



**GCSE**

**Law**

Unit **B142**: Civil Courts and Civil Processes  
Civil Liberties and Human Rights

General Certificate of Secondary Education

**Mark Scheme for June 2016**

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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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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

| Annotation  | Meaning of annotation  |
|---|--|
|    | Benefit of the doubt   |
|    | Incorrect point  |
|    | Level one point made   |
|    | Level two point made   |
|    | Level three point made   |
|    | Not answered question  |
|    | No benefit of doubt given  |
|    | Not relevant or to indicate all or part blank answer pages have been seen by the marker. |
|    | Repeat of question or answer   |
|    | Correct point  |
|  | Vague  |

Here are the subject specific instructions for this question paper


To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:



### **Additional Objects**

You must also check any additional pages (shown as Additional Objects) 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.

All additional pages must be annotated with the  stamp, so it is clear to centres that the additional pages have been viewed by the marker.

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| 1        | <p>Candidates will identify the following:</p> <ul style="list-style-type: none"> <li>• Claimant</li> <li>• Sue</li> <li>• Small Claims Court</li> <li>• County Court/High court</li> <li>• Balance of Probabilities</li> <li>• Liable</li> <li>• Damages</li> </ul> | 7    | <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each correct answer</p> <p><b>(Maximum 7 marks)</b></p> |

| Question | Answer  | Mark | Guidance  |
|----------|---|------|---|
| 2(a)     | <p><b>Pre-April 2013: County Court – Fast Track</b></p> <p>Claims of between £5,000 and £15,000 are dealt within this track and this debt is for £7,000.</p> <p><b>Post April 2013: County Court - Small Claims Track</b></p> <p>Claims of less than £10,000 are dealt within this track and this debt is for £7,000.</p> | 2    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for correct court<br/>1 mark for explanation</p> <p><b>(Maximum 2 marks)</b></p> |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| (b)      | <p><b>County Court-Fast Track</b></p> <p>Personal injury claims of between £1,000- £25,000 are dealt with in this track and this claim is for £3,000.</p> | 2    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for correct court<br/>1 mark for explanation</p> <p>(Maximum 2 marks)</p> |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| (c)      | <p><b>High Court-Queens Bench Division</b></p> <p>Defamation cases can only be dealt with in the QBD of the High Court.</p> | 2    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for correct court<br/>1 mark for explanation</p> <p>(Maximum 2 marks)</p> |

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| (d)      | <p><b>Pre-April 2013: County Court Multi-Track</b></p> <p>Personal injury claims of over £15,000 are dealt with in this track and this claim is worth £30,000.</p> <p><b>Post-April 2013: County Court- Multi Track.</b></p> <p>Personal injury claims of between £25,000- £50,000 are dealt with in this track and this claim is worth £30,000.</p> | 2    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for correct court<br/>1 mark for explanation</p> <p>(Maximum 2 marks)</p> |

| Question | Answer |   | Mark | Guidance  |
|----------|--------|---|------|---|
| 3        | A      | 3 | 2    | <b>ASSESSMENT OBJECTIVE 1</b><br><br>1 mark for each correct answer<br><br><b>(Maximum 2 marks)</b> |
|          | B      | 1 |      |   |

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| 4        | <p><b>Legal expertise/experience in court:</b></p> <ul style="list-style-type: none"> <li>Judges are able to apply the law to the facts.</li> <li>They can produce a detailed judgement explaining their decisions so that all parties understand the findings of fact which is not always the case in ADR.</li> </ul> <p><b>Certainty of resolution in court:</b></p> <ul style="list-style-type: none"> <li>Judges will give a final decision on a dispute after hearing all the evidence at trial.</li> <li>The judgement will include a remedy such as damages which can be enforced e.g. bailiff can be sent whereas a decision made in ADR has to be registered in the county court before enforcement.</li> </ul> <p><b>Civil Procedure Rules (CPR) mean consistency:</b></p> <ul style="list-style-type: none"> <li>Court manages the case and sets timetable to ensure claim proceeds to trial.</li> <li>Many ADR methods do not have this structure which means the claim can be delayed.</li> </ul> <p>Credit any other relevant point.</p> | 6    | <p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Levels to be awarded on the following basis:</b></p> <p><b>L3 – 3 marks: Well-developed point: Analysis of how litigation is more beneficial than ADR</b></p> <p><b>L2 – 2 marks: Developed point: Explanation/detail/example to describe advantage.</b></p> <p><b>L1 – 1 mark : Point: Identification of advantage</b></p> <p><b>(Maximum 6 marks)</b></p> |



| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| 5        | <p>Candidates will identify any <b>three</b> of the following:</p> <ul style="list-style-type: none"> <li>• Venue for resolving disputes in the work-place.</li> <li>• Panel of three members.</li> <li>• Legally qualified Chair</li> <li>• Two lay people.</li> <li>• Formal procedures (similar to court)</li> <li>• Legal aid not available</li> <li>• Adversarial process</li> </ul> <p>Credit any other relevant point.</p> | 3    | <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p><b>1 mark for each correct answer.</b></p> <p><b>Credit examples given of caseload</b></p> <p><b>(Maximum 3 marks)</b></p> |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| 6 (a)    | <p><b>Privately funded legal representation</b> means individuals chose their own solicitor/barrister and pay for them out of their own income.</p> | 1    | <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p><b>1 mark for correct answer.</b></p> <p><b>(Maximum 1 mark)</b></p> |

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| (b)      | <p>Candidates will explain an advantage. For example:</p> <p><b>Choice:</b> This means they have the best choice of lawyer for the particular job e.g. they can choose a specialist employment lawyer for a sex discrimination case.</p> <p>Credit any other relevant point.</p> | 2    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for advantage<br/>1 mark for explanation</p> <p>(Maximum 2 marks)</p> |

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| 7        | <p>Candidates will identify any two of the following:</p> <p><b>Lower Cost of qualification:</b> It is much cheaper to complete the Cilex academic examinations (level 3 and level 6) than complete a law degree (with annual fees of £9,000).</p> <p><b>Specialist Training:</b> Legal executives have on-the-job training whereas university students have to find a training contract which can be difficult to do.</p> <p><b>Immediate career:</b> Legal executives have a job whereas trainee solicitors have to hope a job is available/will be offered to them after completion of a training contract.</p> <p>Credit any other relevant point.</p> | 4    | <p><b>ASSESSMENT OBJECTIVE 1 and ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for identifying a relevant point.<br/>1 mark for explaining it.</p> <p>(Maximum 4 marks)</p> |

| Question | Answer  | Mark | Guidance  |
|----------|---|------|---|
| 8        | <p>Candidates will discuss <b>one</b> of the following:</p> <p>Judges can <b>save expense/ deliver proportionality</b> in the trial process:</p> <ul style="list-style-type: none"> <li>• They can do this by using allocation questionnaires to allocate cases to appropriate tracks.</li> <li>• This means that costs are limited according to the track. E.g. No costs rule in small claims track; Fixed costs in fast track; taxed costs in multi-track</li> </ul> <p>Judges can ensure <b>speed and fairness</b>:</p> <ul style="list-style-type: none"> <li>• They do this in a number of ways: E.g. by enforcing timetables/hearing pre-trial matters/managing case management conferences.</li> <li>• This means that the case is moved on by the Judge and not delayed by either party.</li> </ul> <p>Judges can ensure that parties give <b>greater cooperation</b> to the court:</p> <ul style="list-style-type: none"> <li>• They can do this in Case Management Conferences.</li> <li>• By ordering the parties to take steps to push the case to trial.</li> </ul> <p>Judges can ensure the parties are on an <b>equal footing</b>:</p> <ul style="list-style-type: none"> <li>• By using an inquisitorial approach in the small claims track to help litigants put their case.</li> <li>• Particularly in a situation where one party, maybe a company, has legal representation.</li> </ul> <p>Credit any other relevant point.</p> | 3    | <p><b>ASSESSMENT OBJECTIVE 3</b></p> <p>Levels to be awarded on the following basis:</p> <p><b>L3 – 3 marks: Well-developed point:</b> Analysis or development of the point.</p> <p><b>L2 – 2 marks: Developed point:</b> Explanation/detail/example.</p> <p><b>L1 – 1 mark: Point:</b> Identification of relevant point.</p> <p><b>(Maximum 3 marks)</b></p> |

