



GCE

Law

Unit **G151**: English Legal System

Advanced Subsidiary GCE

Mark Scheme for June 2015

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.















All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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Annotations

Annotation	Meaning
	Very well developed point (WDP)
	Unclear
	Applied point
	Developed point (DP)
	Well developed point (WDP)
	Not answered question
	Not Relevant
	Point
	Repetition
	Sort of
	Point has been noted, but no credit has been given / blank page has been checked for response
	Correct
	Applied (Not Used)
	Spare 1

Subject-specific marking instructions

Before you commence **marking each question** you must ensure that you are familiar with the following:

- the requirements of the specification
- these instructions
- the exam questions (found in the exam paper which will have been emailed to you along with this document)
- levels of assessment criteria *₁ (found in the 'Levels of Assessment' grid at the back of this document)
- question specific indicative content given in the 'Answer' column*₂
- question specific guidance given in 'Guidance' column*₃
- the 'practice' scripts*₄ provided in Scoris and accompanying commentaries

- *₁ The levels of assessment criteria (found in the 'Levels of Assessment' grid) reflect the expectation of achievement for each Assessment Objective at every level.
- *₂ The indicative content in the 'Answer' column provides details of points that candidates **may** be likely to make. It is **not** exhaustive or prescriptive and points not included in the indicative content, but which are valid within the context of the question, are to be credited. Similarly, it is possible for candidates to achieve top level marks without citing all the points suggested in the scheme.
- *₃ Included in the 'Guidance' column are the number of marks available for each assessment objective contained within the question. It also includes 'characteristics' which a response in a particular level is **likely** to demonstrate. For example, "a level 4 response is likely to include accurate reference to all 5 stages of x with supporting detail and an accurate link to the source". In some instances an answer may not display all of the 'characteristics' detailed for a level but may still achieve the level nonetheless.
- *₄ The 'practice' scripts are live scripts which have been chosen by the Principal Examiner (and senior examining team). These scripts will represent most types of responses which you will encounter. The marks awarded to them and accompanying commentary (which you can see by changing the view to 'definitive marks') will demonstrate how the levels of assessment criteria and marking guidance should be applied.

As already stated, neither the indicative content, 'characteristics' or practice scripts are prescriptive and/or exhaustive. It is imperative that you remember at all times that a response which:

- differs from examples within the practice scripts; or,
- includes valid points not listed within the indicative content; or,
- does not demonstrate the 'characteristics' for a level

may still achieve the same level and mark as a response which does all or some of this. Where you consider this to be the case you should discuss the candidate's response with your supervisor to ensure consistent application of the mark scheme.

Awarding Assessment Objectives 1 and 2

To award the level for the AO1 or AO2 (some questions may contain both AO1 and AO2 marks) use the levels of assessment criteria **and** the guidance contained within the mark scheme to establish which level the response achieves. As per point 10 of the above marking instructions, when determining which **level** to award start at the **highest*** level and work down until you reach the level that matches the answer.

Once you have established the correct level to award to the response you need to determine the mark within the level. The marks available for each level differ between questions. Details of how many marks are available per level are provided in the Guidance column. Where there is more than one mark available within a level you will need to assess where the response 'sits' within that level. Guidance on how to award marks within a level is provided in point 10 of the above marking instructions, with the key point being that you start at the **middle*** of each level and work outwards until you reach the **mark** that the response achieves.

Answers, which contain no relevant material at all, should receive no marks.

*** Remember: when awarding the level you work from top downwards, when awarding the mark you work from the middle outwards.**

Awarding Assessment Objective 3

AO3 marks are awarded based on the marks achieved for either AO1, AO2 or in some cases, the total of AO1 and AO2. You must refer to each question's mark scheme for details of how to calculate the AO3 mark.

Rubric**What to do for the questions the candidate has not answered?**

The rubric for G151 instructs candidates to answer **four** questions (both parts) from either:

- 2 x Section A + 2 x Section B
- 3 x Section A + 1 x Section B

For the questions the candidate has not answered you should record NR (no response) in the mark column on the right-hand side of the screen. Do **not** record a 0.

What to do for the candidate who has not complied with the rubric either by answering more than four questions or by answering more or less Section A or B questions than is permitted? *This is a very rare occurrence but must be picked up to ensure the candidate is not unfairly advantaged or disadvantaged.*

Mark all questions the candidate has answered. Then work out the combination of questions which gives them the highest mark whilst conforming to the rubric. Do **not** 'violate' the rubric and do **not** submit the script. Send your supervisor the script number and combination of questions you are proposing for the script to give it the highest mark which conforms to the rubric. Your supervisor will then view the script in your 'Open' items and will check and confirm the correct combination for this candidate.

