



GCSE

Law

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

General Certificate of Secondary Education

Mark Scheme for June 2018

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

| Annotation | Meaning of annotation |
|-------------|--|
| BOD | Benefit of the doubt |
| | Incorrect point |
| L1 | Level one point made |
| L2 | Level two point made |
| L3 | Level three point made |
| NAQ | Not answered question |
| NBOD | No benefit of doubt given |
| | Not relevant or to indicate all or part blank answer pages have been seen by the marker. |
| REP | Repeat of question or answer |
| | Correct point |
| VG | 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 | <ul style="list-style-type: none"> • Negotiation • Mediation • Conciliation • Arbitration • Tribunals | 4 | Assessment Objective 1 1 mark for each correct answer Maximum: 4 marks | | | | | | |
| 2 | <table border="1"> <tr> <td>A</td><td>2</td></tr> <tr> <td>B</td><td>3</td></tr> <tr> <td>C</td><td>1</td></tr> </table> | A | 2 | B | 3 | C | 1 | 3 | Assessment Objective 3 1 mark for letter correctly inserted. Maximum: 3 marks |
| A | 2 | | | | | | | | |
| B | 3 | | | | | | | | |
| C | 1 | | | | | | | | |
| 3 | <p>Candidate will explain any two of the following:</p> <p>Cheaper. No lawyers (usually) means no legal costs as parties represent themselves. Also, fees are limited in the tribunals.</p> <p>Expertise. Unique feature of tribunals is the subject knowledge and expertise of lay member. E.g. lay people come from employer and employee background/Chairperson is usually legally qualified and specialising in the particular area e.g. employment judge.</p> <p>Relieves pressure. Without tribunals, the civil courts would be overwhelmed with cases. There are over 100 different types of tribunal including domestic and administrative tribunals.</p> <p>Privacy. Most tribunal proceedings (not employment tribunals) tend to enjoy more freedom from press intrusion and from the public than civil courts. Some tribunals, e.g. social security appeal tribunals are closed to the public.</p> | 6 | Assessment Objective 2 For each reason explained: 3 marks – develops an explanation on one relevant issue 2 marks – explains one relevant issue with some elaboration 1 mark – explains a relevant issue or makes any valid point 0 marks – no response or nothing worthy of credit Maximum 3 marks for each reason explained Using relevant examples attracts some credit. | | | | | | |

| Question | Answer | Mark | Guidance |
|----------|---|------|---|
| | | | <p>Do not credit quicker and any explanation as it appears in the question.</p> <p>Maximum:6 marks</p> |
| 4 | <p>Candidates will insert the following 6 words in the following order:</p> <ul style="list-style-type: none"> • Issue • Defendant • Admit • Questionnaire • tracks • trial | 6 | <p>Assessment Objective 1</p> <p>1 mark for each correct word inserted.</p> <p>Maximum 6 marks</p> |
| 5 | <p>Candidates will identify 3 of the following stages:</p> <ul style="list-style-type: none"> • Become a student member of Cilex (Ilex) • Complete Cilex level 3 Law & Practice Professional Diploma • Become Associate member of Cilex • Complete Cilex level 6 Law & Practice Professional Higher Diploma • Become graduate member • Five Years qualifying employment • Become Fellow of Cilex. | 3 | <p>Assessment Objective 1</p> <p>1 mark for each correct stage identified.</p> <p>Maximum 3 marks</p> |
| 6 | <p>Candidate will explain one of the following:</p> <ul style="list-style-type: none"> • Barristers are specialist lawyers; compared to solicitors who are usually more generalist; so barristers can give expert advice on specific legal matters. • Barristers are highly skilled courtroom lawyers; they do more advocacy than solicitors and so are more likely to be experienced and persuasive in court which could have an effect on liability. • Barristers may be cheaper than solicitors; solicitors charge on an hourly rate | 3 | <p>Assessment Objective 2</p> <p>3 marks – develops an explanation on one relevant issue</p> <p>2 marks – explains one relevant issue with some elaboration</p> <p>1 mark – explains a relevant issue or makes any valid point</p> |

