts of the answer where the student has not performed quite as well as the rest. If the answer covers different aspects of different levels of the mark scheme you should use a best fit approach for defining the level and then use the variability of the response to help decide the mark within the level, ie if the response is predominantly level 3 with a small amount of level 4 material it would be placed in level 3 but be awarded a mark near the top of the level because of the level 4 content.

Step 2 Determine a mark

Once you have assigned a level you need to decide on the mark. The descriptors on how to allocate marks can help with this. The exemplar materials used during standardisation will help. There will be an answer in the standardising materials which will correspond with each level of the mark scheme. This answer will have been awarded a mark by the Lead Examiner. You can compare the student's answer with the example to determine if it is the same standard, better or worse than the example. You can then use this to allocate a mark for the answer based on the Lead Examiner's mark on the example.

You may well need to read back through the answer as you apply the mark scheme to clarify points and assure yourself that the level and the mark are appropriate.

Indicative content in the mark scheme is provided as a guide for examiners. It is not intended to be exhaustive and you must credit other valid points. Students do not have to cover all of the points mentioned in the Indicative content to reach the highest level of the mark scheme.

An answer which contains nothing of relevance to the question must be awarded no marks.

1	Outline any three differences between civil law and criminal law.	[6 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

For example:

- wrong committed against the state/wrong committed against the individual
- criminal case brought by police/CPS or civil case brought by claimant (individual)
- finding of guilt/finding of liability
- case proved beyond reasonable doubt/case proved on the balance of probabilities
- verdicts in criminal trials decided by panel of lay people/verdicts in civil trials decided by a judge
- successful prosecution leads to a punishment for the offender/successful civil case leads to a remedy for the claimant
- different court structures with examples of the different courts, etc
- different terminology eg prosecuted v sued.

Notes

Note - Credit any other sensible difference(s) accurately outlined

Note - Any one difference outlined - max 3 marks for a very good answer

Note - Any two differences outlined - max 5 marks for two good answers

Note - Full credit can only be given for a difference if both sides of the difference are outlined

[AO1:6, AO2:0, AO3:0]

2 Match the stages with the description of the training requirements set out below. Write one letter (**A, B, C, D, E** or **F**) for each requirement in the Answer Box.

[6 marks]

Potential Content

	Description of the training requirement	Answer Box
(a)	The 'standard' and most common route into the legal professions is to study for a what at university?	C
(b)	The name of the course a trainee solicitor would have to study.	E
(c)	The name of the training course a trainee barrister would have to study.	A
(d)	The two-year practical training a trainee solicitor must complete.	F
(e)	The ceremonial process of officially becoming a barrister.	B
(f)	The one-year (2 x 6 months) practical training which a trainee barrister must complete.	D

1 mark for each correct answer

[AO1: 6, AO2: 0, AO3: 0]

Note – more than one letter in answer box = 0 marks

3 In **each** of the following scenarios:

- state which sentence and/or remedy **or** remedies could be imposed **and**
- briefly explain why you have made this choice.

[8 marks]

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-5 marks
Band 3	Appropriate answer showing sound understanding	6-8 marks

Potential Content

(i) First scenario:

- Aidan will either be imprisoned (or suspended sentence) or a community sentence will be imposed*
(1 mark)
- recognition of aggravating features (victim serving the public, on educational premises)
- recognition of mitigating features (no previous, early guilty plea, reason for the offence)
- possible reference to compensation (damages) awarded to Jean by either the criminal court or in a separate civil action.

Notes

*Note - *Required content for maximum credit*

Note - A tenable sentence linked to either aggravating or mitigating factors - max 2 marks

Note - A reasoned sentence linked to both aggravating and mitigating factors - 3 marks

Note - Recognition of compensation/damages - can enhance an answer which is weak on either aggravating and/or mitigating factors

Note - Damages only - max 1 mark

(ii) Second scenario:

- recognition of civil context/defamation (libel)
 - recognition of damages to compensate for effect of published article
 - recognition of an injunction to prevent future publication.
- } *either remedy – 1 mark

Notes

*Note - *Required content for maximum credit*

Note - Recognition of context and one remedy only - max 2 marks

(iii) Third scenario:

- recognition of civil and criminal context (can be implicit rather than explicit)* **(1 mark)**
- recognition of serious criminal offence and likely sentence (imprisonment)
- recognition of serious injury and the inevitable civil action for damages.

