



GCE

Law

Unit **G151**: English Legal System

Advanced Subsidiary GCE

Mark Scheme for June 2017

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of candidates of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, Cambridge Nationals, Cambridge Technicals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

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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
	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.

Question		Answer/Indicative content	Mark	Guidance										
1	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p><u>Organisation:</u></p> <ul style="list-style-type: none">• Controlled by the General Council of the Bar• Regulated by the Bar Standards Board• Must be a member of one of the four Inns of Court• Often self-employed, working from a set of chambers working by the cab-rank rule• Public Access now allowed (not publicly funded crime or family)• May work for organisations such as CPS now• Alternative Business Structures• Legal Disciplinary Practices• After ten years of practice a barrister can apply to “take silk”, become a QC, and if selected take on the more high profile cases <p><u>Work:</u></p> <ul style="list-style-type: none">• Advocacy• Writing ‘counsel’s opinion’ on cases for solicitors and/or clients• Drafting legal documents• Holding case conferences with clients and advising them on the law and the strength of their case• Negotiating settlements• Legal research	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 - a detailed description of the three areas; organisation, work and complaints. There is no requirement for work and organisation to be addressed separately</p> <p>Level 3 - an adequate description of all three or a good description of two. High level 3 may be achieved if only organisation and work addressed. This would need to be very detailed</p> <p>Level 2- a limited description of all three. A detailed description of one will achieve this level</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> • Non-practising e.g. academics, lecturers • May work for large firms specialising in areas of law e.g. tax • Some barristers work as in-house legal advisers to large corporations • Armed forces Legal Officer <p>Complaints: If unsatisfied with the service of the barrister:</p> <ul style="list-style-type: none"> • Firstly complain direct to Chambers (QC heading the Chambers) • Chambers will have a written complaints procedure • If unhappy with the way your complaint was handled contact the Legal Ombudsman • Legal Ombudsman has statutory power to ask barrister to; apologise, return documents, put things right, refund or reduce fees or pay compensation <p>Professional misconduct complaint:</p> <ul style="list-style-type: none"> • Complain to Bar Standards Board (BSB) • In serious cases BSB may refer the matter to the Council of the Inns of Court. The Council can suspend a barrister from practice • in extreme cases the Senate of the Inns can disbar a barrister from practising. <p>Court Actions:</p> <ul style="list-style-type: none"> • Can sue in breach of contract if public access • Can sue in negligence • Use of case law <p>Credit any other relevant comment(s)</p>		

