



**GCE**

**Law**

Unit **G151**: English Legal System

Advanced Subsidiary GCE

**Mark Scheme for June 2018**

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.

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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 \*<sub>1</sub> (found in the 'Levels of Assessment' grid at the back of this document)
- question specific indicative content given in the 'Answer' column\*<sub>2</sub>
- question specific guidance given in 'Guidance' column\*<sub>3</sub>
- the 'practice' scripts\*<sub>4</sub> provided in Scoris and accompanying commentaries

- \*<sub>1</sub> The levels of assessment criteria (found in the 'Levels of Assessment' grid) reflect the expectation of achievement for each Assessment Objective at every level.
- \*<sub>2</sub> 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.
- \*<sub>3</sub> 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.
- \*<sub>4</sub> 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		Answer/Indicative content	Mark	Guidance										
1	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Function of lay magistrates in the criminal justice system:</u></b></p> <ul style="list-style-type: none"><li>• To try 97% of all criminal cases from start to finish</li><li>• Deal with the other 3% criminal cases at least at a preliminary level with Early Administrative Hearings which may include:<ul style="list-style-type: none"><li>○ remand hearings</li><li>○ bail applications</li><li>○ Funding</li></ul></li><li>• Deal with all summary matters</li><li>• In respect of triable either way matters the magistrates will hear:<ul style="list-style-type: none"><li>○ plea before venue</li><li>○ if not guilty plea, mode of trial procedure</li></ul></li><li>• Where necessary refer matters for trial and/or sentencing to the Crown Court</li><li>• Pass sentence where a person pleads guilty or upon a guilty verdict</li><li>• Issue both search and arrest warrants</li><li>• Authorise extensions to police custody periods</li><li>• Specially trained lay people deal with young offenders aged 10-17 in the Youth Court</li><li>• Sit with judge in Crown Court to hear appeals from the Magistrates' Court.</li></ul>	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 function of <b>both</b> lay magistrates and juries in the criminal justice system. A Level 4 response will include recognition of the variety of functions performed by the two</p> <p>Level 3 - an adequate description of the function of both. Low Level 3 may be achieved if only a very detailed description of the function of lay magistrates 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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Question			Answer/Indicative content	Mark	Guidance
			<p><b><u>Function of juries in the criminal justice system:</u></b></p> <ul style="list-style-type: none"> <li>• To hear trials in the Crown Court</li> <li>• To Decides whether the defendant is guilty or not guilty</li> <li>• To come to their decision by listening to the evidence present in court</li> <li>• To listen to the judge when advising on questions of law</li> <li>• To listen to the summing up of the judge at the end of the trial</li> <li>• To make their decision based on the facts</li> <li>• Retire to the jury room and discuss the matter in secret</li> <li>• To reach either a unanimous or majority verdict</li> </ul> <p>Credit any other relevant point(s)</p>		