Once your team leader has confirmed the correct combination you will need to amend the marks on the script to ensure the candidate receives the correct overall mark. To do this reopen the script and for the response(s) which are not included in the correct combination change the marks to NR (no response). Do **not** remove the annotations – the annotations will demonstrate that the response(s) has been marked but is not included in the correct combination.

Once you have submitted this script, contact your supervisor. Your supervisor will then double check in your closed items that you have correctly processed this script.

Blank pages and missed answers

Sometimes candidates will skip a few pages in their answer booklet and then continue their answer. To be sure you have not missed any candidate response before you submit each script you must review the whole script and check every page of the script and annotate any blank pages with:

SEEN

This will demonstrate that every page of a script has been checked.

You must also check any additional pages eg A, A1 etc, which the candidate has chosen to use. Before you begin marking, use the Linking Tool to 'link' any additional page(s) to the relevant question(s) and mark the response as normal.

Annotating and awarding marks

All part (a) questions only have AO1 marks available so credit cannot be given for any AO2 points. Any AO2 points should be marked as not relevant. The main discriminator between the levels will be the level of detail and the level of understanding demonstrated in the answer.

Section A part (b) of questions require discussion. Each point should be annotated as follows:

P

for point = 1 mark

DEV

for developed point = 2 marks

E

for a well-developed (extended) point = 3 marks

+

for a very well-developed (extended) point = 4 marks (be careful not to use this where a response is merely restated the same point)

It is important to ensure that the discussion is based on the question asked.

If there are only simple points, no matter how many points are made, a maximum of top Level 2 (5 marks) for AO2 can be awarded as if there is no development the answer does not meet the descriptor for Level 3.

If there are only developed points and no well-developed points only top Level 3 marks (7 marks) can be awarded for AO2 as such an answer would not meet the criteria for Level 4.

Section B part (b) of questions are marked differently as these questions require application. Identification of a relevant point should be annotated as follows:

P

for a point = 1 mark

APP

for a point applied to the situation = 2 mark

If there is no application but relevant points have been identified only top Level 2 marks (5 marks) for AO2 can be awarded as the answer does not meet the descriptor for Level 3.

Question		Indicative content	Mark	Guidance	
1	(a)	Potential answers may:	18	AO1 Levels	AO1 Marks
		4		15–18	
		3		11–14	
		2		6–10	
		1		1–5	
		Assessment Objective 1 – Knowledge and understanding			
		<u>Describe the theory of the separation of powers:</u>			
		<ul style="list-style-type: none">• Theory of the separation of powers first put forward by Montesquieu• The three arms of state must be kept independent of each other• Examples of problems caused by non-implementation• Examples of good/bad implementation – e.g. USA vs. Zimbabwe• Still some overlap in this country with the executive and the legislature – examples• Legislature makes law – Houses of Parliament and the Queen• Executive – put laws into effect and administer the nation’s affairs – government, ministers and their departments• Judiciary – interpret and enforce the law- judges			
		<u>Describe how the judiciary has been reformed:</u>			
		<ul style="list-style-type: none">• Constitutional Reform Act 2005, Crime and Courts Act 2013• Although there remains overlap with the executive and the legislature, there is less overlap with judiciary than previously. The Lord Chancellor used to overlap all three arms of state but now has only a very limited role in the selection of judges and does not sit as a judge in the Supreme Court• Selection of Judges is now by the Judicial Appointments Commission so is independent of government influence although Lord Chancellor still exerts ‘some’ influence			
				Responses will be unlikely to achieve the following levels without:	
				Responses will be unlikely to achieve the following without:	
				Level 4 – both a good description of the theory of the separation of powers including a description of the arms of the state and a good description of how the reforms have improved compliance with the theory. Statutory reference required for full marks	
				Level 3 – a very good description of either the theory or the reforms or an adequate description of both	
				Level 2 – an adequate description of either the theory or the reforms or a very basic description of both	
				Level 1 – a very limited description	

