



GCSE

Law

Unit **B141**: The Nature of Law. Criminal Courts and Criminal Processes

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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Annotations

Annotation	Meaning
	Not relevant or the response given is 'Unclear' to the marker. Or to indicate all or part blank answer pages have been seen by the marker.
NAQ	Not answered question
L1	Level 1
L2	Level 2
L3	Level 3
BOD	Benefit of Doubt
	Response is incorrect, no credit given
	Unclear
REP	Repeat
	Correct point or answer given
VG	Vague – credit cannot be given
	Omission mark

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • Contract • Consumer • Tort • Employment • Company <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct type identified</p> <p>Do not credit family law since this is the example in the stem of the question.</p>
	(b)	<p>Candidates will explain one of the following:</p> <ul style="list-style-type: none"> • The different aims of law. There is a difference between the civil and the criminal law. The criminal law is there to maintain law and order and to protect society from criminal actions. The civil law is there to regulate relationships between citizens and resolve consequent disputes. • The person or organisation that begins case. In criminal matters the case is generally started by the Crown Prosecution Service. The civil law is started by the claimant who is a person in dispute with another person. • The venue of the trial. In the beginning the majority of criminal trials will be dealt with by the magistrates' court or for more serious cases this will be dealt in the crown court. Most civil cases will be heard in the county courts or the High Court. • The burden of proof. In criminal trials the prosecution will have to prove the defendant committed the crime beyond all reasonable doubt; commonly referred to as 'if you are sure' in criminal trials. In civil cases the judge needs to be convinced that the party at fault is so on a balance of probabilities. 	3	<p>Candidates will be rewarded as follows:</p> <p>3 marks – develops an explanation on one relevant difference 2 marks – explains one relevant difference with some elaboration 1 mark - explains a relevant difference or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Candidates can be credited with both breadth and depth</p>

Question			Answer	Mark	Guidance
			<ul style="list-style-type: none"> The conclusion of the case. In a criminal trial a person can be held to be guilty or not guilty. In a civil trial this is called liable or not liable. <p>Credit any other relevant response</p>		
2	(a)		<p>Candidates will identify any of the following:</p> <ul style="list-style-type: none"> Magistrates' court County court Crown court <p>Credit any other relevant response</p>	3	1 mark for each correct type identified
	(b)		<p>Candidates will insert European, Primary and Regulations in this order.</p>	3	1 mark for each correct word identified
	(c)	(i)	<p>Candidates will explain any three of the following:</p> <ul style="list-style-type: none"> To provide certainty in the law. The decisions reflect real situations. The law is flexible and allowed to develop. The development allows the correcting of mistakes. <p>Credit any other relevant response.</p>	3	1 mark for each correct reason given

Question		Answer	Mark	Guidance
	(c) (ii)	<p>Candidates will explain:</p> <p>Persuasive Precedent:</p> <ul style="list-style-type: none"> • This is an important part of the system of judicial precedent; • This is a decision which is not absolutely binding on courts but may be applied or strongly persuasive; • This provides some certainty to the courts so previous decisions can be followed; • This is where decisions of the lower courts, or Privy Council may be followed by higher courts <p>Overruling:</p> <ul style="list-style-type: none"> • This is an important procedure in the system of precedent. • Here, a judge in a later case will decide that a previous case was wrongly decided, or out of date. • If judge wants to correct the law and state the previous decision is wrong they will 'overrule' the previous decision. • Whether a judge can overrule a previous decision depends where in the hierarchy of the courts the judge sits. <p>Credit any other relevant response.</p>	6	<p>For <u>each</u> type of precedent explained:</p> <p>3 marks – develops a explanation on one relevant point 2 marks – explains one relevant point with some elaboration 1 mark - explains a relevant point or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit candidates who use a real example/case example in such situations.</p>

Question		Answer	Mark	Guidance
	(d)	<p>Candidates will discuss any one of the following advantages:</p> <ul style="list-style-type: none"> • The future needs of the country. When a law is passed, Parliament cannot predict the future precisely. Society's attitudes and opinions change over time so delegated legislation can be used to amend the law. • Quick Response. Delegated legislation can be used to change the law more quickly than by using the Parliamentary process. So, can be used in times of necessity. • Expertise. Specific government ministers can pass legislation using their departments' expert opinion. They wouldn't need to have the detail explained as they would already understand. • More Parliamentary time. Here, the lengthy parliamentary process is not used. This frees up time for Parliament to debate more controversial legislation. • Local geographical knowledge. Parliament has not the time to debate local specific issues. Delegated legislation allows local councils to pass laws reflective of their local needs. <p>Credit any other relevant explanation</p>	3	<p>3 marks – develops a discussion on one of the relevant advantages or one or more with developed discussion 2 marks – discusses one advantage with some elaboration 1 mark - discusses an advantage or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Candidates can be credited with both breadth and depth</p> <p>Credit candidates who use a real example in such situations.</p>
3	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • Their outer coat • Their jacket • Their gloves. 	3	<p>1 mark for each item identified</p> <p>The question requires removal under PACE. Other Acts allow further removal which should not be credited. For example, headgear and footwear under the Terrorism Act 2000.</p>