| Question | Answer   | Mark | Guidance   |
|----------|--|------|--|
| 9        | Candidates will identify as follows: <ul style="list-style-type: none"><li>• Precedent</li><li>• Convictions</li><li>• Awards</li><li>• Law</li><li>• Tracks</li><li>• Leave</li></ul> | 6    | <b>ASSESSMENT OBJECTIVE 1</b><br><br>1 mark for each correct word<br><br>(Maximum 6 marks) |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| 10       | <p>Candidates will explain, using an example, the following:</p> <p><b>Absolute Rights</b><br/>Rights which cannot be restricted, interfered with or taken away in any circumstances.</p> <p>E.g. The right not to be tortured.</p> <p><b>Limited Rights</b><br/>Rights which can be limited in specific circumstances which will be set out in the document that gives the rights.</p> <p>E.g. The right to freedom of movement can be limited where a person is lawfully arrested <b>or</b> detained under mental health provisions.</p> <p><b>Qualified Rights</b><br/>Rights which have to be balanced against the rights of others and can be restricted for legitimate reasons in various circumstances.</p> <p>E.g. The right to freedom of movement may have to be restricted if there was an outbreak of a contagious disease to quarantine people in order to stop the spread of the disease.</p> <p>Credit any other relevant point.</p> | 6    | <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>1 mark for correct definition<br/>1 mark for example to illustrate definition</p> <p>In the definition of limited rights, credit is only given if candidate explains that the limitation is detailed in the relevant document/statute. It is not enough to simply state that the right is 'limited'.</p> <p><b>(Maximum 6 marks)</b></p> |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| 11       | <p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"><li>• Working whilst in detention</li><li>• Following orders in the military service</li><li>• Performing certain emergency work</li><li>• Work done under a civil obligation (such as tax collecting).</li></ul> <p>Credit any other relevant point.</p> | 3    | <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p><b>1 mark for each correct situation</b></p> <p><b>(Maximum 3 marks)</b></p> |

| Question | Answer  | Mark | Guidance   |
|----------|---|------|--|
| 12       | <p>Arguments <b>against</b> a law on assisted suicide:</p> <p><b>Article 2:</b> Everyone's right to life shall be protected by law:</p> <ul style="list-style-type: none"> <li>Life is sacred and helping to end it is morally unacceptable.</li> <li>If assisted suicide is permitted, it is a 'slippery slope' and would make it harder to protect people from their families who are after their money or indeed, from rogue doctors like Harold Shipman.</li> <li>The oath that doctors take to preserve life would be undermined and this could damage the doctor-patient relationship.</li> <li>Doctors causing death on a regular basis could become a routine administrative task, leading to a lack of compassion when dealing with elderly, disabled or terminally ill people.</li> </ul> <p><b>Article 3:</b> No one shall be subjected to torture or to inhuman or degrading treatment or punishment:</p> <ul style="list-style-type: none"> <li>Many people suffering illnesses like 'locked-in syndrome' or serious spinal injuries maintain that the treatment to keep them alive is akin to torture.</li> <li>However, the advances in palliative care and mental health treatment mean there is no reason why any person should ever feel they are suffering intolerably.</li> <li>On that basis, if a person is given the right care, in the right environment, there is no reason why they should be unable to have a dignified and painless natural death.</li> </ul> | 9    | <p><b>ASSESSMENT OBJECTIVE 3</b><br/>Levels to be awarded on the following basis:</p> <p><b>Level 1 = 1-3 marks</b><br/>Limited points covering arguments against assisted suicide.</p> <p><b>Bare list</b> of points lacks development for L2 and will be capped at 3 marks.</p> <p><b>Level 2 = 4-6 marks</b><br/>Adequate discussion covering arguments against assisted suicide.<br/>At least one developed point to reach L2.</p> <p><b>Level three = 7-9 marks</b><br/>Good discussion covering <b>distinct</b> arguments against assisted suicide.</p> <p>Reference to HRA 1998 required for L3</p> |

| Question | Answer   | Mark | Guidance                        |
|----------|--|------|---------------------------------|
|          | <p><b>Article 8:</b> Everyone has the right to respect for his private and family life:</p> <ul style="list-style-type: none"> <li>• The danger is that many terminally ill people are vulnerable members of society. Some might feel under psychological pressure to ease the burden on their families by choosing assisted suicide</li> <li>• Yet advances in medicine will mean that we can cure diseases and disabilities that were once considered untreatable. So a terminally ill patient may, in the future, have a bearable quality of life.</li> <li>• Legalising assisted suicide risks turning it into a life-style choice.</li> </ul> <p><b>Article 9:</b> everyone has the right to freedom of thought, conscience and religion:</p> <ul style="list-style-type: none"> <li>• The religious argument (made by many faiths not just Christian) is that human beings are created by God and only God should choose when a human life ends.</li> <li>• If doctors are asked to assist in suicide, this could bring them into conflict with their personal religious beliefs. Doctors and nurses have consistently voted against physician assisted suicide and euthanasia.</li> </ul> <p>Credit any other relevant point.</p> |      | <p><b>(Maximum 9 marks)</b></p> |



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