Question			Indicative content	Mark	Guidance
			<ul style="list-style-type: none"> The Supreme Court has been created to deal with the overlap between the Law Lords and the legislature as they sat in the House of Lords in Parliament. Newly Appointed Supreme Court Judges will not be allowed to be members of the House of Lords Judicial independence now guaranteed by section.3 Constitutional Reform Act 2005 and specifically states that Ministers may not seek to influence judicial decisions. <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance											
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">Previously senior judges were selected by the Prime Minister and Lord Chancellor. This may have resulted in political bias as it was secretive. Following reforms (Act) an independent Judicial Appointments Committee now appoints (with the exception of Supreme Court appointments) and appointments are made solely on merit. This reinforces the independence of the judiciaryCrime and Courts Act 2013 further reinforces the independence as the LC no longer has any say in appointment of inferior judges. Power now transferred to the Lord Chief JusticeLaw Lords were members of the House of Lords in its legislative capacity and therefore not totally independent. Since the creation of the Supreme Court this is no longer the case and the Justices of the Supreme Court are separate from the legislature and are not allowed to be members of the House of Lords. Currently Justices who were previously Law Lords are able to return to the House of Lords upon retirement. Newly appointed Justices of the Supreme Court will not have seats in the House of Lords reinforcing independenceReform of the role of Lord Chancellor ensures he no longer sits as a judge or is involved to such a great extent in the appointment of the judiciaryS3 Constitutional Reform Act 2005 forbids the interference of ministers in judicial decisions which should improve judicial independence.Legislative/executive ‘accepts’ judicial law-making, the decisions of the Supreme Court, making declarations	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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				3	6–7										
				2	4–5										
1	1–3														
Responses will be unlikely to achieve the following levels without:															
Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the quote (whether the independence of the judiciary has been reinforced by recent reforms) and a range of other points relating to the quote. Three well-developed points would receive full marks. Discussion of recent reform required															
Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded															
Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded															
Level 1 – less than four discussion points															

Question			Indicative content	Mark	Guidance								
			<p>of incompatibility under the Human Rights Act and accepting quashed decisions in judicial review indicate separation of powers checks and balances and independence of the judiciary</p> <p>Credit any other relevant comment(s).</p>										
			<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.</p>	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1
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Question		Indicative content	Mark	Guidance											
2	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p><u>Describe qualifications:</u></p> <p>Qualifications set out in the Juries Act 1974 as amended:</p> <ul style="list-style-type: none">aged between 18 and 70on the electoral registerResident in the UK for five years since age of 13 <p>Disqualified:</p> <ul style="list-style-type: none">For life – if imprisoned for life, detention during Her Majesty’s Pleasure, imprisoned for public protection, extended sentence or have a sentence of 5 years or moreFor ten years – if sentences of less than 5 years were passed, suspended sentences or community orderswhilst on bail <p>Ineligible:</p> <ul style="list-style-type: none">Mentally disorderedLack capacity: cannot speak English, disability etcdeaf and blind <p>Excused:</p> <ul style="list-style-type: none">Application has to be made to Jury Central Summoning BureauCan be excused if serving in the armed forces and commanding officer certifies needed elsewhere <p>Discretionary excusal</p> <ul style="list-style-type: none">Excusal for “good reason” e.g. exams pregnancy etc.Service will be deferred <p><u>Describe the selection:</u></p> <ul style="list-style-type: none">Chosen at random from the electoral registers for a court area by central office every fortnight	18	<table><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
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1	1–5														
	Responses will be unlikely to achieve the following levels without:														
	Level 4 – a detailed description of the three areas: qualifications, selection and challenges. Statutory reference required for full marks														
	Level 3 – an adequate description of the three areas or a detailed description of two.														
	If only the qualifications procedure is covered it is not possible to award more than top Level 2/bottom Level 3 marks depending on the quality of the answer.														
	Level 2 – a limited description of the three areas. A detailed description of either selection or challenges will allow candidate to achieve Level 2.														
	Level 1 – a very limited description														
	Marks should be allocated according to the level of detail.														

Question			Indicative content	Mark	Guidance
			<ul style="list-style-type: none"> • Summons are sent out electronically • Fifteen chosen at random from the jury pool to go into the court room • Twelve chosen at random in court by the clerk • Remainder still sit in court (separately) as a back-up in long or important trials • Vetting – routine police check and rarely wider background check for political affiliations. <p><u>Describe challenges:</u></p> <ul style="list-style-type: none"> • Possible challenge to the array, by prosecution or defence on way jury selected • Possible challenge for cause, by prosecution or defence, because of connection with case or incapacity • Right of stand-by, by prosecution <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance	
(b)*		Potential answers may:	9	AO2 Levels	AO2 Marks
		4		8–9	
		3		6–7	
		2		4–5	
		1		1–3	
		<p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the disadvantages of using a jury in both civil and criminal cases. Three well-developed points would receive full marks</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded. If the candidate has only discussed either criminal or civil cases then maximum top Level 3 marks can be awarded.</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points</p>			