Question		Answer/Indicative content	Mark	Guidance										
	(b)*	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"><li>• Lay people give the public the opportunity to be involved in the criminal justice system – trial by peers. This allows for public confidence. It is a sign of a democracy – not just the state charging, convicting and sentencing. To have lay people involved is regarded as one of the fundamental indicators of a democratic system</li><li>• The use of lay people allows the ordinary person to take part in the administration of justice and enables everyday people to express society’s disapproval of defendant’s actions when finding them guilty of a criminal offence.</li><li>• Traditionally lay people are seen as fair decision makers</li><li>• The use of lay people gives the public the opportunity to disagree with a particular law and apply their own idea of fairness as seen in, for example, Ponting, Owen, and Kronlid. This helps citizens feel empowered and justice is seen to be done</li><li>• Where possible there will be a cross section of society sitting. There tends to be greater diversity in lay people than the judiciary and this is said to allow for a fairer decision which will reflect the view of the multi-cultural society we live in</li><li>• Local knowledge of lay people is an advantage. Some lay people must live or work in the local justice area. Local justice is dispensed by local people. The use of local people should, in theory, result in awareness of local events, local patterns of crime and local opinions.</li></ul>	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 lay people in the criminal justice system. 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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Question			Answer/Indicative content	Mark	Guidance								
			<p>These will be taken into consideration when decision making, information a judge is unlikely to have</p> <ul style="list-style-type: none"><li>Using lay people allows the criminal justice system to be more accessible. Lay people are less intimidating and, due (more often than not) to their lack of extensive legal knowledge, everything needs to be explained in plain understandable language. This allows, for the jury, for example, to follow the trial.</li></ul> <p>Credit any other relevant comment(s)</p>										
			<p><b>Assessment Objective 3 – Communication and presentation</b></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		Answer/Indicative content	Mark	Guidance										
2	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Appeals to the Crown Court</u></b></p> <ul style="list-style-type: none"><li>Defendant may appeal against conviction, sentence or both to the Crown Court if original plea was not guilty</li><li>Defendant may only appeal against sentence (not conviction) if original plea was guilty</li><li>Automatic right of appeal if appeal made within 21 days of sentence. If appeal made later then permission will need to be sought from the Crown Court</li><li>Case completely reheard by judge and two magistrates</li><li>May confirm conviction, reverse the decision and acquit the defendant or may vary the conviction and find the defendant guilty of a lesser offence</li><li>Sentence may be confirmed, increased (only to magistrates' maximum) or decreased</li></ul> <p><b><u>Appeals by way of case stated to the Queen's Bench Divisional Court</u></b></p> <ul style="list-style-type: none"><li>On a point of law</li><li>Only available for an appeal against conviction</li><li>Court may confirm, vary or reverse the decision or send the case back to the Magistrates' Court for them to apply the interpretation of the law</li></ul> <p><b><u>Appeal to the Court of Appeal</u></b></p> <ul style="list-style-type: none"><li>Defendant may appeal for leave to appeal and the application must be made within 28 days</li></ul>	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 – all routes of appeal open to the defendant must be described for Level 4 marks. This should include knowledge of all the courts which may be accessed for a criminal appeal. Reference to the QBD required for full marks</p> <p>Level 3 - an adequate description of appeals to the Crown Court, Court of Appeal and Supreme Court. Low Level 3 may be achieved if one of the main courts is left out</p> <p>Level 2 - a brief description of the various routes. A detailed description of two routes may achieve level 2.</p> <p>Level 1 – a very limited description</p> <p>A fully annotated diagram is acceptable as a way of answering the question and if the level of detail warrants it can get full marks. The level of detail will inform the level and the mark.</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"> <li>• Leave to appeal must be granted either by the trial judge or from the Court of Appeal itself</li> <li>• Defendant may appeal against conviction, sentence or both to the Court of Appeal (Criminal Division)</li> <li>• Sentence may be reduced upon appeal not increased</li> <li>• Only ground for allowing an appeal against conviction is that the conviction is unsafe. It may be considered unsafe as something went 'wrong' at the trial or there is new evidence which was not available at the original trial</li> <li>• The Court of Appeal may admit new evidence in the interests of justice</li> <li>• The Court of Appeal may order a retrial or quash the conviction</li> </ul> <p><b><u>Appeal to the Supreme Court</u></b></p> <ul style="list-style-type: none"> <li>• Defendant has the right to apply for leave to appeal from the Court of Appeal (Criminal Division) to the Supreme Court</li> <li>• Leave to appeal can be granted by the Court of Appeal or the Supreme Court</li> <li>• Defendant may appeal against conviction, sentence or both to the Supreme Court</li> <li>• The Court of Appeal have to certify that it involves a point of law of public importance</li> <li>• The power of the Supreme Court is the same as that of the Court of Appeal</li> </ul> <p>Credit any other relevant points(s).</p>		

