



Cambridge International AS & A Level

LAW

9084/01

Paper 1 English Legal System

For examination from 2023

MARK SCHEME

Maximum Mark: 75

Specimen

This document has **12** pages.

Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently, e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

Guidance on using levels-based mark schemes

Marking of work should be positive, rewarding achievement where possible, but clearly differentiating across the whole range of marks, where appropriate.

The marker should look at the work and then make a judgement about which level statement is the best fit. In practice, work does not always match one level statement precisely so a judgement may need to be made between two or more level statements.

Once a best-fit level statement has been identified, use the following guidance to decide on a specific mark:

- If the candidate's work **convincingly** meets the level statement, award the highest mark.
- If the candidate's work **adequately** meets the level statement, award the most appropriate mark in the middle of the range (where middle marks are available).
- If the candidate's work **just** meets the level statement, award the lowest mark.

Subject Specific Marking Principles (for point-based marking)

1 Components using point-based marking:

- Point marking is often used to reward knowledge, understanding and application of skills. We give credit where the candidate's answer shows relevant knowledge, understanding and application of skills in answering the question. We do not give credit where the answer shows confusion.

From this it follows that we:

- a DO credit answers which are worded differently from the mark scheme if they clearly convey the same meaning (unless the mark scheme requires a specific term)
- b DO credit alternative answers/examples which are not written in the mark scheme if they are correct
- c DO credit answers where candidates give more than one correct answer in one prompt/ numbered/scaffolded space where extended writing is required rather than list-type answers. For example, questions that require *n* reasons (e.g. State two reasons ...).
- d DO NOT credit answers simply for using a 'key term' unless that is all that is required. (Check for evidence it is understood and not used wrongly.)
- e DO NOT credit answers which are obviously self-contradicting or trying to cover all possibilities, e.g. a scattergun approach to a question asking for *n* items
- f DO NOT give further credit for what is effectively repetition of a correct point already credited unless the language itself is being tested. This applies equally to 'mirror statements' (i.e. polluted/not polluted).
- g DO NOT require spellings to be correct, unless this is part of the test. However spellings of syllabus terms must allow for clear and unambiguous separation from other syllabus terms with which they may be confused (e.g. Corrasion/Corrosion).

2 Presentation of mark scheme:

- Slashes (/) or the word 'or' separate alternative ways of making the same point.
- Semi colons (;) bullet points (•) or figures in brackets (1) separate different points.
- Content in the answer column in brackets is for examiner information/context to clarify the marking but is not required to earn the mark (except Accounting syllabuses where they indicate negative numbers).

3 Annotation:

- For point marking, ticks can be used to indicate correct answers and crosses can be used to indicate wrong answers. There is no direct relationship between ticks and marks. Ticks have no defined meaning for levels of response marking.
- For levels of response marking, the level awarded should be annotated on the script.
- Other annotations will be used by examiners as agreed during standardisation, and the meaning will be understood by all examiners who marked that paper.

Assessment objectives**AO1 Knowledge and understanding**

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules.
- Communicate legal argument coherently on the basis of evidence.

Section A

Question	Answer	Marks
1	<p>Identify two elements of the rule of law as defined by Dicey.</p> <p>AO1 Knowledge and understanding Any two elements from:</p> <ul style="list-style-type: none"> • no sanction without breach (no punishment unless a law has been broken) • one law governs everyone (no one is above the law) • rights are not secured by a written constitution but by the decisions of judges. <p>1 mark per element accurately identified up to a maximum of 2 marks.</p>	2

Question	Answer	Marks
2	<p>Identify two courts in the civil court hierarchy.</p> <p>AO1 Knowledge and understanding Any two from:</p> <ul style="list-style-type: none"> • Tribunal • Magistrates' Court • County Court • High Court • Family Division of the High Court • Chancery Division of the High Court • Queen's Bench Division of the High Court • Court of Appeal (Civil Division) • Supreme Court. <p>1 mark per court accurately named up to a maximum of 2 marks.</p>	2