| Question | Answer | Mark | Guidance |
|----------|--|------|--|
| | <p>whereas barristers tend to have a fixed brief fee. This means that if a case is late or runs on longer than expected, it may be more economical to use the barrister.</p> <ul style="list-style-type: none"> Barristers give expert written opinions prior to trial. These can help the client decide whether to fight a case or settle, saving costs. | | <p>0 marks – no response or nothing worthy of credit</p> <p>Maximum 3 marks for each reason explained</p> <p>Using relevant examples attracts some credit.</p> <p>Maximum:3 marks</p> |
| 7 | <p>Candidate will discuss one of the following:</p> <ul style="list-style-type: none"> Ethnicity. Overall, representation of ethnic minorities at entry level is positive at 10% in terms of both solicitors and barristers; But different position at senior levels of both professions where QCs and partners under-represented. Gender. Overall, women well represented at entry level and even exceed numbers of men but less well at senior levels. It is interesting that 75% of legal executive lawyers are women and more than 13% represent black or ethnic minorities. Class. Legal profession has a reputation for being elitist. Research by Centre of Market and Public Organisation (CMPO) confirms lawyers tend to come from a more privileged background than other professions. Evidence also indicates this gap is widening. | 3 | <p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis:</p> <p>Level 1: Point: Define issue.</p> <p>Level 2: Developed point: Explanation/detail/example to describe point made.</p> <p>Level 3: Well-developed point: Analysis of issue.</p> <p>Mark as follows:</p> <p>Level 3: 3 marks</p> <p>Level 2: 2 marks</p> <p>Level 1: 1 mark</p> <p>0 marks = no response or nothing worthy of credit.</p> <p>Maximum 3 marks</p> |

| Question | Answer | Mark | Guidance | | | | | | |
|----------|--|------|---|----|------|-----|------|---|---|
| 8 | <table border="1"> <tr> <td>i</td><td>False</td></tr> <tr> <td>ii</td><td>True</td></tr> <tr> <td>iii</td><td>True</td></tr> </table> | i | False | ii | True | iii | True | 3 | Assessment Objective 1 1 mark for each correct answer Maximum 3 marks |
| i | False | | | | | | | | |
| ii | True | | | | | | | | |
| iii | True | | | | | | | | |
| 9 | <p>Candidates will explain two of the following:</p> <ul style="list-style-type: none"> Case management. Use allocation questionnaire to allocate cases to appropriate tracks. This depends on complexity of legal issues and financial amounts involved e.g. under £10,000 for small claims track (under £1,000 if personal injury); between £10,000 - £25,000 for fast-track cases (£1,000 - £25,000 if personal injury) and £25,000 - £50,000 for multi-track. Hear pre-trial matters. Manage case management conferences (CMCs) and make directions for exchange of evidence including disclosure of documents and exchange of witness statements. Hear cases. Weigh the factual evidence and apply the law. Give a judgement on liability and remedy. Deal with all points of law. Give legal direction on some points of evidence. Assist litigants-in-person by using an inquisitorial approach in small claims track to help litigants put their cases. Consider granting leave to appeal to higher courts. An appeal happens if a claimant or defendant wants to challenge the decision made in their case but an appeal can only be on legal grounds. In civil cases, the starting point regarding appeals is the seniority of the judge who first heard the case. | 6 | Assessment Objective 2 For each role explained: 3 marks – develops an explanation on one relevant issue 2 marks – explains one relevant issue with some elaboration 1 mark – explains a relevant issue or makes any valid point 0 marks – no response or nothing worthy of credit Maximum 3 marks for each role explained Using relevant examples attracts some credit. Maximum:6 marks | | | | | | |
| | Candidates will insert a tick as follows: | 5 | Assessment Objective 1 | | | | | | |