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	(b)*	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b><u>Strengths:</u></b></p> <ul style="list-style-type: none"><li>• The appeal system allows for even the smallest miscarriage of justices to be rectified. For example, if found guilty by in the Magistrates’ Court, the appellant has the right to appeal against both sentence and/or conviction</li><li>• There is usually only one chance to appeal however, the Criminal Cases Review Commission (CCRC) gives those who have attempted to appeal previously without success, regardless of wealth, the opportunity to receive help from an independent body. The CCRC have the power to refer a case back to the appeal courts for a fresh appeal. However, the CCRC will need to be able to identify new evidence or other issue that will provide grounds for a fresh appeal</li><li>• All courts endeavour to hear appeals as quickly as possible, far more quickly than was done in the past. However, the length of time it takes for an appeal to take place sometimes means that a sentence has been served before the appeal is heard</li><li>• If the appellant had legal funding in the original hearing the order may cover the provision of legal advice on appeal meaning that help will be available when deciding whether or not to appeal. However, if the appellant was originally privately funded or unrepresented they will find it very difficult to obtain legal aid funding for an appeal in comparison to the person who received legal aid from the beginning</li></ul>	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 strengths <b>and</b> weakness of the criminal appeals system. 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><b><u>Weaknesses:</u></b></p> <ul style="list-style-type: none"> <li>• Appealing against a decision of the Crown Court/Court of Appeal requires leave to appeal to be granted. If leave is refused there is one opportunity to appeal but after that the appeal cannot be taken any further. This makes it very difficult for the appellant and especially so when appealing to the Supreme Court as they allow so few appeals</li> <li>• Finding a lawyer willing to take on their case, particularly if legal aid is required. A solicitor is likely to receive no more than £200 in funding to prepare and present the case. Fees in respect of appeals from the Crown Court have remained static for over a decade. This makes it difficult to find a lawyer willing to take on the appeal case</li> <li>• The appeal system is extremely complicated with all the different routes of appeal from the different courts and the further appeal options. For a person without the means to obtain legal assistance it is a very complex system to understand. It is said to be over-complicated and intimidating to the lay person. Very few people are aware that an appeal can be made from the Magistrates' Court to the QBD</li> <li>• A criticism of the appeals system as a whole is that there is a perceived inconsistency of decision making in both the Crown Court and Court of Appeal. There is also a lack of transcripts of judgments following appeals.</li> </ul> <p>Credit any other relevant comment(s)</p>		

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			<p><b>Assessment Objective 3 – Communication and presentation</b></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 <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Role of judges in both courts:</u></b></p> <ul style="list-style-type: none"><li>• To ensure the hearing is carried out fairly</li><li>• To preside over the court</li><li>• Familiarise themselves with the case papers and details</li><li>• Decide questions of law</li></ul> <p><b><u>Role of judges in civil courts:</u></b></p> <ul style="list-style-type: none"><li>• Case manage – disclosure, number of witnesses</li><li>• Decide track</li><li>• Hold preliminary hearings to clarify issues when required</li><li>• Ensure case proceeds quickly and efficiently – set time limits</li><li>• In cases such as defamation, where a jury is used, advise the jury on law and sum up the case</li><li>• When sat alone, at the end of the case using the facts and applying the relevant law, deliver judgment</li><li>• If relevant, decide the amount of damages or appropriate remedy</li></ul> <p><b><u>Role of judges in criminal courts:</u></b></p> <ul style="list-style-type: none"><li>• In the Magistrates’ Court:<ul style="list-style-type: none"><li>○ address preliminary matters eg bail</li><li>○ decide law and verdict</li></ul></li><li>• In the Crown Court<ul style="list-style-type: none"><li>○ advise the jury as to their role</li></ul></li></ul>	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 role in <b>both</b> criminal and civil courts. A Level 4 response will include recognition of the role in the appellate courts</p> <p>Level 3 - an adequate description of both. Low 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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Question			Answer/Indicative content	Mark	Guidance
			<ul style="list-style-type: none"> <li>○ makes decisions about the law</li> <li>○ sums up for jury</li> <li>○ pass sentence</li> </ul> <p><b><u>Role of judges hearing both civil and criminal appeals:</u></b></p> <ul style="list-style-type: none"> <li>• Depending upon court, decide whether leave to appeal should be granted</li> <li>• To review the first instance hearing</li> <li>• Decide whether result was wrong</li> <li>• When sat in either the Court of Appeal or Supreme Court address issues of law in important cases</li> </ul> <p>Credit any other relevant points</p>		