Question	Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> • A disadvantage to the State and those with limited funds is the jury trial is both time consuming and costly. Because juries are lay people everything needs to be explained to them in order that they understand. There are also times when the jury has to leave the court in order that legal argument may take place. All this adds to the length of the trial. This in turn adds to the cost. It would be quicker and cheaper if it were one judge • The compulsory nature of jury service is seen as a disadvantage. Jury service is to some an inconvenience in terms of time and money. Two weeks is a long time and although many employers will continue to pay jurors whilst they are away from work some do not. Some people find that they are not able to claim back from the court their full wages therefore losing money • A growing disadvantage of using a jury in both criminal and civil matters is that it is extremely difficult to know if the jury has been influenced by different types of media. In the recent News of the World phone hacking case the judge felt the need to give strict instructions to the jury regarding the importance of only deciding on the facts given in the case and not taking account of anything read in the papers on the internet or information sent social media • The fact the jury does not need to give a reason for the decision reached is seen as a disadvantage. A Judge or panel of Lay Magistrates is required to give their reasons. The lack of reason may be considered a disadvantage because it makes it difficult for the defendant to appeal and there is no way of knowing how the decision was reached and whether the case was understood 		

Question			Indicative content	Mark	Guidance								
			<ul style="list-style-type: none">The fact that juries sometimes reach what are known as perverse decisions is seen as a disadvantage. Juries are able to ignore laws that they feel are unjust. Often the decisions do not appear justified even when the case is clear-cutIn defamation cases which involve celebrities there may be some bias as jury members may have pre-conceived ideas about the person and newspapers do not have a good reputation therefore it may be better to leave the decision making to a judge who may be less bias <p>Credit any other relevant comment(s).</p>										
			<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.</p>	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1
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Question		Indicative content	Mark	Guidance											
3	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Allocation of cases to different tracks dependent on the value of the claim and complexity of the case:</p> <ul style="list-style-type: none">• Allocation questionnaire• Small claims for cases up to £10,000 (£1,000 for personal injury cases)• County Court Fast track for cases from £10,000 to £25,000• Multi - track cases usually in the County Court for £25,000 - £50,000 but can go to the High court especially in cases involving complex points• High Court Multi track usually for cases valued at over £50,000 but these can be heard in the County Court• Explain time limits for each track• Limit on number of witnesses <p>County Court and the High Court are the main civil trial courts.</p> <p>Types of case that can be heard in each court.</p> <p>County Court:</p> <ul style="list-style-type: none">• contract, tort, recovery of land to any value• partnerships, trusts, and inheritance up to £30,000• divorce and bankruptcy• Small Claims – actions involving up to £10,000. <p>High Court:</p> <ul style="list-style-type: none">• Queen’s Bench Division – contract and tort over £50,000 and some from £25,000 (multi - track) An example which could include Defamation of Character and/or Judicial Review, Includes Commercial Court, and Admiralty Court	18	<table><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
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	Responses will be unlikely to achieve the following levels without:														
	Level 4 – The way in which cases are allocated, the names of the trial courts and the types of cases heard described in detail														
	Level 3 – a response detailing the way in which a civil case is allocated or detail of the courts and types of cases will achieve the bottom of L3. If both covered but lacking the detail required for level 4 = appropriate mark within the level according to the detail.														
	Level 2 marks are likely to be awarded if there is a basic understanding but very little detail														
	Level 1 – a very limited description.														
	Marks should be allocated according to the level of detail.														
	Detailed diagrams will be credited in the same way as prose.														

Question			Indicative content	Mark	Guidance
			<ul style="list-style-type: none">• Chancery Division – insolvency, mortgages, trusts, property disputes, copyright and patents, intellectual property and probate disputes• Family Division – Children Act 1989 cases, and other family matters. <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance	
	(b)*	Potential answers may:	9	AO2 Levels	AO2 Marks
		4		8–9	
		3		6–7	
		2		4–5	
		1		1–3	
		<p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">The increase from £5,000 to £10,000 may be seen as an advantage as it means that the ordinary person can use the Small Claims Court to make a claim for a larger sum rather than having to use the Fast-track which requires the claimant to obtain legal advice, have legal representation and will be more formal and cost moreAn advantage of using the Small Claims Court is that people do not have to use a lawyer which makes it a cheaper option. Also, if you lose the other side will not have to pay the other person’s legal costs. However with the recent increase from £5,000 to £10,000 a greater number of people are likely to use lawyers which may result in a disadvantage to individuals who cannot afford to risk instructing a lawyer and then lose the caseEven with recent reforms the procedure remains the same and will continue to be simpler and less formal than the other tracks. However, with larger sums of money involved it may mean that the procedure takes longer and becomes more complex which may in turn mean that cases take longer and increase the time it take to have a matter heard. The winner will still be able to get the court fees back as well as the claim and any reasonable expensesWith such large amounts of money being involved a key advantage will be that that the District Judge will help both parties but in particular those unrepresented to explain their case and do all that they can to try and put the parties at their ease. But research by Baldwin	<p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on both advantages and disadvantages. Three well-developed points would receive full marks. A candidate will not be able to achieve Level 4 without recognition of the reform in respect of the increase in the upper limit for actions in the Small Claims Court. A one-sided answer will not be able to achieve Level 4</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points</p>		