Question	Answer	Marks
3	<p>State five of the qualifications for jury service.</p> <p>AO1 Knowledge and understanding Any five from:</p> <ul style="list-style-type: none"> • has reached 18th birthday • has not yet reached 76th birthday • registered as a parliamentary or local government elector • ordinarily resident in the UK, the Channel Islands or the Isle of Man for at least five years since their 13th birthday • not mentally disordered • not disqualified permanently or for 10 years because of criminal convictions • not on bail • should not be blind or deaf • ability to read and understand English. <p>1 mark per point accurately stated up to a maximum of 5 marks.</p>	5

Question	Answer	Marks
4	<p data-bbox="304 235 1265 271">Describe <u>two</u> elements of pupillage during the training of a barrister.</p> <p data-bbox="304 306 807 342">AO1 Knowledge and understanding</p> <p data-bbox="304 342 488 378">Any two from:</p> <ul data-bbox="304 378 1326 719" style="list-style-type: none"><li data-bbox="304 378 1262 443">• occurs after passing the Bar Professional Training Course and being called to the bar<li data-bbox="304 443 1326 508">• students can apply through the Bar Council’s Pupillage Gateway Scheme online<li data-bbox="304 508 962 544">• ‘on-the-job’ training involving work shadowing<li data-bbox="304 544 1222 609">• 12 months with one pupil master or two different pupil masters for 6 months each<li data-bbox="304 609 1326 674">• after first six months barristers are eligible to appear in court and conduct own cases<li data-bbox="304 674 1198 719">• paid a small salary by the chambers to which they are attached. <p data-bbox="304 754 1294 819">1 mark for naming an element and up to 2 marks for describing the element × 2.</p>	6

Question	Answer	Marks																		
5	<p>Discuss the advantages of parliamentary law making.</p> <p>Table A</p> <p>Use this table to give marks for each candidate response.</p> <table border="1" data-bbox="308 443 1321 1131"> <thead> <tr> <th data-bbox="308 443 411 533">Level</th> <th data-bbox="411 443 869 533">AO2 Analysis and application 6 marks</th> <th data-bbox="869 443 1321 533">AO3 Evaluation 4 marks</th> </tr> <tr> <th data-bbox="308 533 411 577"></th> <th data-bbox="411 533 869 577">Description</th> <th data-bbox="869 533 1321 577">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="308 577 411 734">3</td> <td data-bbox="411 577 869 734"> 5–6 marks <ul style="list-style-type: none"> Clearly reasoned analysis. Effective use of relevant examples. </td> <td data-bbox="869 577 1321 734"> 4 marks <ul style="list-style-type: none"> Clearly focused evaluation developed with relevant evidence. </td> </tr> <tr> <td data-bbox="308 734 411 891">2</td> <td data-bbox="411 734 869 891"> 3–4 marks <ul style="list-style-type: none"> Some analysis. Some use of relevant examples. </td> <td data-bbox="869 734 1321 891"> 2–3 marks <ul style="list-style-type: none"> Some evaluation which may be developed with some relevant material. </td> </tr> <tr> <td data-bbox="308 891 411 1048">1</td> <td data-bbox="411 891 869 1048"> 1–2 marks <ul style="list-style-type: none"> Limited analysis. Limited use of relevant examples. </td> <td data-bbox="869 891 1321 1048"> 1 mark <ul style="list-style-type: none"> Limited evaluation with little or relevant evidence. </td> </tr> <tr> <td data-bbox="308 1048 411 1131">0</td> <td data-bbox="411 1048 869 1131"> 0 marks <ul style="list-style-type: none"> No creditable content. </td> <td data-bbox="869 1048 1321 1131"> 0 marks <ul style="list-style-type: none"> No creditable content. </td> </tr> </tbody> </table> <p>Indicative content</p> <p>Responses may include:</p> <p>AO2 Analysis and application and AO3 Evaluation</p> <p>Advantages</p> <ul style="list-style-type: none"> fully debated laws detailed discussion in Committee stage two chambers to provide checks and balances public awareness raised by the use of green and white papers elected representatives creating law limits on the powers of the non-elected chamber (House of Lords): Parliament Acts 1911, 1949. <p>Accept all valid responses.</p>	Level	AO2 Analysis and application 6 marks	AO3 Evaluation 4 marks		Description	Description	3	5–6 marks <ul style="list-style-type: none"> Clearly reasoned analysis. Effective use of relevant examples. 	4 marks <ul style="list-style-type: none"> Clearly focused evaluation developed with relevant evidence. 	2	3–4 marks <ul style="list-style-type: none"> Some analysis. Some use of relevant examples. 	2–3 marks <ul style="list-style-type: none"> Some evaluation which may be developed with some relevant material. 	1	1–2 marks <ul style="list-style-type: none"> Limited analysis. Limited use of relevant examples. 	1 mark <ul style="list-style-type: none"> Limited evaluation with little or relevant evidence. 	0	0 marks <ul style="list-style-type: none"> No creditable content. 	0 marks <ul style="list-style-type: none"> No creditable content. 	10
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3	5–6 marks <ul style="list-style-type: none"> Clearly reasoned analysis. Effective use of relevant examples. 	4 marks <ul style="list-style-type: none"> Clearly focused evaluation developed with relevant evidence. 																		
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	AO2	6																		
	AO3	4																		