	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• One problem facing a person wishing to become a barrister is that the cost of becoming a barrister may be prohibitive. With full-time fees for the BPTC costing up to £18,750, this may be too much of a financial burden particularly taking into account the lack of pupillage places available. In 2015 it was announced that there would be government backed loans for postgraduate study. Unfortunately these loans will only be available to masters subjects. However, the Inns of Court offer a wide range of scholarships• Students have to make the decision to become a barrister at the end of the academic stage of training. At this point there will have been limited, if any, experience of the different legal professions. Making an informed choice so soon is difficult and there is no turning back once the next stage has been started• Relevant work experience for the would-be barrister is difficult to obtain. Mini-pupillages are extremely hard to come by and therefore students lack relevant work experience on their CV. This may make it more difficult to impress a set of Chambers when seeking pupillage• The lack of pupillage places is a major problem	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> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the problems facing a person wishing to become a barrister. Three well-developed points would receive full mark</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other discussion 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 discussion points with no development e.g. a list</p> <p>Level 1 – less than four discussion points</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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			<p>facing those wishing to join the profession. Pupillage numbers have been declining steadily and in 2014 the number of pupillages dropped below 400. This makes it very difficult for the would-be barrister to complete the full training</p> <ul style="list-style-type: none"> • Whilst the figures for diversity within the profession are improving there remain a low percentage of BME candidates being successful in gaining pupillage. This section of society is also greatly under-represented when looking at the figures of those practicing at the bar – approximately 13% from BME backgrounds • There appears to be an age barrier to those wishing to enter the profession. The average age of those entering the profession is between 25-34. Only a very few 'older' candidates are successful at both the pupillage and tenancy stage • Another problem facing a person is that they need to have achieved a good 2:1 degree or above. The BPTC providers set the entry level of 2:2. As a result a number of those passing the BPTC struggle to go any further. <p>Credit any other relevant comment(s)</p>		
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			<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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2	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>a. <u>Lay Magistrates selection</u></p> <ul style="list-style-type: none">• To be selected must have the three basic qualifications as follows:<ul style="list-style-type: none">• 18-65 upon appointment• live or work near to the local justice area• be prepared to sit at least 26 half days per year• Selection is following direct application or following an advertisement for the role• Application is made to the Local Advisory Committee (LAC)• Candidate will undergo two interviews• Interview one – will check candidate general character. They will check the candidate has the required qualifications and the six key qualities:<ul style="list-style-type: none">• commitment and reliability• good character• maturity and sound temperament• sound judgement• social awareness• understanding and communication• Interview two – will assess the candidates judicial aptitude and check they have the required judicial qualities• LAC attempt to find a good cross-section of society• If successful the LAC will recommend the	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 - a detailed description of both jury and lay magistrates' selection. There is no requirement that a candidate state the disqualifications as question is specifically directed to selection process</p> <p>Level 3 - an adequate description of both. Mid Level 3 may be achieved if only a very detailed description of one is provided. This would need to be very detailed</p> <p>Level 2- a limited description of both or a good description of one</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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		<p>candidate to the Lord Chief Justice who designates the role to the Senior Presiding Judge (Crime and Courts Act 2003)</p> <ul style="list-style-type: none"> • Candidate will be sworn in as a magistrate at a ceremony at a local court <p><u>Jury selection:</u></p> <p>To be selected a person must have the three qualifications set out in the Juries Act 1974 as amended:</p> <ul style="list-style-type: none"> • must be at least 18 and under 75 • on the electoral role • resident in UK for five years since age of 13 • Selected at random from the electoral registers for a court area by central office every fortnight • Summons are sent out electronically • Approximately 150 summons sent out per court per fortnight • 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 • Both prosecution and defence have the right to see the list of potential jurors and may decide the pool require vetting/challenging • Routine police check to eliminate those disqualified • In exceptional circumstances wider background checks undertaken for political affiliations – must adhere to AG's guidelines <p>b.</p> <p>Credit any other relevant points(s)</p>		
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• Lay magistrates tend not to be as case-hardened as professional judges. Lay magistrates work part time and are not sitting in court every day seeing the same types of cases and defendants• Lay magistrates sit in threes to make a decision and this means that they are less likely to be as prejudiced as one single professional judge• There is greater diversity in terms of occupation, gender and BME representation when compared to professional judges• Lay magistrates receive detailed, supervised training and if they need legal advice a legal adviser is on hand at all times. Whilst professional judges have academic legal training the actual training for the judiciary is fairly short• The detailed training received by lay magistrates allow for consistent sentencing and lay magistrates tend to use a wider range of sentences rather than professional judges who are more likely to impose a custodial sentence• Lay magistrates must live or work in the local justice area which means between the three sitting on the bench they should have awareness of local crime patterns and opinions. This ensures local justice is dispensed by local people. It is unlikely a professional judge would have the same amount of local knowledge	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> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the advantages of using lay magistrates rather than professional judges. 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 discussion 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 discussion 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>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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		<ul style="list-style-type: none">Professional judges are paid a salary whereas lay magistrates are unpaid and therefore cheap for the government. <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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3	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p><u>Stop and Search powers:</u></p> <ul style="list-style-type: none">• Power of the police to stop and search on the street is set out in S1 PACE which states the police have the power to stop and search:<ul style="list-style-type: none">○ a person○ in a public place e.g. a place to which public has ready access such as a park○ if there is reasonable suspicion○ the person is carrying stolen or prohibited articles e.g. articles made, adapted or intended for use in burglary or criminal damage. This can include spray paints or prohibited fireworks• Code A contains guidance on when the powers to stop and search should be used and states:<ul style="list-style-type: none">○ the power should be used; objectively, fairly, without discrimination○ the power should not be used to search on the basis of a person’s age, race, appearance or other discriminatory factor• S2(9) PACE authorises the police to remove, in public, an outer coat, jacket or gloves• The police have the power to use reasonable force to carry out the stop and search <p><u>Arrest:</u></p> <ul style="list-style-type: none">• Section 24 PACE as amended by SOCPA 2005, sets out the power to arrest without warrant	<p>18</p> <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 - a detailed description of both stop and search and arrest powers. Question directs candidate to describe the powers of the police. Any relevant Statutory section reference required for top level 4. E.g. s1-7, s24, s110 SOCPA</p> <p>Level 3 - an adequate description of both. Mid-Level 3 may be achieved if a very detailed description of stop and search is provided.