Question			Indicative content	Mark	Guidance									
			<p>has shown this is not always the case with unrepresented claimants</p> <ul style="list-style-type: none">• Claims in respect of personal injury and housing repair remain unchanged at £1,000. This remains a very low amount in comparison to other cases however this may be due to the number of no win no fee options available in such cases and therefore the other tracks utilised• Since the increase in amount there is greater emphasis on using the Small Claims Court only as a last resort and parties are referred to a mediation service before they proceed with a court case. If this mediation is successful it may save both parties time, costs and stress• A disadvantage of the Small Claims Court is that only about 60% of successful claimants actually receive all their money awarded by the court. The increase may result in a large number of individuals and businesses having a debt twice as much not being paid and may result in a greater number of people having to go through the Enforcement of Small Claims Judgments in the County Court <p>Credit any other relevant comment(s).</p>											
			<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation</p>	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1	
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Question		Indicative content	Mark	Guidance	
4	(a)	Potential answers may :	18	AO1 Levels	AO1 Marks
		</			

Question			Indicative content	Mark	Guidance
			<ul style="list-style-type: none"> - give back any documents the client might need - put things right if more work can correct what went wrong - refund or reduce the legal fees or - pay compensation of up to £30 000 <ul style="list-style-type: none"> • Solicitors must comply with the Principles of the Solicitors Code of Conduct and if a client feels that the solicitor has breached these principles they may make a complaint to the Solicitors Regulation Authority (SRA) • The SRA has powers to investigate misconduct including the power to require solicitors to explain their conduct and to produce documents • The Solicitors' Disciplinary Tribunal will look at evidence submitted to them by the SRA into serious professional misconduct. The Tribunal can fine, reprimand and if necessary suspend a solicitor from the Roll. In rare cases the Tribunal will strike off a solicitor from the Roll <p>Credit the client taking any Legal action</p> <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance											
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">There is no difference in the education/academic training of a solicitor so it is not true to say that this aspect is easierIn terms of vocational training the LPC for trainee solicitors is more straightforward and practical than the vocation stage of a trainee barrister. The trainee barrister is required to join one of the Inns of Court, complete terms and undertake the BPTC. The LPC covers a wider range of topic including practical areas such as business management and advocacyThe LPC is marginally cheaper to undertake than the BPTC and is offered in a greater number of places around the country. Many universities are now including the LPC as part of a four year course. This makes it more accessible and easier for those around the country to undertake. However, there are more bursaries available (from the Inns) to assist trainee barristers than there are available to trainee solicitorsTrainee solicitors are not overburdened with the additional costs a trainee barrister is required to cover. The trainee barrister not only has the cost of training but also the cost of wig and gown and dining and these costs may be prohibitive to someThere are more Training Contracts than Pupillage places available due to the wide range of places that are able to offer the Contracts. This means that there are more opportunities for trainee solicitors and also there is a greater range of areas training can be undertaken in, for example, in a Firm the trainee must complete work in three different areas of the practice	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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Responses will be unlikely to achieve the following levels without:															
Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on issue of whether it is easier to train and or work as a solicitor. Three well-developed points would receive full marks															
Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded															
Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded															
Level 1 – less than four discussion points															