Notes

*Note - *Required content for maximum credit*

Note - A notional 3:3:3 mark split may be a useful way of awarding the credit for each part-answer.

Note - Award the marks for the individual scenarios as indicated. Add the marks for each scenario and check that the answers overall deserve the Band indicated. Adjust the mark up or down to reflect the overall quality of the answers. Maximum marks cannot be awarded if all three required content marks are not achieved.

[AO1:0, AO2:0, AO3:8]

4 The court structure diagram below shows both the civil court and the criminal court structure.

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

[7 marks]

(a) Magistrates Court*

(b) County Court*

(c) Crown Court*

(d) High Court*

(e) Court of Appeal (Criminal Division)* (Court of Appeal only – some credit)

(f) Court of Appeal (Civil Division)* (Court of Appeal only – some credit)

(g) Supreme Court*

1 mark for each correct answer

Notes

*Note - *Required content, though correct spelling is not required if the answer is recognisable*

[AO1:5, AO2:0, AO3:2]

5	<p>There are different ways in which a claimant can obtain funding to bring a civil case in court.</p> <p>Briefly explain each of the following.</p>	[6 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content**(i) Civil Legal Representation:**

- Government-funded scheme which provides representation in civil cases*
- means test
- possible reference to Funding Code
- possible reference to excluded areas.

(ii) Conditional Fee arrangements:

- recognition of no-win, no-fee arrangements*
- solicitor's fee only
- possible reference to success fee, insurance requirement, etc.

(iii) Insurance:

- funding available because of pre-paid insurance*
- available with 'standard' house and car insurance, motoring organisations, etc.
- possible reference to specific legal services insurance.

Notes

*Note - *Required content for max marks*

Note - Credit any other relevant points raised

Note - One answer only - max 3 marks for a very good answer

Note - Two answers only, max 5 marks for two good answers

[AO1:6, AO2:0, AO3:0]

6 Solicitors undertake a variety of work when dealing with civil cases and with criminal cases. Some of this work would only apply to civil cases. Some of this work would only apply to criminal cases. Some of this work would apply to civil cases **and** criminal cases.

In the box below are short descriptions of this work, marked **A** to **G**. In the Answer Box beside each type of work:

write **1** if the work is civil only

write **2** if the work is criminal only

write **3** if the work is both civil and criminal.

[7 marks]

Types of work	Answer Box
A Interviewing clients	3
B Negotiating with the solicitor representing the other party	1
C Negotiating with the Crown Prosecution Service	2
D Instructing a barrister	3
E Representing an accused person in the Magistrates Court	2
F Representing a client in the County Court	1
G Acting as an instructing solicitor in court	3

Note – more than one number in answer box = 0 mark

mark each

1

[AO1:0, AO2:0, AO3:7]

7	<p>In relation to judicial precedent, briefly explain each of the following.</p> <p>Ratio decidendi Obiter dicta</p>	[5 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Ratio decidendi:

- translation*
- significance in terms of binding part of judgement* + explanation
- forms the precedent in the case for future judges, etc.
- case or example.

Obiter dicta:

- translation*
- significance in terms of persuasive part of judgement* + explanation
- does not create binding precedents
- case or example.

Notes

*Note - *Required content for max marks*

Note - Only one aspect addressed - max 3 marks for a good answer

[AO1:4, AO2:0, AO3:1]

8 a (i) With regard to law-making in Parliament, explain the following terms:

‘...both Houses of Parliament...’

Second Reading

Committee Stage

‘...the Royal Assent...’