| Question | Answer | Mark | Guidance |
|----------|---|------|--|
| 10 | <p>a. Freedom of the Person b. Freedom of Association and Assembly c. Freedom of Thought, Belief and Religion d. Freedom of Expression e. Freedom of Information</p> | | <p>One mark for each correct word or phrase.</p> <p>If more than one tick for each answer, then no marks given.</p> |
| 11 | <p>Candidates should discuss any two of the following reasons for restriction of publicly displaying religious beliefs:</p> <ul style="list-style-type: none"> • To protect public safety. Wearing dreadlocks as a Rastafarian and refusing to wear a cap in a job involving food preparation may limit your ability to do your job properly. E.g. health and safety reasons may mean protective headgear is necessary (even if dreadlocks covered up) to protect public safety from a hygiene perspective. • To protect public order. If a Christian preacher was stopping pedestrians on the street to tell them that homosexuality, blasphemy and drunkenness were sins, this could lead to public disorder on the street. Other examples to illustrate this point could include any religious groups trying to foist their views on others as part of the duty to persuade others to convert. • To protect rights and freedoms of others. Employers have to try and accommodate rights of employees (such as the right to pray or to have 'faith' days recognised). However, this must be balanced with the need to do the job and ensure all employees are treated equally and do a fair share of all the necessary tasks. <p>Reference must be made to Article 9 for full marks. If no reference, answer capped at 5 marks.</p> | 6 | <p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis for each reason:</p> <p>Level 1: Point: Define reason. Level 2: Developed point: Explanation/detail/example to describe reason. Level 3: Well-developed point: Analysis of reason.</p> <p>Mark as follows:</p> <p>Level 3: 3 marks Level 2: 2 marks Level 1: 1 mark 0 marks = no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each reason discussed.</p> <p>Maximum 6 marks</p> |

| Question | Answer | Mark | Guidance |
|----------|--|------|--|
| 12 | <p>Candidate will identify and explain any 3 of the points below:</p> <p>Solicitors</p> <ul style="list-style-type: none"> • Complain directly to firm of solicitors. • All firms should have a written complaints procedure. • Complain to Legal Complaints Service (LCS). • LCS is part of the Law Society but independent of it and has power to reduce bill; correct mistakes or order compensation. • Serious matters of misconduct can be referred to the Solicitors Regulation Authority. • Who have power to strike off a solicitor (stop them working as a lawyer). • If unhappy with the way the LCS has handled a complaint. • Client can go to the Legal Services Complaints Commission who has powers to compel the Law Society to handle complaints properly. • Final place to take complaints is the Legal Services Ombudsman. • Government body with power to oversee handling of complaints against all lawyers and can order compensation. • Sue solicitor in court. • For professional negligence under Arthur J Hall v Simmons (2000). | 6 | <p>Assessment Objective 1 and Assessment Objective 2</p> <p>1 mark for each point identified.</p> <p>1 further mark for elaboration of that mark.</p> <p>Maximum of 2 marks for each point</p> <p>Maximum of 6 marks in total</p> |
| 13 | <p>Arguments against cuts to criminal legal aid:</p> <ul style="list-style-type: none"> • Article 6: everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. • Cuts to legal aid and walk outs by lawyers mean that cases disrupted. Defendants do not have legal representation so case is delayed. This affects access to justice as cases not heard in a reasonable time. • Cuts to legal aid mean many lawyers refusing to do criminal legal aid work. This means that less experienced and more junior lawyers are the only ones prepared to take these cases. This may affect the quality of legal representation and the right | 6 | <p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis for each argument:</p> <p>Level 1: Point: set out argument/point against cuts.</p> <p>Level 2: Developed point: Explanation/detail/example to describe point.</p> <p>Level 3: Well-developed point: Analysis of reason.</p> |

| Question | Answer | Mark | Guidance |
|----------|---|------|---|
| | <p>to a fair trial.</p> <ul style="list-style-type: none"> Cuts to legal aid in criminal cases are serious because of the sanctions in the criminal justice system. A guilty verdict could lead to prison and a loss of liberty. Delays in making decisions on bail and on guilt could mean defendants stay in prison longer than they should which is a potential breach of Article 5-Everyone has the right to liberty and security of the person. There is confusion as to what kind of hearings are covered by criminal legal aid and what exactly a 'criminal' case is. Does it include appeals; immigration and taxing and voting cases? What is the effect on cuts in legal aid here? Could it lead to a breach of other human rights such as the right to respect for private and family life (Article 8) | | <p>Mark as follows:</p> <p>Level 3: 3 marks</p> <p>Level 2: 2 marks</p> <p>Level 1: 1 mark</p> <p>0 marks = no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each reason discussed.</p> <p>Reference to HRA 1998 required for L3</p> <p>Maximum 6 marks</p> |

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