Question			Indicative content	Mark	Guidance									
			<ul style="list-style-type: none">• The minimum pay per annum for a Training Contract was £16,650 per annum as opposed to the £12,000 per annum for pupillage this made it easier for the trainee solicitor to cover the cost of living. However, recent changes mean that the minimum wage can now be paid for the Training Contract although it is unlikely that commercial and City firms will do so• There is a greater range of jobs available to a solicitor meaning that it is easier to find employment post qualifying. It is also easier to obtain employment where a salary is provided.• A solicitor is now able to undertake the same work as a barrister including obtaining the same rights of audience <p>Credit any other relevant comment(s).</p>											
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1	
AO2 marks	AO3 mark													
7–9	3													
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Question		Indicative content	Mark	Guidance	
5	(a)	Potential answers may :	18	AO1 Levels	AO1 Marks
		Assessment Objective 1 – Knowledge and understanding		4	15–18
		Demonstrate knowledge of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012		3	11–14
		Duty solicitor advice and assistance for individuals in custody		2	6–10
		<ul style="list-style-type: none">Run by local contracted solicitors with relevant qualification (Police Station Qualification)Available to anyone questioned at the police station but will only be by telephone unless attendance will “materially progress the case”Covers advice and attending interviews but attendance is limited unless the client is vulnerableFree to all, no means or merits testing		1	1–5
		Duty solicitor at the Magistrates’ Court			
		<ul style="list-style-type: none">Contracted solicitor with relevant qualification (Magistrates’ Court Qualification) acts under the duty solicitor scheme where it is free for anyone in custody			
		Advice and Assistance			
		<ul style="list-style-type: none">Can be provided by a franchised solicitorCovers advice and some preparatory work for someone charged with an offence and help with their application for legal representation but is limited to one hour’s workMeans tested – only those on very low incomes qualify			
		Legal Representation:			
		<ul style="list-style-type: none">Provided by a franchised solicitor or independent barrister it covers representation and all steps in preparation of a caseMerits tested (interests of justice) the case will involve consideration of a point of law, the individual			
				Responses will be unlikely to achieve the following levels without:	
				Level 4 – a detailed description of the role of the Duty Solicitor at both the police station and the Magistrates’ Court and legal representation is required. Statutory authority required for full 18 marks	
				Level 3 – an adequate description of all or a good description of one accompanied by a limited description of the others. If only the Duty solicitor scheme is covered maximum bottom Level 3 marks can be awarded.	
				Level 2 – limited description.	
				Level 1 – a very limited description	
				Marks should be allocated according to the level of detail	

Question			Indicative content	Mark	Guidance
			<p>is unable to understand the proceedings in court or to state his own case, the case may involve the tracing, interviewing or expert cross-examination, it is in the interests of another person that D be represented (such as in a rape case).</p> <ul style="list-style-type: none"> • Means test in the Magistrates' Court -difficult to qualify unless on benefits or under 18 years old • Means test in the Crown Court where contributions depend on both income and type of case, may have to pay extra from capital if found guilty • If found not guilty contributions will be returned <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance											
	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">There will always be a balance that needs to be found between giving people access to advice and representation in court and the limits on the amount of money that can be allocated to legal funding especially in times where there are very tight constraints on public spendingThere is no means test for the duty solicitor scheme at the police station which offers some assistance however the fact that it is limited to a phone call in most cases does save money although vulnerable people do get more help usually having a solicitor attendThe merits test has always been present to an extent but does seem to favour the habitual criminal over the first time offender as the likely punishment is considered for funding representationFor representation in the Magistrate’s Court it is very difficult to get funding unless on benefits or under 18 which means that anyone outside that category has to defend themselves this can be very daunting for a first time offenderThe means test often allows repeat offenders to benefit as they are less likely to be employed at a cost to the taxpayer <p>The merits test – in the interests of justice is now applied very strictly which leads to repeat offenders having representation but first time offenders not getting representation as they are less likely to be imprisoned. This cannot be seen as fair</p> <p>Credit any other relevant comment(s).</p>	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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1	1–3														
	Responses will be unlikely to achieve the following levels without:														
	Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the quote (the arguments that the use of the means and merits tests limit the cost to the taxpayer but does not ensure justice in criminal cases) and a range of other points relating to the quote. Three well-developed points would receive full marks														
	Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded														
	Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded														
	Level 1 – less than four discussion points														