[10 marks]

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-3 marks
Band 2	Answer based on limited understanding	4-7 marks
Band 3	Appropriate answer showing sound understanding	8-10 marks

Potential Content

‘...both Houses of Parliament...’

- recognition of both the House of Commons* (**1 mark**) and the House of Lords* (**1 mark**)
- recognition of the relationship between the Commons and the Lords, effect of the Parliament Acts 1911 and 1949
- recognition of constitution, ie elected v (largely) appointed body, etc.

Second Reading

- key policy debate* (**1 mark**) in the Commons (principles rather than detail)
- followed by a formal vote (Division)
- process followed in the Lords
- possible reference to political influences (Party, Whips etc).

Committee Stage

- detailed consideration of the Bill* (**1 mark**)
- types and composition of Committees
- amendments
- possible reference to Report Stage.

‘...the Royal assent...’

- royal assent by or on behalf of the Queen* (**1 mark**)
- formal process
- Bill to Act of Parliament.

Notes - *Required content for max marks

Note – Notional 3:3:3:3 split may help – check Band at end

Note – The identified marks would add up to the lower half of limited understanding. Relevant material beyond there will move the mark through that Band towards sound understanding.

[AO1:7, AO2:0, AO3:3]

8 (a) (ii) Comment on the advantages **and** disadvantages of the law-making process in Parliament. **(Answer in continuous prose.)**

[6 marks]

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16-year-old under exam conditions -1 mark
- Better than average - 2 marks
- Significantly below average - 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the 'best fit' in the light of both the legal content and the QWC.

Mark Bands

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages can include:

- the Commons is an elected body, so Parliamentary law making is democratic
- the Act can be passed when it is needed and implemented accordingly
- the Act will cover exactly what Parliament intends to legislate on for social needs/political views
- the process is lengthy and detailed and great care is taken to ensure that the Act is accurate and fit for purpose, etc.

Disadvantages can include:

- the Lords is an unelected body, so Parliamentary law making can be seen as undemocratic
- in practice the process is slow and unwieldy
- the Act may be overly complex and require interpretation (misinterpretation?)
- political influences tend to dominate, etc.

Notes

Note - Unbalanced answer - max 5 marks (3 marks for law, 2 marks for QWC)

Note - Credit any other sensible points raised.

[AO1:0, AO2:0, AO3:6]

8	(b) (i)	Briefly explain what is meant by the following terms: Bail Conditional bail '....remanded in custody'.	[6 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

- **Bail** - where the suspect is released* during the course of criminal proceedings **1 mark**
Reference to police/court
Presumption in all cases (except murder)
Possible reference to relevant legislation
- **Conditional bail** - restrictions on individual (or equivalent wording)* **1 mark**
Grounds to object to unconditional bail, eg accused may re-offend, fail to surrender, interfere with witnesses, etc.
Examples of bail conditions, eg curfew, residence, surrender passport, reporting, restraining order, etc.
Possible reference to relevant legislation
- **Remanded in custody** - where the accused is held in prison until his trial* **1 mark**
No conditions under which the accused can safely be released
Possible reference to time limits

Notes

*Note - *Required content for max marks*

Note - Only one aspect addressed - max 3 marks for a very good answer

Note - Only two aspects addressed - max 5 marks for two good answers

[AO1:4, AO2:0, AO3:2]

8 (b) (ii) Briefly discuss the advantages **and** disadvantages of releasing an accused person on bail.
(Answer in continuous prose.)

[6 marks]

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16-year-old under exam conditions - 1 mark
- Better than average - 2 marks
- Significantly below average - 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the 'best fit' in the light of both the legal content and the QWC.

Mark Bands

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages can include:

- the accused remains at liberty until the trial/fairer – innocent until proven guilty
- helps address pressure on prison places
- significantly cheaper than the costs of a remand
- avoids the risk of time served by someone who is acquitted
- good range of conditions available for dealing with an accused who poses a risk to society, etc.