Question			Answer	Mark	Guidance
	(b)	(i)	<p>Candidates will describe any of the following</p> <ul style="list-style-type: none"> • Police are unable to stop and search a suspect simply on the basis of 'personal factors alone' as this would be unfair, prejudicial or stereotypical. • Personal factors include race, age, appearance or knowledge of a suspect's previous convictions. • A suspect cannot simply be stopped by the police on the basis of race because this could be seen as discriminatory or racist, for example only stopping black people. • A suspect cannot simply be stopped by the police on the basis of age because this would be an example of bias or prejudice, for example only stopping teenagers. • A suspect cannot simply be stopped by the police on the basis of appearance as this would be an example of harassment or bias, for example only stopping people wearing hoodies. • A suspect cannot simply be stopped by the police on the basis that they have a previous conviction as this would be an example of bias or prejudice, for example, only stopping known convicted drug-dealers. • The police cannot stop and search a suspect unless they have reasonable suspicion, based on reliable information. <p>Credit any other relevant response.</p>	3	<p>3 marks – develops a description on the relevant reason 2 marks – describes one relevant reason with some elaboration 1 mark - describes a relevant reason or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit can only be given to police powers under stop and search under PACE84.</p> <p>Credit should be given for both breadth and depth</p>

Question			Answer	Mark	Guidance						
	(b)	(ii)	<p>Candidates will discuss any of the following time limits:</p> <ul style="list-style-type: none">When the suspect is taken to the police station the custody sergeant decides whether the suspect should be detainedWithin six hours, the suspect must have their first review/interviewAt 15 hours a second interview must be conductedIf relevant, after the second interview further interviews must be carried out every further 9 hours24 hours is the longest in most cases that the suspect will generally be held without chargeThe police can extend the usual time for a further 12 hours to 36 hours in total if suspected of committing a serious offence with superintendent's permission.The police can ask for a further extension up to 96 hours if they need more time to gather evidence in serious cases, with permission from magistrates' court. <p>Credit any other relevant response.</p>	3	<p>3 marks – develops a discussion on the relevant time limit or time limits</p> <p>2 marks – discusses one relevant time limit with some elaboration</p> <p>1 mark - discusses a relevant time limit or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p> <p>Credit should be given for both breadth and depth</p>						
3	(c)		<p>Candidates will successfully match any or all of the following:</p> <table border="1"><tr><td>A</td><td>4</td></tr><tr><td>B</td><td>1</td></tr><tr><td>C</td><td>2</td></tr></table>	A	4	B	1	C	2	3	<p>1 mark for each correct number identified</p>
A	4										
B	1										
C	2										
	(d)		<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none">Prosecution outlines the case by explaining the crime the defendants is accused ofThe prosecution can call, if necessary, their witnesses, for example, police officers or store detectives, and question them about the alleged crime. This is called the 'examination in chief'	6	<p>For <u>each</u> part explained:</p> <p>5-6 marks – further develops the explanation on one or more procedure</p> <p>3-4 marks – develops a explanation on one or more procedure</p>						

Question			Answer	Mark	Guidance
			<ul style="list-style-type: none"> • The prosecution can call in evidence that has been uncovered, for example, items of property, to help prove the prosecution case • If the defence feel that there is insufficient evidence to prove guilt they can submit a 'no case to answer' and the case to be dismissed. If the magistrates feel that there is sufficient evidence, then the case will proceed • The defence are entitled to cross-examine the prosecution witnesses • The defence then call, if necessary, their own witnesses and question them about the alleged crimes • The prosecution are entitled to cross-examine the defence witnesses • The magistrates having heard both sides of the argument decide whether the defendant is guilty or not guilty • If they decide they are not guilty, then they are free to go • If they decide the defendant is guilty then they will sentence the defendant and possibly ask for reports about the defendant before they pass sentence. <p>Credit any other relevant response.</p>		<p>2-3 marks – explains one or more relevant procedure with some elaboration</p> <p>1-2 mark - explains a relevant role or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p>
4	(a)	(i)	<p>Candidates will tick the boxes as follows to obtain each mark:</p> <p>A – True</p> <p>B – True</p> <p>C - True</p>	3	1 mark for each correct tick