</p> <p>Level 2- a limited description of both or a good description of one</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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		<ul style="list-style-type: none"> • Code G gives guidelines for arrest • The police have the power to arrest a person if: <ul style="list-style-type: none"> ○ a person has committed an offence (past) ○ is in the act of committing an offence (present) ○ is about to commit an offence (future) ○ there are reasonable grounds for suspecting one of these occurrences (even if no offence is actually committed) • Arresting officer can only arrest if there are reasonable grounds for believing that it is necessary to make the arrest for one of the following reasons: <ul style="list-style-type: none"> ○ to enable the name and address of suspect to be ascertained ○ to prevent the person causing physical injury to himself or any other person suffering physical injury ○ causing loss or damage to property ○ committing an offence against public decency ○ causing an unlawful obstruction of the highway ○ to protect a child or vulnerable person or ○ to allow the prompt and effective investigation of the offence or the conduct of the person or ○ to prevent any prosecution for the offence from being hindered by the disappearance of the person in question • The police may use reasonable force to carry out the arrest • The police have the power to search the arrested person for anything that may help them escape <p>Credit any other relevant points</p>		
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• This statement is accurate as individual’s rights are protected as the individual has the right not to be automatically searched. The police have to have good reason for undertaking a search• This statement is inaccurate as you could say that the reason is subjective. This gives the police wide powers to search and does not protect the individual’s rights• The statement is accurate as the individuals rights are protected as the strip search must be done in private this protects individuals from degrading treatment• The statement is accurate as a strip search can only be undertaken if it is felt necessary to remove an article which a person should not have. The strip search cannot be undertaken randomly• This statement could be said to be inaccurate as there is no set list of articles which a person should not have when deciding whether to undertake a strip search giving the police a large amount of discretion when undertaking such a search• The amount of clothing that can be removed at one time during a strip search protects the individual making the statement accurate. The	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> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the accuracy of the statement. 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 discussion 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 discussion 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>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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		<p>fact that only set pieces of clothing can be removed at one time allows for the suspect to retain some dignity as they are never totally naked</p> <ul style="list-style-type: none"> • Some may say that the removal of any clothing means the suspect loses their dignity making the statement inaccurate. However, in order to undertake such a search there is no other way than for clothing to be removed • The statement is accurate as if an intimate search is required a high ranking police officer must authorise it. The police must be able to show that there is reason to believe that the person has with him/her an item which he/she could use to cause physical injury to him/herself or others, or that he/she is in possession of a Class A drug. This limits what the police can intimately search for • The statement is accurate as an individual is protected when the intimate search is for Class A drugs. A medical professional will undertake this search. The individual is further protected by the fact that this search will be undertaken at a hospital or medical facility • The statement is accurate as if the intimate search is for an article that may cause harm and the search is being undertaken by a police officer, the officer will have undertaken special training to carry out such a search. <p>Credit any other relevant comment(s)</p>		
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			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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4	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>c.</p> <p><u>Qualifications</u></p> <p>Tribunals, Courts and Enforcement Act 2007 states that to become a judge the applicant must hold a relevant qualification and have gained good experience in law related activities. These activities may include the role of:</p> <ul style="list-style-type: none">• Barrister• Solicitor• Employment Tribunal Chairman• Chartered Legal Executive• Government Lawyers• Legal academics• Patent and Trade Mark Attorneys <p><u>District Judge Qualifications:</u></p> <p>The applicant must have 5 years legal post qualification experience in law related activities. These activities may include the role of a:</p> <ul style="list-style-type: none">• Solicitor or barrister• Chartered Legal Executive <p><u>Recorder qualifications</u></p> <p>7 year post qualification experience in law for example as a:</p> <ul style="list-style-type: none">• Solicitor or barrister <p><u>Circuit Judges: qualifications:</u></p> <p>7 year post qualification experience in law for example as a:</p>	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 - a detailed description of the qualifications, selection and training - all three areas must be addressed. Statutory reference required for full marks</p> <p>Level 3 - an adequate description of all three areas or a good description of two</p> <p>Level 2- a limited description of all areas or a very good description of one</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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		<ul style="list-style-type: none"> • Solicitor or barrister • Previously served as a District Judge or Recorder • Employment Tribunal Chairman <p><u>Selection</u></p> <ul style="list-style-type: none"> • Selected by the Judicial Appointments Commission (JAC) • Vacancies are advertised in the national press, legal journals and the JAC website • Must complete application process • Selected solely on merit • By virtue of good character/references • possession of the five core qualities (1) Intellectual capacity (2) Personal qualities (3) An ability to understand and deal fairly (4) Authority and communication skills (5) Efficiency • Applicants will be required to undertake a qualifying test and then shortlisted to attend a selection day <p><u>Training</u></p> <ul style="list-style-type: none"> • The Lord Chief Justice is responsible for arranging training for the judiciary • Initial one week training is carried out by the Judicial College • The Judicial College identify three main elements for judicial training: <ul style="list-style-type: none"> ○ Knowledge of substantive law, evidence and procedure ○ The acquisition and improvement of judicial skills ○ The social context within which judging occurs 		
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			<ul style="list-style-type: none">• Upon appointment all judges are required to undertake residential induction courses which will consist of<ul style="list-style-type: none">○ small group work○ lectures○ mock trials• Judges are required to undertake continuing education <p>d.</p> <p>e. Credit any other relevant point(s)</p> <p>f.</p>		
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• The Judicial College does adequately prepare judges for their roles. The College is a national training institution and by identifying the three main elements for judicial training it ensures the highest professional standards are met• Judges are adequately prepared for their roles as they have to undertake a residential induction course which is run by experienced judges. This ensures they are equipped with the knowledge and skills they need to carry out their roles. However, due to Government cuts the induction course is very short and additional training is now carried out on-line. It may be felt that this short course and on-line training does not adequately prepare judges for the important role they will undertake – it is not long enough• The Judicial College encourages continuing training and offers a wide range of additional short training courses including ones that keep judges up-to-date with changes in the law. However, many short courses offered by the College are not compulsory and therefore a judge may not be adequately prepared for the role• To be a judge a person must have the relevant qualifications and have gained good experience in law related activities. However, the role of a judge is very different to that of, for example a barrister	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> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the whether the training provided prepares judges for their role. 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 discussion 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 discussion 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>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Levels	AO2 Marks													
4	8–9													
3	6–7													
2	4–5													
1	1–3													