Disadvantages can include:

- significant risk that the accused may re-offend, skip bail or interfere with witnesses
- creates fear and uncertainty in the minds of victims and witnesses
- conditions may not be as effective as they appear in theory
- costs involved in monitoring curfews, reporting, taking people back to court for breach of bail, etc.

Notes

Note - Unbalanced answer - max 5 marks (3 marks for law, 2 marks for QWC)

Note - Credit any other sensible points raised.

[AO1:0, AO2:0, AO3:6]

8 (c)	Outline the meanings of the following terms: <ul style="list-style-type: none"> • summary offences • either-way offences • indictable only offences. 	[4 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

- summary – triable only in the Magistrates Court* / example **1 mark**
- either-way – triable in the Magistrates Court or the Crown Court* / example **1 mark**
- indictable only – triable only in the Crown Court* / example **1 mark**
- any sensible development, eg references to sentencing powers or procedure **1 mark**

Note - **Required content for max marks*

[AO1:2, AO2:0, AO3:2]

Note – accurate definitions and examples for all three types of offences – max marks can be awarded

8 (d) Identify the **three** grounds of appeal in criminal cases.

[3 marks]

Potential Content

- conviction (or equivalent phrase)
 - sentence (or equivalent phrase)
 - point of law (or equivalent phrase)
- each**

1 mark

Note - *Credit also possible references to prosecution rights of appeal*
(Attorney – General Reference – point of law
Attorney – General Reference – sentence)

[AO1:1, AO2:0, AO3:2]

8 (e)	Outline the role of a judge during a civil trial.	[3 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Role(s) can include:

- pre-trial case manager
- presiding over the trial*/legal rulings
- listening to evidence/summings-up
- determining liability*
- deciding on the right remedy where appropriate
- awarding costs.

Notes

*Note - *Required content for max marks*

Note - Credit any other sensible points made

Note - Minimum two roles with some development outlined for sound understanding

Note - Answer based entirely on role in criminal cases - max 1 mark

[AO1:2, AO2:0, AO3:1]

8 (f) (i) Describe the nature and work of the Citizens Advice Bureau (CAB).	[4 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

For example:

Nature:

- Government-funded agency
- free to client* (voluntary contributions)
- national network
- staffed mainly by trained volunteers* + some specialist support
- often well placed in areas of greatest need.

Work:

- provides legal advice to lay clients*
- tend to excel in housing, employment, benefits, immigration advice, etc.

Notes

*Note - *Required content for max marks*

Note - Credit any other sensible points made

Note – Answers based on nature or work only – max 3 marks for a good answer

[AO1:3, AO2:0, AO3:1]

- | | |
|--|------------------|
| 8 (f) (ii) Briefly comment on the advantages and disadvantages of using the CAB compared to using a privately-funded solicitor for legal advice. | [3 marks] |
|--|------------------|

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Answers are likely to raise the following issues:

- cost - comparing the clear advantage of the free CAB network with the £200+ per hour charged by most solicitors
- quality of advice - comparing the clear advantage of the legally qualified solicitor with the trained CAB volunteer.

Other issues that could be raised include:

- choice of adviser
- convenience in terms of location
- user-friendly premises, etc
- availability of representation as well as advice.

Notes

Note - Minimum two points briefly commented upon for max marks

Note - Credit any other sensible points raised

Note - No attempt at comparison – max 2 marks

[AO1:0, AO2:0, AO3:3]

9 (a) (i) Identify the **three** basic qualifications for jury service.

[3 marks]

Potential Content

- inclusion on the Electoral Register*
- aged 18 - 70 (69)* - both minimum + maximum ages must be correct
- residence qualification* (5 year) (since the age of 13)

1 mark each

Note - *Stages marked with an * are required content for max marks*

[AO1:2, AO2:0, AO3:1]

9 (a) (ii) Identify **two** groups of individuals who would be **disqualified** from jury service. **[2 marks]**

Potential Content

Any two from:

- those who have served a 5+ year prison sentence*
- those who have been imprisoned or served a community order in the last 10 years*
- those on bail*
- mentally ill*
- those connected to the case*, eg family connection
- those who would be unable to fairly judge the case*, eg victim of identical crime.