Question			Answer/Indicative content	Mark	Guidance										
	(b)*		<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"><li>It has been said that the judiciary is out of touch with modern society due to the average age of judges, particularly those in senior positions. The average age of senior judges is 55 plus. It is questionable whether people of such an age are in touch with modern society and able to keep up with all the changes, eg in terms of technology. However, in most professions the more senior positions are taken by those of greater years due to the need for experience before appointment</li><li>In terms of BAME the percentage of judges from this section of society is only 7%. This figure has remained unchanged for some time. There are still no judges from this category in the Superior Courts. If the judiciary is to be in touch with modern society then the judiciary needs to reflect the diverse population it deals with. However, the Judicial Diversity Form works to engage students and lawyers from non-traditional backgrounds though various schemes with the intention to enhance judicial diversity</li><li>In modern society females outnumber males. However in the judiciary only 25% are female as compared to 75% male. This is considerable different to lay magistrates where the ratio is approximately 51% males and 49% female. Therefore, in terms of gender, the judiciary may not be in touch with modern society as the composition does not reflect it. However, the number of women joining the judiciary is increasing year on year and every effort is being made to encourage women into the profession</li></ul>	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 discussion of whether or not the candidate agrees with the statement – ‘The judiciary is out of touch with modern society’. 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"><li>Previously judges were selected from the ranks of barristers which resulted in a lack of diversity in previous professions and backgrounds. Currently 64% of the judiciary were barristers. However, the Judicial Appointments Commission selects candidates on merit and solicitors, government legal service personnel, CILEx and academic candidates are encouraged to apply. Such encouragement should result in the judiciary becoming more in touch with modern society as there will be greater diversity in background occupations</li><li>Many of the judiciary today have been privately educated. As a result it could be said that they do not reflect modern society. Many have lived a fairly sheltered and privileged life and have not been exposed to many of the harsher realities of society. However, the Judicial College have included training in popular culture and social issues such as unemployment, housing, drink and drugs. Therefore the judiciary today may not be as out of touch with modern society as was previously the case.</li></ul> <p>Credit any other relevant comment(s)</p>										
			<p><b>Assessment Objective 3 – Communication and presentation</b></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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4	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Non-custodial - Community sentences</u></b></p> <ul style="list-style-type: none"><li>• Criminal Justice and Immigration Act 2008 as amended</li><li>• One Youth Rehabilitation Order includes a range of 18 requirements that can be attached:<ul style="list-style-type: none"><li>○ Supervision requirement</li><li>○ Activity requirement</li><li>○ Programme requirement</li><li>○ Unpaid work requirement (16+)</li><li>○ Curfew requirement</li><li>○ Attendance centre requirement</li><li>○ Education requirement</li><li>○ Mental Health Treatment requirement</li><li>○ Residence requirement</li><li>○ Local Authority Residence requirement</li><li>○ Drug Treatment requirement</li><li>○ Drug Testing requirement</li><li>○ Prohibited Activity requirement</li><li>○ Exclusion requirement</li><li>○ Intensive Supervision and Surveillance requirement</li></ul></li></ul>	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 clear understanding of the range of non-custodial sentences available to those age 10-18. Response should include; a statutory reference, acknowledgement of the Youth Rehabilitation Order, a detailed description of at least three of the requirements which can be attached to the Order and three other types of non-custodial sentences</p> <p>Level 3 – a detailed description of only community sentences including statutory reference, acknowledgement of the Youth Rehabilitation Order and three detailed examples of the requirements which can be attached to the Order. A detailed description of only two community and other sentences is likely to reach low level 3</p> <p>Level 2 – a limited description of the sentences available or an adequate description of only one. If only other non-custodial sentences are described no more than Level 2 marks can be awarded</p> <p>Level 1 – very limited description</p> <p>Lists without any description will attract limited credit</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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	<p><b><u>Other types of non-custodial sentences</u></b></p> <ul style="list-style-type: none"> <li>Referral orders               <ul style="list-style-type: none"> <li>usually for first time offenders</li> <li>offender and their parents/guardians will be required to meet with the Youth Offender Panel and a programme of work will be devised to address the offending behaviour</li> </ul> </li> <li>Reparation orders:               <ul style="list-style-type: none"> <li>Aim is for offender to make up for the harm caused by the crime</li> <li>The court may order the person to:                   <ul style="list-style-type: none"> <li>repair any damage to the victim's property</li> <li>remove any graffiti from a public building</li> <li>take part in mediation with the victim</li> </ul> </li> </ul> </li> <li>Fines               <ul style="list-style-type: none"> <li>10-13 years – max £250</li> <li>14-17 years – max £1,000</li> <li>18+ years – same as adult</li> </ul> </li> </ul> <p>If offender 16 or under then parent or guardian will have to pay the fine. Those 17+ are responsible for their own fines</p> <ul style="list-style-type: none"> <li>Absolute and Conditional Discharges</li> <li>ASBO</li> </ul> <p>Credit mention of the Youth Cautions (introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012) which abolished reprimands and warnings. These are a formal out of court disposal therefore not required for full marks</p> <p>Credit any other relevant point(s)</p>		