		<p>or solicitor and therefore it may be felt that they are not adequately prepared for the roles particularly when, for some roles, they only have to have five years' experience. It is also very difficult when a lawyer with a civil law background first sits in a criminal case as a judge</p> <ul style="list-style-type: none">• The fact that a new judge is required to work shadow an experienced judge before sitting alone ensures that the new judge is adequately prepared for their role. The shadowing will allow an insight into all the different aspects of the job. However, some may say a week is not long enough• Whilst the Judicial College do a good job preparing judges for the roles they undertake perhaps it is time to consider a career Judiciary? Upon leaving University a person would choose to become part of the judiciary rather than first becoming a lawyer. There would be a longer and more detailed/specific training course. This would ensure that judges are fully prepared for their role <p>Credit any other relevant comments(s)</p>		
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			<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
AO2 marks	AO3 mark												
7–9	3												
4–6	2												
1–3	1												

5	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p><u>Jurisdiction of the County Court:</u> There are approximately 230 County Courts in England and Wales. These courts have the jurisdiction to hear the following:</p> <ul style="list-style-type: none">• contract• tort including personal injury• recovery of land to any value• consumer disputes e.g. goods and services• partnerships• trusts• some domestic violence matters• inheritance• undefended divorce cases or dissolution of civil partnerships• bankruptcy• discrimination case <p>County Court Jurisdiction Order 2014 – has increased the financial limit of the court’s equity jurisdiction from £30,000 to £350,000. Financial claims of up to £100,000 and personal injury claims of up to £50,000 should be started in the County Court</p>	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 - a detailed description of both County Court jurisdiction and the way cases are allocated to the three tracks</p> <p>Level 3 - an adequate description of both. Top Level 3 may be achieved if a very detailed description of the way cases are allocated to the three tracks is provided. This would need to be very detailed</p> <p>Level 2- a limited description of both or a good description of one. It is unlikely that if only the jurisdiction of the County Court is address the response will achieve more than top Level 2</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
AO1 Levels	AO1 Marks													
4	15–18													
3	11–14													
2	6–10													
1	1–5													