Section B**Table B**

Use this table to give marks for each candidate response for **Questions 6(a), 7(a) and 8(a)**.

Level	AO1 Knowledge and understanding	
	Description	Marks
4	<ul style="list-style-type: none"> • Accurate and detailed in most relevant areas. • Thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology. 	9–10
3	<ul style="list-style-type: none"> • Mostly accurate but may not be detailed in some relevant areas. • Good knowledge and understanding of appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. 	6–8
2	<ul style="list-style-type: none"> • Some accuracy but lacks detail in relevant areas. • Some knowledge and understanding of mostly appropriate legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. 	3–5
1	<ul style="list-style-type: none"> • Limited accuracy. • Limited knowledge and understanding of legal concepts, principles and rules, examples, cases and/or statutory authority, and legal terminology. 	1–2
0	<ul style="list-style-type: none"> • No creditable content. 	0

Table C

Use this table to give marks for each candidate response for **Questions 6(b), 7(b) and 8(b)**.

Level	AO2 Analysis and application 8 marks	AO3 Evaluation 7 marks
	Description	Description
3	6–8 marks <ul style="list-style-type: none"> • Mostly focused and reasoned analysis throughout. • The analysis is supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority. 	6–7 marks <ul style="list-style-type: none"> • Mostly focused and reasoned evaluation of most of the relevant issues. • Effectively supported by relevant material. • Coherent argument.
2	3–5 marks <ul style="list-style-type: none"> • Some reasoned analysis. • The analysis is supported by some partially developed use of legal concepts, principles and rules, examples, cases and/or statutory authority. 	3–5 marks <ul style="list-style-type: none"> • Some evaluation, reasoned at times, of some of the relevant issues. • Supported by some relevant material. • Some coherent argument.
1	1–2 marks <ul style="list-style-type: none"> • Limited analysis. • The analysis is supported by limited use or makes no use of legal concepts, principles and rules, examples, cases and/or statutory authority. 	1–2 marks <ul style="list-style-type: none"> • Limited evaluation of a relevant issue. • Limited or no use of relevant material. • Limited or no argument.
0	0 marks <ul style="list-style-type: none"> • No creditable content. 	0 marks <ul style="list-style-type: none"> • No creditable content.