- 1 mark

each

Note - Any two groups marked with an * are required content for max marks

[AO1:2, AO2:0, AO3:0]

9 (a) (iii) Explain, using examples, the difference between a juror who can be **discharged** (excused) from jury service and a juror who can ask for jury service to be **deferred**. **[6 marks]**

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

Discharge (excusal) from jury service involves being removed from the panel entirely for the period of that summons*.

Examples would include:

- any person suffering from physical disability where sitting on a jury would not be a practical possibility
- any person whose command of English is not sufficient to enable him to understand the proceedings
- members of HM Forces who are required for service elsewhere.

Deferral from jury service involves delaying jury service to a later date*/can only defer once – 12 month rule.

Examples of reasons to defer would include:

- short term illness
- death or serious illness of a family member
- significant business or family disruption
- pre-booked holidays
- public examinations
- religious festivals
- pregnancy.

Credit references to authority (e.g. Criminal Justice Act 2003)

Notes

Note - Only one aspect explained - max 4 marks for a good answer with multiple examples

*Note - Explanations marked with an * are required content for max marks*

[AO1:4, AO2:0, AO3:2]

9 (b) (i) Outline the process, both before court and in court, which is used to select a qualified juror for jury service.	[4 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

Answers are likely to include:

Pre-court

- random selection of jury panel for that case by Central Summoning Bureau*
- post-summons/pre-court vetting (standard (CRB) and enhanced, eg terrorist cases)

In court

- jury ballot*
- challenging (prosecution and/or defence)
- swearing-in*.

Notes

Note - Credit any other sensible points made

*Note - Points marked with an * are required content for max marks*

Note - Answers which cover pre-court or court only - max 3 marks

[AO1:3, AO2:0, AO3:1]

9 (b) (ii) Briefly explain the roles of juries in criminal trials **and** in civil trials.

[5 marks]

Mark Bands

Band 0	Inappropriate answer showing no understanding.	0 marks
Band 1	Basic awareness.	1 mark
Band 2	Answer based on limited understanding.	2-3 marks
Band 3	Appropriate answer showing sound understanding.	4-5 marks

Potential Content

Answers are likely to include (civil and criminal):

- listen to evidence
- listen to summing-ups from prosecution/defence (defendant/claimant)
- listen to directions from the judge
- deliberations
- deliver verdict(s) (unanimous or majority).

In a civil trial, juries may also be required to award damages*.

Credit also references to context of trial, ie indictable offence in the Crown Court/ (defamation) case in the High Court.

Notes

Note - No distinction between civil/criminal or no reference to one or the other - max 4 marks

*Note - Point marked with an * required content for max marks*

[AO1:3, AO2:0, AO3:2]

9	(c)	Comment on the disadvantages of trial by jury. (Answer in continuous prose.)	[6 marks]
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Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16-year-old under exam conditions - 1 mark
- Better than average - 2 marks
- Significantly below average - 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the 'best fit' in the light of both the legal content and the QWC.

Mark Bands

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Disadvantages can include:

- individual incompetence
- bias/perverse verdicts
- age (young and old)
- increased cost compared to judge-only trials
- distress caused to jury members
- mistakes of law due to lack of legal background
- civil juries struggle with the award of damages, etc.

Notes

Note - Credit any other sensible points made

Note - Do not credit advantages of trial by jury

[AO1:0, AO2:0, AO3:6]

9 (d) (i) Outline the appointment process for lay magistrates.

[5 marks]

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

- application to local Advisory Committee*
- Advisory Committee sifts applications for qualification (age and residence area) + disqualification (police; traffic wardens; armed forces; those with serious convictions; bankrupts)
- Advisory Committee sifts applications for balance (gender, age, politics and occupational background)
- first interview - six key qualities } – recognition of interview process*
- second interview - judicial qualities }
- Advisory Committee makes recommendation to Ministry of Justice for appointment
- Ministry of Justice carries out background/PNC checks
- appointment made by the Lord Chief Justice* (accept also Lord Chancellor): Commission of the Peace letter sent to successful applicant
- initial training + appointment of a mentor
- swearing-in.