Question	Answer	Mark	Guidance
	<p>(ii) Candidates will define as follows:</p> <ul style="list-style-type: none"> • Punishment of the offender: Used to take retribution out on offenders. Looks to take a firm stance in denouncing severely the crime that the defendant has carried out. Called for traditional right-wing government to show their tough stance on crime. Usually means prison or very heavy fine. Imprisonment is used as a last resort in many cases due to cost and spaces available in prisons. • Protection of the public: Used where the defendant is particularly dangerous and a risk to others. This could be as a result of carrying out violence or crimes of a sexual nature. Such sentences could reflect a ban on the defendant going to particular places; • Reform of the offender: Sometimes referred to as rehabilitation. It is an alternative to any sentence passed as retribution. This looks at changing the offender's criminal path. It is particularly used for young offenders. <p>Credit any other relevant response.</p>	3	1 mark for each correct definition
	<p>(b) Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • This process involves either the prosecution or the defence • The prosecution before a jury is sworn in is given a list of potential jurors • Either the prosecution or the defence to maintain a fair trial can carry out further checks or vetting on the potential jurors • Police checks can be carried out to ensure the juror is not disqualified who may sympathise with the defendant • The juror's background can be thoroughly checked if 	3	<p>For <u>each</u> response explaining the process:</p> <p>3 marks – develops a explanation on one or more relevant parts of the process 2 marks – explains one or more relevant parts of the process with some elaboration 1 mark - explains a relevant part of the process or makes any valid point 0 marks - no response or nothing worthy of credit</p>

Question			Answer	Mark	Guidance
			<p>the case involves issues of national security or terrorism.</p> <p>Credit any other valid response</p>		
	(c)*		<p>Candidates will explain any two of the following reasons - one for juries and one for magistrates:</p> <p>Advantages of using juries:</p> <ul style="list-style-type: none"> • Public confidence in the system – the idea that ordinary, randomly picked citizens are to decide the facts and ultimately the fate of the defendant must give great public confidence. This avoids any criticism of a case-hardened unsympathetic judge sitting alone deciding facts. • Independence of the jury (Jury Equity) – juries decide the facts of the case and make a decision as to the defendant's guilt based on this evidence in the privacy of the jury room. Thus cases are decided on fairness which protects the individual against the state. • Public involvement in the criminal justice system – this allows an openness in the criminal system. Rather than allowing it to be shrouded in the secrecy of the legal professions. • Less ability for bias – there are 12 members of a criminal jury. This means there is less chance of bias or undue influence from outside the jury. • Assistance in court – while the jury decides the facts and verdict, they can still seek advice from the judge on matters of law or evidence. The fact that laypeople are involved means that the case must be conducted in straightforward language. 	6	<p>Level 3: good explanation (5–6)</p> <p>Level 2: adequate explanation (3–4)</p> <p>Level 1: identification of reasons (1-2)</p> <p>0 marks = no response or nothing worthy of credit</p> <p>Maximum 3 marks if only one reason discussed.</p> <p>Credit should be given for both breadth and depth</p>

Question	Answer	Mark	Guidance
	<ul style="list-style-type: none"> • Cost implications – juries are relatively ‘cheap’ when compared with other alternatives. For example: professional juries or three judges sitting without a jury. <p>Disadvantages of using magistrates:</p> <ul style="list-style-type: none"> • Not a true reflection of society - as many people do not apply because they are too busy. Many don't apply as think they will not be chosen • Almost half of them are retired - as they are older they can be out of touch with an offender and with society. This can decrease public confidence • Most come from managerial or professional jobs - so they have little in common with the offender. This can decrease public confidence • More affluent and tend to live in the better part of a community - so may not understand social and economic problems which face defendants. This can decrease public confidence • Inconsistent – sometimes criticised in their decisions and in granting bail. Research shows geographical differences in sentencing • No legal qualifications – so they may overly rely on the court's clerk for advice. This could lead to accusations of being too influenced by the clerk • ‘Prosecution bias’ - They are often accused of being too ready to believe the police. This can decrease public confidence. <p>Credit any other reasonable response.</p>		

Question		Answer	Mark	Guidance
	(d)	<p>Candidates will discuss any of the following:</p> <p>Ken must meet the basic magistrates' qualifications:</p> <ul style="list-style-type: none"> • He must meet the six key qualities laid down by the former Lord Chancellor in 1998 • He must be between 18 and 65 years old • He must be able to sit for at least 26 half-days per year • He must have no serious criminal record • He must not be an undischarged bankrupt • He must not be a serving member of the armed forces • He must not have any physical or mental infirmity which means that they couldn't carry out their duty as a magistrate. <p>Credit any other relevant response.</p>	3	<p>3 marks – develops a discussion on the relevant point</p> <p>2 marks – discusses one relevant point with some elaboration</p> <p>1 mark - discusses a relevant point or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p> <p>Credit should be given for both breadth and depth</p>

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