Question	Answer	Marks
6(a)	<p>Describe the role of lay magistrates in both civil <u>and</u> criminal cases.</p> <p>Use Table B to mark candidate responses to this question. AO1 out of 10 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO1 Knowledge and understanding</p> <ul style="list-style-type: none"> • Civil role: non-payment of council tax, non-payment of TV licences, appeals from the refusal of local authority to grant licences for the sale of alcohol and licences for betting and gaming establishments, family court panel, orders for protection against violence, affiliation cases, adoption orders, proceedings under the Children Act 1989. • Criminal role: trying summary and some triable either way offences, carrying out Early Administrative hearings and Transfer for Trial for indictable offences, sentencing, remand hearings, bail, issuing of warrants, Youth Court, hearing appeals as part of a panel in the Crown Court. <p>Accept all valid responses.</p>	10
6(b)	<p>Assess whether lay magistrates should be replaced by professional judges.</p> <p>Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO2 Analysis and application and AO3 Evaluation</p> <ul style="list-style-type: none"> • Reasons to retain lay magistrates: more socially representative than judges, better representation of women and BAME than judges, less case hardened than judges, more local knowledge than judges, cheaper than judges, have a legally qualified advisor, few appeals from magistrates' decisions. • Reasons to replace lay magistrates: predominantly middle aged and middle class, tend to show prosecution bias, inconsistency in sentencing, become case hardened and reliant on police evidence, lack of training, over reliance on clerk. <p>Accept all valid responses.</p>	15
	AO2	8
	AO3	7

Question	Answer	Marks
7(a)	<p>A person charged with a triable either way offence may be tried in either the Magistrates' Court or the Crown Court.</p> <p>Describe the stages that the defendant will go through between charge and the start of the trial.</p> <p>Use Table B to mark candidate responses to this question. AO1 out of 10 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO1 Knowledge and understanding Bail from the court, Bail Act 1976, sureties, restrictions and conditions, plea before venue, pathway if guilty plea, pathway if not guilty plea, mode of trial proceedings, s176 Anti-Social Behaviour, Crime and Policing Act 2014, magistrates' jurisdiction, s19 Magistrates' Courts Act 1980, cases where Attorney General, Solicitor General or Director of Public Prosecutions are prosecutors (s19(4) Magistrates' Courts Act 1980), defendants' election, magistrates' power to commit for sentencing to Crown Court.</p> <p>Accept all valid responses.</p>	10
7(b)	<p>Assess the disadvantages of the defendant choosing to be tried in the Crown Court.</p> <p>Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO2 Analysis and application and AO3 Evaluation Disadvantages:</p> <ul style="list-style-type: none"> • takes longer for case to reach court • more chance of publicity • may not be tried locally • sentencing powers are greater • may need qualified legal advice • longer trials may cause greater expense • less chance of being granted bail. <p>Accept all valid responses.</p>	15
	AO2	8
	AO3	7

Question	Answer	Marks
8(a)	<p>Describe how precedent is used in English law, using cases as illustration.</p> <p>Use Table B to mark candidate responses to this question. AO1 out of 10 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO1 Knowledge and understanding <i>Ratio decidendi, obiter dicta</i>, judgments, original precedents, binding precedents, persuasive precedents (lower courts, Judicial Committee of the Privy Council, <i>obiter</i> statements, dissenting judgments, decisions of other jurisdictions, distinguishing, overruling, reversing, hierarchy of the courts, Supreme Court Practice Statement 1966, Court of Appeal – Civil and Criminal Divisions).</p> <p>Relevant case law to illustrate these points where appropriate, which may include: <i>Donoghue v Stevenson, R v Howe, R v Gotts, Hunter v Canary Wharf Ltd, AG for Jersey v Holley, R v Mohammed, R v James, R v R, The Wagon Mound (No1), Balfour v Balfour, Merritt v Merritt, Pepper v Hart, London Street Tramways v LCC, Conway v Rimmer, BRB v Herrington, Addie v Dumbreck, Jones v Secretary of State for Social Services, R v Shivpuri, Anderton v Ryan, Young v Bristol Aeroplane Co, Davis v Johnson.</i></p> <p>Accept all valid responses.</p>	10
8(b)	<p>Assess the advantages of precedent.</p> <p>Use Table C to mark candidate responses to this question. AO2 out of 8 marks. AO3 out of 7 marks.</p> <p>Indicative content</p> <p>Responses may include:</p> <p>AO2 Analysis and application and AO3 Evaluation Advantages of precedent:</p> <ul style="list-style-type: none"> • certainty • allows lawyers to accurately advise clients • consistency • fairness • justice • precision • flexibility • time saving • can change laws quickly to respond to societal change. <p>Accept all valid responses.</p>	15
	AO2	8
	AO3	7