Question			Indicative content	Mark	Guidance									
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1	
AO2 marks	AO3 mark													
7–9	3													
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Question		Indicative content	Mark	Guidance	
6	(a)	Potential answers may:	18	AO1 Levels	AO1 Marks
				4	15–18
				3	11–14
				2	6–10
				1	1–5
		Assessment Objective 1 – Knowledge and understanding Police and Criminal Evidence Act 1984, Code C Describe the role of the custody officer		Responses will be unlikely to achieve the following levels without: Level 4 – a detailed description of the role of the custody officer and searches. Statutory authority required for full 18 marks Level 3 – an adequate description of both or a good description of one accompanied by a limited description of the other. If only the custody officer role or only searches described a maximum of bottom Level 3 marks can be awarded if very detailed Level 2 – a brief description of both or a limited description of one. Level 1 – a very limited description Marks should be allocated according to the level of detail.	
		<ul style="list-style-type: none">Responsible for keeping a record of the custody of every suspect brought to the police station. This needs to detail times of arrival, visits, any interviews, searches, samples and anything else that happens while the suspect is in custodyResponsible for ensuring the suspect knows their basics rights:<ul style="list-style-type: none">to have access to a solicitorto have someone notified of their whereaboutsright to read the codes of practiceResponsible for organising medical treatment or an interpreter if necessaryResponsible for reviewing the need to further detain the suspect at regular intervals and that the suspect is released as soon as detention is no longer justifiedResponsible for ensuring that time limits of detention are adhered to and the suspect is treated reasonably at all timesDecision to grant bail or not is made by the Custody Officer Describe the powers of the police to search			
		<ul style="list-style-type: none">No automatic right to search. Can only be done if there is reasonable suspicion that something will be foundCursory search may be undertaken to remove/seize any dangerous or prohibited articles.During this search a record of D’s possessions will be madeNon-intimate search – strip search – in private with			

Question	Indicative content	Mark	Guidance
	<p>same sex officer and only half clothing removed at any one time</p> <ul style="list-style-type: none"> • All non-intimate searches may be undertaken using reasonable force • Intimate search only if authorised by a high ranking officer in order to search for something that could and might be used to cause physical injury e.g. weapons or Class A drugs • Intimate search for something that could and might be used to cause physical injury may be carried out by a constable of the same sex if an Inspector or above considers that it is not practical for the search to be carried out by a suitably qualified person (a medical practitioner or a registered nurse) • Police have the power to authorise an intimate body search, ultrasound or X-ray to be taken if they have reasonable grounds to suspect that the person has concealed Class A drugs. • Written consent is required • Must be carried out by a 'suitably qualified person' (a medical practitioner or a registered nurse) not by a police officer • The search for Class A drugs must be carried out at a hospital, a doctor's surgery or other medical premises, not at a police station. <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance	
	(b)*	Potential answers may:	9	AO2 Levels	AO2 Marks
		Assessment Objective 2 – Analysis, evaluation and application		4	8–9
		P1 The police officers were in plain clothes so they should have identified themselves to make the arrest lawful		3	6–7
		P2 They had reasonable grounds (based on intelligence from girlfriend) that he was about to commit a crime which is lawful		2	4–5
		P3 Wrestling Justin to the ground and handcuffing him when he is resisting arrest may be seen as reasonable force and lawful in the circumstances		1	1–3
		P4 He should have been cautioned and told why he was being arrested unlawful to say nothing to him		<p>Responses will be unlikely to achieve the following levels without:</p> <p>It is important to keep in mind that this is an application question. Points need to be applied to the situation. Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given.</p> <p>P = 1 mark AP = 2 marks</p> <p>If there is no application but relevant points (i.e. just Ps) have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met</p> <p>“Justin” or “he” or “D” needs to be mentioned to get out of Level 2 as this is an application question</p> <p>The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total</p> <p>P1 Plain clothes police – identity P2 About to commit a crime P3 Wrestled to the ground – force P4 Caution /informed of reason for arrest P5 Cold interview room P6 Access to Solicitor</p>	
		P5 The interview room should not have been cold – it should be adequately heated so this is unlawful			
		P6 He should have been given access to a solicitor unless there were exceptional circumstances and it was thought he would warn accomplices (36hrs max). This does not seem to be the case so this is unlawful			
		Credit any other relevant comment(s).			