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	(b)*	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"><li>• Custodial sentences prevent offending whilst the offender is in prison. The deterrence factor of the prison sentence is also said to reduce crime. However, many crimes are committed on the spur of the moment and therefore no thought given to the possible sentence and also re-offending rates following release from prison are high</li><li>• A suspended sentence may reduce reoffending as they protect the offender from the negative aspects of prison. It allows a person to continue with their life knowing that they must be of good behaviour for the duration of their sentence. They know that in the event of a breach they risk going to prison</li><li>• Community Orders are said to prevent reoffending to a much greater degree than both custodial and suspended sentences. The reoffending rates for community sentences are far lower than both. By mixing and matching requirements the most appropriate sentence is given to the offender and hopefully reforming them</li><li>• The unpaid work requirement prevents reoffending by giving the offender the opportunity to develop new skills. There is also educational support during the requirement which aims at improving the future employment opportunities for the offender</li><li>• Drug Rehabilitation Requirements are tailor made for each offender. Those dependant on drugs often commit crimes in order to finance their drug habit. This requirement aims to break the link between drugs and</li></ul>	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 issue of how different <b>sentences</b> prevent adults reoffending. 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 (no well-developed point(s)) then a maximum top Level 3 marks can be awarded.</p> <p>Level 2 – if the candidate has given a series of points with no development then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points or one point developed or one well developed point</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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			<p>crime and stop reoffending</p> <ul style="list-style-type: none"><li>Curfew requirements should prevent reoffending at certain times of the day/night. The offender will find it difficult to offend whilst under their curfew</li></ul> <p>Credit any other relevant sentences</p>										
			<p><b>Assessment Objective 3 – Communication and presentation</b></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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5	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Academic route for both:</u></b></p> <p><u>Law Degree route:</u></p> <ul style="list-style-type: none"><li>• SRA/BC approved qualifying law degree.</li><li>• Six foundation subjects and legal research skills must be passed.</li></ul> <p><u>Route without a law degree:</u></p> <ul style="list-style-type: none"><li>• Join the Chartered Institute of Legal Executives (see below)</li><li>• Take the Common Professional Examination (CPE)/Graduate Diploma in Law (GDL)</li></ul> <p><b><u>Route to becoming a barrister</u></b></p> <p><u>Vocational stage - terms and Bar Professional Training Course (BPTC)</u></p> <ul style="list-style-type: none"><li>• Join Inn of Court and dine 12 times or attend residential training courses during BPTC</li><li>• BPTC entails practical training with emphasis on advocacy and drafting opinions</li><li>• Called to the Bar</li></ul> <p><u>Practical stage – Pupillage</u></p> <ul style="list-style-type: none"><li>• Apply for pupillage via Pupillage Gateway</li><li>• Pupillage is usually undertaken at a set of chambers or at a Bar Standards Board authorised Training Organisation who employ practising barristers</li><li>• Similar to an apprenticeship, pupillage is where the</li></ul>	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 <b>detailed</b> description of route to becoming both a solicitor and barrister is required for Level 4. For full marks the route to becoming both must be in the correct order</p> <p>Level 3 - a less detailed description of both may achieve this level. If only one route (solicitor or barrister) described low Level 3 may be achieved. The route would be required to be in the correct order for Level 3</p> <p>Level 2 - a limited description lacking in detail of both</p> <p>Level 1 – a very limited description/list</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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	<p>pupil will gain practical training under a 'Pupil Supervisor' who will be an experienced barrister</p> <ul style="list-style-type: none"> <li>• Pupillage is divided into two parts. The first is a non-practising six months where the pupil shadows their Supervisor observing them at work. During this period they also undertake legal research and draft opinions and other court documents. During the second six month period the pupil can take on some work of their own, under supervision</li> <li>• Tenancy or, squat and undertake a third six month period</li> </ul> <p><b><u>Route to becoming a solicitor:</u></b></p> <p><u>Vocational stage - Two Stage Legal Practice Course (Postgraduate Diploma in Legal Practice)</u></p> <ul style="list-style-type: none"> <li>• Stage 1 - core practice areas and course skills</li> <li>• Stage 2 - three elective modules</li> <li>• LPC provides a general foundation for practice with emphasis on skills such as client-interviewing, negotiation, drafting documents, business management and advocacy</li> </ul> <p><u>Practical stage - Training Contract</u></p> <ul style="list-style-type: none"> <li>• 2 years working in a solicitors' firm or SRA approved organisations</li> <li>• Trainee supervised by a qualified solicitor who will manage the trainee's workload and monitor progress</li> <li>• SRA require that at least three areas of work are covered during this period</li> <li>• Professional Skills Course - application for the higher courts qualification may be made at this point</li> <li>• Admitted to the Roll - Practice Certificate issued</li> </ul> <p>Credit any other relevant point(s).</p>		