		<p><u>How it is decided which track a case will be allocated to:</u></p> <ul style="list-style-type: none"> • Firstly the claimant will complete an N1 form setting out the particulars of the claim • Claimant will complete an allocation questionnaire • Depending upon the amount being claimed and/or the complexity of the case a 'track' will be allocated <p><u>Small claims</u></p> <ul style="list-style-type: none"> • Contract and tort cases up to £10,000 • £1,000 for personal injury • £1,000 for landlord and tenant cases • Heard by a District Judge <p><u>Fast Track</u></p> <ul style="list-style-type: none"> • Hears cases between £10,000 to £25,000 • Heard by a District Judge • Time allocated for trial will be one day • Case should heard within 30 weeks of allocation <p><u>Multi-track</u></p> <ul style="list-style-type: none"> • Hears cases to the value of between £25,000-£50,000 • Start in the County Court before a Circuit Judge • Will be sent to the High Court if case involves complex points or is for +£50,000 • Judge will be case-managed • A strict timetable will be set including what must be disclosed and number of witnesses <p>Credit any other relevant point(s)</p>		
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	(b)*	<p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none">• Court hearings are formal and as a result may be intimidating for the parties and their witnesses. Court proceedings remain a daunting prospect• Court hearings are expensive. Due to the formality and complexity it is recommended that parties seek legal advice and representation. This costs the individual a great deal of money. With the removal of legal funding for many civil cases an individual will be required to fund the case themselves. Those with limited funds may feel that court action is not an option• Despite the strict timetables laid down in the three track system delays continue to be a problem. Some cases can take up to a year to come to court. Priority is given to bigger trials and as a result there are greater delays in small claims• Court hearings can be complex. All Civil Procedure Rules must be adhered to. It is difficult for the average person to understand these rules and how important adherence to them is• A disadvantage of using the civil courts is that judges are not technical experts. They are legal experts. It may therefore be necessary to bring an expert witness to court which may cause delays, add time to the length of the trial and as a result add to the overall cost of the trial	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> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the disadvantages of using the courts to solve a civil dispute. 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 discussion 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 discussion 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>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Levels	AO2 Marks													
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3	6–7													
2	4–5													
1	1–3													

		<ul style="list-style-type: none">• The court system is adversarial. There will be a winner and a loser and the winner takes all leaving the losing party to pay all costs. There is no compromise as might be the case in some forms of alternative dispute resolution and as a result personal and business relationships are often destroyed• Even when successful there is no guarantee that the defendant will pay the claimant. This may mean that the claimant has to take enforcement action. This adds to costs and the claimant may feel that it is not worth the extra expense and inconvenience. <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
AO2 marks	AO3 mark											
7–9	3											
4–6	2											
1–3	1											

6	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p><u>Aims</u></p> <p>s142 Criminal Justice Act 2003 states that “Any court dealing with an offender in respect of his offence must have regard to the following purposes of sentencing”:</p> <ul style="list-style-type: none">• The punishment of offenders. Retribution for wrongdoing, society’s revenge for the offence. ‘Let the punishment fit the crime’. Based on proportionality or ‘just desserts’ it contains an element of denunciation – society’s outrage at the offence committed, an “eye for an eye.”• The reduction of crime (including its reduction by deterrence)<ul style="list-style-type: none">○ Individual deterrent – aimed at a particular offender to put him/her off re-offending by imposing a severe sentence○ General deterrent – put society off committing crimes by exemplary sentences or minimum sentences• The reform and rehabilitation of offenders. Rehabilitation – aims to reform the offender to stop them re-offending. It is focussed on the longer term looking at the potential of the offender to reform• The protection of the public by preventing the offender from re-offending• Usually done through a prison sentence or a driving ban	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 - a detailed description of the range of aims and a range of aggravating factors</p> <p>Level 3 - an adequate description of both. Top-Level 3 may be achieved if only a very detailed description of the aims of sentences is provided. This would need to be very detailed</p> <p>Level 2- a limited description of both or a good description of one. A detailed list of aggravating factors, in the absence of any description of aims, will achieve low level 2</p> <p>Level 1 – a very limited description</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
AO1 Levels	AO1 Marks													
4	15–18													
3	11–14													
2	6–10													
1	1–5													