Question			Indicative content	Mark	Guidance									
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1	
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Question		Indicative content	Mark	Guidance											
7	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Demonstrate understanding of the Bail Act 1976 and subsequent amendments in the Bail (Amendment) Act 1993, the Crime and Disorder Act 1998 and the Criminal Justice Act 2003: 2.</p> <ul style="list-style-type: none">• Definition – enables a defendant to remain at liberty• S.4 Bail Act states that there is a presumption in favour of unconditional bail – general right to bail• Show an understanding that both the magistrates and Crown Court can grant bail <p>Identify the reasons for refusing bail:</p> <ul style="list-style-type: none">• failure to surrender to custody• likely to commit further offences• interfere with witnesses/the course of justice <p>Identify the factors to be taken into account including:</p> <ul style="list-style-type: none">• nature and seriousness of offence• antecedents of defendant• previous bail record• strength of evidence against defendant <p>Restrictions on the grant of bail:</p> <ul style="list-style-type: none">• for an offence committed while already on bail, bail can only be given if the court is satisfied there is no significant risk of further offending• bail will only granted in exceptional circumstances for murder, attempted murder, manslaughter, rape or attempted rape if the defendant has already served a custodial sentence for such a crime• bail will be restricted for adult Class A drug users under the Criminal Justice Act 2003 in certain circumstances	18	<table><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr><tr><td>4</td><td>15–18</td></tr><tr><td>3</td><td>11–14</td></tr><tr><td>2</td><td>6–10</td></tr><tr><td>1</td><td>1–5</td></tr></table> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – to reach level 4 an answer should include the general right to bail, reasons to refuse bail, factors to be taken into account, restrictions and a description of unconditional and conditional bail. Statutory authority required for full 18 marks</p> <p>Level 3 – an answer will only reach level 3 if there are any of the above central points are missing</p> <p>Level 2 – a limited description of some of the central points</p> <p>Level 1 – a very limited description</p> <p>Marks should be allocated according to the level of detail.</p> <p>Mention of renewed applications and appeals not necessary for full marks</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
AO1 Levels	AO1 Marks														
4	15–18														
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Question			Indicative content	Mark	Guidance
			<ul style="list-style-type: none"> • restrictions relating to terrorism (home detention under the Prevention of Terrorism Act 2005) • only the Crown Court can grant bail in murder cases <p>Demonstrate a clear understanding of unconditional and conditional bail, and the types of conditions that may be imposed on a defendant eg</p> <ul style="list-style-type: none"> • Sureties/recognisance • Residence – bail hostel, named address • Curfew • Hand in passport • Reporting at police station • Exclusion zones • Contact bans • Tagging • Security <p>Credit any other relevant point(s).</p>		

Question		Indicative content	Mark	Guidance											
	(b)*	Potential answers may:	9	<table><tr><th>AO2 Levels</th><th>AO2 Marks</th></tr><tr><td>4</td><td>8–9</td></tr><tr><td>3</td><td>6–7</td></tr><tr><td>2</td><td>4–5</td></tr><tr><td>1</td><td>1–3</td></tr></table>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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		<p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>The factors taken into account under the Bail Act would all need to be considered with particular reference to:</p> <p>P1 There is a presumption in favour of bail but the nature and seriousness of the offence and the probable method of dealing with it will need to be considered. As it is a serious fraud a custody sentence is possible and it may be decided not to grant bail as Paul may fail to surrender to bail</p> <p>P2 Paul has a previous conviction for drunk and disorderly conduct. This offence is most likely to be considered unrelated due to the nature of the previous offence and therefore bail likely to be granted</p> <p>P3 Paul has previously complied with bail conditions which may lead them to think he will comply again and therefore bail likely to be granted</p> <p>P4 The fact that Paul has a job in the area would mean that he is less likely to abscond before the trial therefore likely to get bail</p> <p>P5 Paul is has family out of town and therefore may decide to flee particularly as this is such a serious offence therefore bail may be refused</p> <p>P6 Taking all the above into account Paul is most likely to be given bail with the condition of reporting to the local Police Station</p> <p>Credit any other relevant comment(s).</p>		<p>It is important to keep in mind that this is an application question. Points need to be applied to the situation</p> <p>Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given P = 1 mark AP = 2 marks</p> <p>If there is no application but relevant points (i.e. just Ps) have been identified only top level 2 marks can be awarded as the criteria for level 3 will not have been met</p> <p>“Paul” or “he” or “D” needs to be mentioned to get out of level 2 as this is an application question</p> <p>Five of the following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total</p> <p>A relevant condition with reason needs to be stated in order to achieve Level 4</p> <p>P1 Nature and seriousness of the offence P2 Previous conviction P3 Compliance with bail in past P4 Ties to area – job P5 Family in another town P6 Condition with reason</p>											

Question			Indicative content	Mark	Guidance									
			Assessment Objective 3 – Communication and presentation Present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate terminology. Reward grammar, spelling and punctuation.	3	<table><tr><th>AO2 marks</th><th>AO3 mark</th></tr><tr><td>7–9</td><td>3</td></tr><tr><td>4–6</td><td>2</td></tr><tr><td>1–3</td><td>1</td></tr></table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1	
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APPENDIX 1 Advanced Subsidiary GCE Law Levels of Assessment

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course. Similarly, there are **three** levels of assessment of AO3 in the AS units.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation of relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform or identify most of the relevant points of law in issue. Ability to develop clear arguments or apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question or identify the main points of law in issue. Ability to develop arguments or apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question or identify some of the points of law in issue. A limited ability to produce arguments based on their material or limited ability to apply points of law to a given factual situation, but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

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