Question			Answer/Indicative content	Mark	Guidance										
	(b)*		<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"><li>• A benefit of having two separate professions is that the client has a choice as to who they want to assist them. Public Access means that a client can now go directly to a barrister if they so desire (except in certain publically funded cases) or alternatively they can seek legal assistance from a solicitor. Such competition is good for customer service. However, there are far more accessible Solicitors firms than there are sets of Chambers and as a result many people are unaware of the choice</li><li>• A benefit of having two separate legal professions is that solicitors are considered to have knowledge of a lot of different areas and can give immediate advice. Barristers are considered to be experts on a particular area of law, in advocacy and opinion writing. Something a local solicitor may not be able to offer. However, nowadays such a division could be considered incorrect. Both barristers and solicitors specialise in certain areas of law including advocacy</li><li>• The change in training and rights of audience means that a client may now stay with one lawyer throughout the duration of their case. However, solicitor advocates retain the discretion to advise their clients to employ a barrister for representation at court and many do still refer the advocacy work to barristers. This means by having two professions the client is still getting the best of 'both worlds' where appropriate</li><li>• Having two lawyers means giving the opportunity for two opinions. A fresh pair of eyes may see things from a different angle – this second opinion is invaluable as important matters may have been</li></ul>	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 are required to give at least one well-developed point demonstrating a real ability to focus on the advantages of having two separate professions. 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) 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>missed by the first lawyer. The second opinion brings objectivity to the case. However, it is acknowledged that the use of two professionals comes at a financial cost to the client</p> <ul style="list-style-type: none"><li>Another benefit of having two separate professions is that it allows for the continuation of the 'cab-rank rule'. The original purpose of the cab-rank rule was to ensure that parties to a case would obtain representation regardless of the preference of the barrister to take the person as a client. There have been times, not so long ago, where defence counsel were difficult to come by due to the nature of the cases. Invoking the rule ensured that all were represented. If there were just one profession the 'lawyer' would be at liberty to refuse cases, as a solicitor can now, and the result may be unrepresented people</li></ul> <p>Credit any other relevant comment(s)</p>										
			<p><b>Assessment Objective 3 – Communication and presentation</b></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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6	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Protections given during arrest</u></b></p> <p><b><u>Police and Criminal Evidence Act s24 as amended</u></b> <b><u>Code G</u></b></p> <ul style="list-style-type: none"><li>• Only to be arrested if the police have reasonable grounds that the person has:<ul style="list-style-type: none"><li>○ committed an offence (past) or</li><li>○ is in the act of committing an offence (present) or</li><li>○ is about to commit an offence (future)</li></ul></li><li>• Only to be searched if the police reasonably believe the person has something that might be used to escape or evidence relating to an offence</li><li>• Protected as suspect only required to remove outer clothing if being search in a public place</li><li>• Has to be told why they are under arrest</li><li>• Has to be told the reason for the arrest</li><li>• Has to be told why the arrest is necessary, eg:<ul style="list-style-type: none"><li>○ to enable the name and address of suspect to be ascertained</li><li>○ 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</li><li>○ to protect a child or vulnerable person or</li><li>○ to allow the prompt and effective investigation of the offence or the conduct of the person or</li><li>○ to prevent any prosecution for the offence from being</li></ul></li></ul>	18	<table border="1"><thead><tr><th>AO1 Levels</th><th>AO1 Marks</th></tr></thead><tbody><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></tbody></table> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – a detailed description of <b>both</b> arrest and sample taking required. To achieve Level 4 candidates must acknowledge the protections given to the individual and not the powers of the police</p> <p>Level 3 –an adequate description of both. A good/detailed description of arrest will achieve level 3</p> <p>Level 2 – A limited description of the areas required. If only individual rights in respect of samples a maximum level 2 marks</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>hindered by the disappearance of the person in question</p> <ul style="list-style-type: none"> <li>Protected by the caution</li> <li>Protected by the fact they must be taken to the nearest police station as soon as is practicable</li> </ul> <p><b><u>Protection during the taking of samples</u></b></p> <p><u>Non-intimate samples</u></p> <ul style="list-style-type: none"> <li>Protection given by list set in s.65 PACE:             <ul style="list-style-type: none"> <li>a sample of hair other than pubic hair;</li> <li>a sample taken from a nail or from under a nail;</li> <li>a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample</li> <li>a skin impression - fingerprint</li> </ul> </li> <li>protection given as no more than reasonable force may be used to obtain such a sample</li> </ul> <p><u>Intimate samples</u></p> <ul style="list-style-type: none"> <li>These samples include             <ul style="list-style-type: none"> <li>blood</li> <li>urine</li> <li>pubic hair</li> <li>tissue fluid</li> <li>dental impression</li> <li>a swabs taken from the person's genitals or from any part of them, from a body orifice except for the mouth</li> </ul> </li> </ul> <p>Protection is given by virtue of:</p> <ul style="list-style-type: none"> <li>A senior officer has to authorise the taking of these</li> <li>Only if it is believed that such a sample is needed as there are reasonable grounds to believe that the suspect may have committed a particular offence and it</li> </ul>		