		<ul style="list-style-type: none"> • The making of reparation by offenders • to persons affected by their offences. • The court should consider the victim • E.g. unpaid work, compensation <p><u>Aggravating factors:</u></p> <p>An aggravating factor is something that makes a crime more serious. These include:</p> <ul style="list-style-type: none"> • offence committed whilst on bail for other offences • offence motivated by, or demonstrating, hostility towards, sexual orientation, disability, race, religious belief (or any of the protected characteristics) • previous conviction(s), particularly where a pattern of repeat offending is disclosed • planning of an offence • offenders operating in groups or gangs • offence committed whilst on licence • deliberate targeting of vulnerable victim(s) • commission of an offence while under the influence of alcohol or drugs • use of a weapon to frighten or injure victim • abuse of power/trust • multiple victims • a sustained assault or repeated assaults on the same victim • high value (including sentimental value) of property to the victim, or substantial consequential loss (for example, where the theft of equipment causes serious disruption to a victim's life or business) <p>Credit any relevant factor(s)</p>		
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	(b)*	<p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>Potential answers may:</p> <p>P1 John is an alcoholic therefore the main aim will be to rehabilitate him. This will help reform him and stop him offending due to abuse of alcohol</p> <p>P2 John has no previous convictions. This will be a mitigating factor</p> <p>P3 Most suitable sentence for John with reason; Community Order eg an Alcohol Treatment Requirement</p> <p>P4 As Katie has committed a serious violent offence therefore the most likely aim will be punishment</p> <p>P5 This is Katie's third offence. This is an aggravating factor</p> <p>P6 Most suitable sentence for Katie with detail; Fixed term custodial sentence, suspended sentence</p> <p>Credit any relevant aim, factor and sentence</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> <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 = 1 mark AP = 2 marks</p> <p>Level 4 can only be achieved if an applied appropriate sentence is given for both John and Katie as stated in the question.</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>The appropriate names John and Katie or 'he/she' 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>In respect of John: P1 Aim P2 Factor P3 Appropriate sentence In respect of Katie: P4 Aim</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Levels	AO2 Marks													
4	8–9													
3	6–7													
2	4–5													
1	1–3													

					P5 Factor P6 Appropriate sentence
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		<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
AO2 marks	AO3 mark											
7–9	3											
4–6	2											
1–3	1											

7	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Legal Aid, Sentencing and Punishment of Offenders Act 2012 – the starting point for bail is the no real prospect test. The test states that a person should be released on bail if they would be unlikely to receive a custodial sentence</p> <p>Bail Act 1976 (as amended)</p> <p>There remains a general right to bail</p> <p>Bail enables a defendant to remain at liberty until the next stage of their case</p> <p>Bail may be granted by the police or the courts</p> <p><u>Police bail:</u></p> <ul style="list-style-type: none">• Police bail may be granted on the street, s30 PACE or at the station• Custody officer will grant bail for the following reason:<ul style="list-style-type: none">○ whilst they either make further enquiries○ when charged and awaiting a court date• Will not be granted bail if name and address cannot be established• If police refuse to grant bail the suspect must be taken to the nearest courts as soon as is practicable <p><u>Court bail:</u></p> <ul style="list-style-type: none">• Only Crown Court can grant bail in murder cases	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 demonstrate good well developed knowledge and a clear understanding of bail a Level 4 response must include a description of bail, the general right to bail, the reasons and factors taken into account when deciding whether to grant bail and conditions. The candidate should be aware of restrictions. Statutory reference required for 18 marks</p> <p>Level 3 - if any of the central points mentioned above are missing then maximum level 3 can be awarded. Without these the response will not demonstrate good well developed knowledge and clear understanding of the relevant principles and would be considered adequate</p> <p>Level 2 - a limited description of some of the central points will be awarded a maximum top Level 2. This may include simple lists without any development or a general overview with limited elaboration of the principles</p> <p>Level 1 - the candidate will show very limited knowledge of the basic principles. There will be limited detail and a lack of accurate reference to statutes or key aspects</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
AO1 Levels	AO1 Marks													
4	15–18													
3	11–14													
2	6–10													
1	1–5													