Notes

Note - Minimum five points for max marks - check quality of answer overall

*Note - Points marked with an * are required content for max marks*

[AO1:1, AO2:0, AO3:4]

9 (d) (ii) Outline the advantages **and** disadvantages of the appointment process for magistrates. **[3 marks]**

Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Advantages could include:

- genuine attempt to achieve balance on the Bench
- detailed process aimed at selecting the best applicants
- training and mentoring processes are effective, etc.

Disadvantages could include:

- applicants tend to come from narrow groups in society
- “middle-aged, middle-class, middle-minded”
- under-represented groups, eg working class, young and ethnic minorities, etc.
- process is very slow

Notes

Note - Credit any other sensible points made

Note - Unbalanced answer - max 2 marks

Note – only credit advantages/disadvantages related to the appointment process

[AO1:0, AO2:0, AO3:3]

9 (e)	Magistrates take part in a variety of work during the course of their duties. Briefly explain what is meant by the following: ‘...issuing a warrant...’ sitting ‘in some criminal appeal cases’ dealing ‘with cases in the Family Proceedings Court’.	[5 marks]
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Mark Bands

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content**‘...issuing a warrant...’**

- application by the police
- types of warrant (arrest, search, further detention, entry).

sitting ‘in some criminal appeal cases’

- sitting with judge and two magistrates
- in the Crown Court
- appeals against conviction and/or sentence following summary trial.

dealing ‘with cases in the Family Proceedings Court’

- recognition of civil context
- examples of work, eg judicial separation, maintenance, child orders, domestic violence orders, etc.

Notes

Note - Credit any other sensible points made

Note - Only one aspect dealt with – max 2 marks

Note - Only two aspects dealt with – max 4 marks

[AO1:4, AO2:0, AO3:1]

9	(f)	Comment on the advantages of using lay people (magistrates and juries) in the English legal system. (Answer in continuous prose.)	[6 marks]
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Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16-year-old under exam conditions - 1 mark
- Better than average - 2 marks
- Significantly below average - 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the 'best fit' in the light of both the legal content and the QWC.

Mark Bands

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages can include:

- perspective of ordinary people
- local involvement
- shared decision making
- cost (better applied to magistrates)
- clarity - law must be explained for lay people to understand
- impartiality
- public acceptance, etc.

Notes

Note - Credit any other sensible points made

Note - Do not credit disadvantages of lay persons

Note - Answers which deal with one type of lay person or which do not apply the advantage(s) to both types - max 5 marks (3 law, 2 QWC)

[AO1:0, AO2:0, AO3:6]

ASSESSMENT GRID - 41601

	Maximum Mark	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3
Question 1	6	6	0	0
Question 2	6	6	0	0
Question 3	8	0	0	8
Question 4	7	5	0	2
Question 5	6	6	0	0
Question 6	7	0	0	7
Question 7	5	4	0	1
SUB-TOTAL	45	27	0	18
Question 8	45	a) 7 b) 4 c) 2 d) 1 e) 2 f) 3 (19)	0 0 0 0 0 0	9 8 2 2 1 4 (26)
Question 9	45	a) 8 b) 6 c) 0 d) 1 e) 4 f) 0 (19)	0 0 0 0 0 0	3 3 6 7 1 6 (26)
TOTAL	90	46	0	44

ASSESSMENT GRID OVERALL (41601 & 41602)

AO1 Target 30%-40% Achieved 36.6%

AO2 Target 20%-30% Achieved 27.8%

AO3 Target 35%-40% Achieved 35.6%

Note – Achieved targets take into account that Paper 2 matches the same assessment pattern as the Specimen Paper and previous examinations.