Question			Answer/Indicative content	Mark	Guidance
			<p>is essential to take the sample in order to confirm the same</p> <ul style="list-style-type: none"> <li>• Consent from suspect is required. The consent must be given in writing</li> </ul> <p>Credit any other relevant point(s)</p>		

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	(b)*	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>1. If under the age of 17 an appropriate adult must be present during any interview. It will be unlawful to interview Flossy in the absence of an appropriate adult</p> <p>2. All interviews at the police station must be tape recorded. It will be unlawful to interview Flossy in the absence of a working tape recorder</p> <p>3. A suspect has the right to have someone informed of their detention. However, there is no general right to phone a friend. It is therefore lawful not to allow Percy to phone a friend</p> <p>4. A suspect has the right to at least two light meals and one main meal in any 24 hours plus drinks. It would be unlawful to deny Percy food and drink during his detention</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 Custody time P2 Legal advice P3 Under 18 appropriate adult P4 Tape recorder P5 Right to have someone informed P6 Right to food and drink</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> <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>The appropriate names Carlos, Karolina and Percy 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>P1 Custody time P2 Legal advice P3 Under 18 appropriate adult P4 Tape recorder P5 Right to have someone informed P6 Right to food and drink</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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7	(a)	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>Negotiation</u></b></p> <ul style="list-style-type: none"><li>• An informal alternative means of resolving a dispute firstly communicating directly with the other party</li><li>• Often the starting point in resolving a dispute before either using the court or a different type of ADR</li></ul> <p><b><u>Mediation</u></b></p> <ul style="list-style-type: none"><li>• Mediation is a structured negotiation process</li><li>• The mediator will be a neutral person who will not take sides or impose a solution</li><li>• The mediator helps parties reach a compromise solution by acting as a facilitator</li><li>• The mediator will not offer an opinion unless asked</li><li>• The compromise is not legally binding</li><li>• The parties retain control over the process but they need to enter mediation with the intention of achieving a result. Either party may withdraw at any time</li><li>• Formalised settlement conference is another method of approaching mediation – mini trial but no binding results</li></ul> <p>Examples may include: RELATE, Family Mediation, Centre for Effective Dispute Resolution (CEDR)</p> <p><b><u>Conciliation</u></b></p> <ul style="list-style-type: none"><li>• Conciliation is a voluntary, flexible way of resolving a dispute. It is an interest based process</li></ul>	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 <b>detailed</b> description of mediation, conciliation and arbitration are required for level 4. Mention of the Arbitration Act and the <i>Scott v Avery</i> clause are the level of detail that would be likely for high level 4 marks. Statutory reference required for full marks</p> <p>Level 3. If a candidate describes the different types of ADR as a series of stages (that if one fails, you go on to the next) the answer should not be placed in level 4 as it demonstrates a lack of understanding of ADR. Some description of arbitration is necessary to go beyond the top of level 2</p> <p>Level 2 marks are likely to be awarded if there is a basic understanding but very little detail</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													

Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>• The conciliator is a neutral third party who will go beyond that of a mediator. The conciliator will be proactive in suggesting grounds for compromise and has the power to suggest a non-binding settlement</li> <li>• A resolution to the dispute cannot be imposed on the parties - they must agree to it</li> <li>• The parties retain control over the process but they need to enter conciliation with the intention of achieving a result. Either party may withdraw at any time</li> </ul> <p>Examples may include: ACAS, Trade Associations, Unions, Centre for Effective Dispute Resolution (CEDR)</p> <p><b><u>Arbitration</u></b></p> <ul style="list-style-type: none"> <li>• Arbitration – both parties voluntarily agree to let their dispute be left to the judgment of an arbitrator or a panel of arbitrators who are neutral</li> <li>• Agreements to arbitrate are governed by the Arbitration Act 1996 and are usually in writing</li> <li>• Agreement to go to arbitration can be made before a dispute arises [usually by a <i>Scott v Avery</i> clause in a contract]</li> <li>• Agreement will either name an arbitrator or provide a method for choosing one. A court may also appoint an arbitrator</li> <li>• The parties agree the procedure for hearings and this ranges from a 'paper' arbitration to a formal court like hearing</li> <li>• Arbitration awards are binding on the parties and can be enforced by the courts if necessary.</li> <li>• An award by an arbitrator can be challenged in the courts for serious irregularity in the proceedings or on a point of law</li> </ul>		

Question			Answer/Indicative content	Mark	Guidance
			Examples may include: ABTA, ACAS, Chartered Institute of Arbitrators  Credit any other relevant point(s)		

Question		Answer/Indicative content	Mark	Guidance										
	(b)*	<p>Potential answers <b>may</b> include:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>P1 The most suitable way for David to deal with the holiday complaint would be to use arbitration.</p> <p>P2 This is because Travel Company holiday contracts often contain a Scott v Avery clause which states that arbitration should be used to solve such a dispute (ABTA)</p> <p>P3 The most suitable way for Helen to deal with the child custody matter would be through mediation</p> <p>P4 To mediate, agreement between the parties is needed and this appears to be the case of Helen and her husband as they remain on friendly terms. They will be able to sort out the child custody issue with the help of an independent third party</p> <p>P5 The most suitable way for Cathy to deal with her work issue would be to use conciliation</p> <p>P6 Conciliation is often used in employment disputes as an expert in employment matters would be able to suggest ways of resolving the dispute</p> <p>Credit any relevant/appropriate form of ADR</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>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>“David, Helen and Cathy or “she” or “he” or “they” need 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 Arbitration (or other appropriate method of ADR) P2 Reason P3 Mediation (or other appropriate method of ADR) P4 Reason P5 Conciliation (or other appropriate method of ADR) P6 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													

Question			Answer/Indicative content	Mark	Guidance									
			<p><b>Assessment Objective 3 – Communication and presentation</b></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													
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