		<p><u>Restrictions on bail:</u></p> <ul style="list-style-type: none"> • Criminal Justice Act 2003 places restrictions on adult offenders who have tested positive for Class A drugs • Those who are suspected of committing serious offences or repeat offenders will only be given bail in exceptional circumstances • Those involved in terrorist offences • The right to bail does not apply where an offender who has been released on bail may commit an offence involving domestic violence - LASPOA <p><u>Reasons for refusing bail:</u></p> <ul style="list-style-type: none"> • There is a risk that the accused will fail to surrender to custody if released on bail • There is a risk that the accused will commit further offences while on bail • There is a risk that the accused will interfere with witnesses/the course of justice • The accused would be at risk from his/herself or from others • There is a risk to the preservation of public order if the accused is released on bail <p><u>Factors to be taken into account including:</u></p> <ul style="list-style-type: none"> • The nature and seriousness of offence, • The antecedents of defendant, • Previous convictions • The previous bail record of the accused • The community ties and associations of the accused • The strength of evidence against defendant <p>Bail may be unconditional where the suspect will be required to return to the police station or court on a set date</p>		
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		<p>Bail may be conditional eg</p> <ul style="list-style-type: none">• Sureties. This is where a person is used to guarantee a suspect will surrender to bail or forfeit a sum of money• Bail Hostel – used when the suspect has no fixed address• Curfew enforced with electronic tag. This is used to ensure a person is in a set place at set times• Surrender passport. Used when there is suspicion the suspect may leave the country (flight risk)• Sign-on at police station. This condition ensures the police keep in regular touch with the suspect and deters absconding. <p>Credit any other relevant point(s)</p>		
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>P1a Starting point will be the no real prospect test. The test states that a person should be released on bail if they would be unlikely to receive a custodial sentence.</p> <p>P1b The nature and seriousness of the offence will be taken into consideration. As manslaughter is a very serious offence Giovanna may not be granted bail as it may be felt that she will fail to surrender</p> <p>P2 Giovanna’s character will be taken into consideration including previous convictions. The minor criminal damage was many years ago and unrelated to this offence. This is unlikely to hinder her bail application</p> <p>P3 Giovanna’s record regarding her previous commitments to bail conditions will be addressed. Unfortunately she did not comply with bail conditions previously. This will go against her and bail may not be granted as it may be felt that she will fail to comply again</p> <p>P4 One of the factors taken into account will be Giovanna’s community ties and associations. As she is employed she has ties to the community and is more likely to remain in the area. Therefore she is likely to be granted bail</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> <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 = 1 mark AP = 2 marks</p> <p>Level 4 requires the appropriate condition to be stated. In the absence of that instruction top Level 3 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>“Giovanna, “the suspect” or “she” 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>P1a No real prospect test P1b Serious nature of offence P2 Character/previous convictions P3 Previous commitment to bail conditions P4 Community ties P5 Property in Italy P6 Appropriate condition with reason</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
AO2 Levels	AO2 Marks													
4	8–9													
3	6–7													
2	4–5													
1	1–3													

		<p>P5 Unfortunately, Giovanna has property in another country and therefore may decide to leave the country. This may mean she will not be granted bail as she may abscond</p> <p>P6 Suitable condition with detail. E.g. hand-in passport as she is a possible flight risk. Curfew – this will ensure she is in a set place at set times but can still go to work. Sign-on at police station. The police can then keep a daily check on Giovanna and this may deter her from fleeing.</p> <p>Credit any relevant factors and condition</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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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.

OCR (Oxford Cambridge and RSA Examinations)
1 Hills Road
Cambridge
CB1 2EU

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