

Mark Scheme for June 2012

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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.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

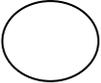
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Annotations

Annotation	Meaning
✓	correct
✓✓	good point
<u>Underline</u> or 	incorrect
	irrelevant
(✓)	sort of
>	better than
<	less than
=	equal to
R	repetition
V	vague
P	point
DP	developed point
WDP	well developed point
VWDP	very well developed point
AP	applied point
NLTQ	not linked to question
AO1	AO1 in the wrong place (part b of a question)
AO2	AO2 in the wrong place (part a of a question)

Annotation	Meaning
Recording marks	Put mark for each part in margin, <u>not circled</u> . Use part b mark to give AO3 mark, add three marks together and put this total circled in margin and then <u>transfer the total mark to the front of the script</u> .
The following marks: part (a) = 9 part (b) = 6 AO3 = equation from part (b) = 2	Would look like: 9 6 2 (17)

Subject-specific Marking Instructions

Section A part (b) of questions require discussion. Each point should be annotated as P for point, DP for developed point and WDP for a well developed point. Occasionally an argument will be worthy of a VWDP (very well developed point). It is important to ensure that the discussion is based on the question asked.

Marks should be awarded on a points basis

P = 1 mark

DP = 2 marks

WDP = 3 marks

VWDP = 4 marks

However if there are only simple points (P) no matter how many points are made, a maximum of top Level 2 (5) for AO2 can be awarded as if there is no development the answer does not meet the criteria for Level 3.

If there are only developed points (DP) and no well developed points (WDP) only top Level 3 marks (7) 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 awarded a P for a point if it is not then applied to the situation and an AP applied point should be awarded if a point is applied to the situation given.

P = 1

AP = 2

If there is no application but relevant points have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met.

There will always be more possible marks in a question than the maximum 9 for AO2 but obviously 9 marks for AO2 + 3 marks for AO3 is the maximum that can be awarded.

Part b* questions (Sections A and B)

AO2 marks should be awarded as follows:

Level 1 1-3

Level 2 4-5

Level 3 6-7

Level 4 8-9

AO3 marks should be added according to the following rule:

1-3 AO2 marks add **1** AO3 mark

4-6 AO2 marks add **2** AO3 marks

7-9 AO2 marks add **3** AO3 marks

Question		Answer	Marks	Guidance										
1	(a)	<p>Possible answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>The role of lay magistrates in criminal cases:</p> <ul style="list-style-type: none"> • Magistrates' Courts try 97% of all criminal cases from start to finish • Deal with the other 3% criminal cases at least at a preliminary level with Early Administrative Hearings • Issuing extensions to police detention, arrest and search warrants • Decide guilt or innocence and are responsible for sentencing offenders • Deal with preliminary matters such as bail and mode of trial hearings • Specially trained panels of magistrates deal with young offenders aged 10–17 years in Youth Court • Sit with judge in Crown Court to hear appeals from the Magistrates' Court • Lay magistrates deal with the vast majority of cases as the use of district judges is still relatively limited. <p>The role of lay magistrates in civil cases:</p> <ul style="list-style-type: none"> • Deal with the enforcement of debts owed to the utilities (eg electricity) • Deal with non payment of TV licences and council tax • Hear appeals against refusal of alcohol licences • Special panel deals with certain matters under the Children Act 1989 in the Family Proceedings Court eg orders for protection against violence and adoption. <p>Credit any other relevant details.</p>	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 without:</p> <p>Level 4 – describing both the role of magistrates in criminal and civil cases.</p> <p>Marks should be allocated according to the level of detail.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <p>Discuss some of the advantages of using lay magistrates</p> <ul style="list-style-type: none"> • Three people making a decision rather than one so less likely to be prejudiced • Good range of people sitting more of a cross section of society than judges • Express society’s disapproval of defendant’s actions when they convict • Public involvement in the criminal justice system, sign of a democracy – not just the state charging, convicting and sentencing • Local knowledge • Magistrates’ training has improved • Public confidence • Cheaper than using legal professionals • Not as case hardened as judges • Extra training is given to magistrates for work in the Family Court • The other civil matters they deal with tend to be straightforward such as enforcing debts owed to utilities. <p>Credit any other relevant points.</p>	9	<table border="1" data-bbox="1384 225 1765 403"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to discuss the argument and relate to both civil and criminal duties.</p> <p>Three well developed points is likely to achieve full marks.</p> <p>If there are only developed points and no well developed points maximum top Level 3 marks can be awarded.</p> <p>A series of points with no real development can only be awarded top Level 2 marks.</p>		AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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2	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>The Criminal Defence Service schemes help those who cannot afford to pay for legal help and they include:</p> <p>The Duty Solicitor Scheme at the Police Station</p> <ul style="list-style-type: none"> • Run by local contracted solicitors with relevant qualification (Police Station Qualification) • Available to anyone questioned at the police station but will only be by telephone unless attendance will “materially progress the case” • Covers advice and attending interviews but attendance is limited unless the client is vulnerable • Free to all – no means or merits testing. <p>Advice and Assistance</p> <ul style="list-style-type: none"> • Franchised solicitor • Covers advice and some preparatory work for someone charged with an offence and help with their application for legal representation limited to one hour’s work • Means tested – only those on very low incomes qualify • If at the Magistrates’ Court – contracted solicitor with relevant qualification (Magistrates’ Court Qualification) • Free for anyone in custody. <p>Legal Representation</p> <ul style="list-style-type: none"> • Franchised solicitor or independent barrister • Covers representation and all steps in preparation of a case • Merits tested (interests of justice) • Means test in the Magistrates’ Court – difficult to qualify unless on benefits or under 18-years-old • Means test in the Crown Court where contributions depend on both income and type of case, may have to pay extra from capital if found guilty • If found not guilty contributions will be returned. <p>Credit any other relevant points.</p>	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 without:</p> <p>Level 4 – all three schemes being described in some detail.</p> <p>If only the duty solicitor scheme and representation are covered a maximum top Level 3 mark can be awarded.</p> <p>If only one of the schemes is covered no more than Level 2 marks can be awarded.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> Budget has not been increased with inflation which has led to cuts in availability Means testing for criminal legal funding for representation in the Magistrates' Court has been re-introduced and only 25% of adults are eligible Trials in the Magistrates' Court are less expensive than in the Crown Court but a lack of funding can cause real hardship to families It will still tend to be free for repeat offenders as they are less likely to be employed The Merits test – in the interests of justice it is now applied very strictly which leads to repeat offenders having representation but first time offenders not getting representation as they are less likely to be imprisoned. This cannot be seen as fair Means testing for Crown Court cases has been brought in which could seriously disadvantage some defendants as they are much more expensive to fund depending on the type of case, although if they are found not guilty their payments are refunded Few lawyers are willing to work for the fixed fees offered by the government so it is difficult for defendants to find a local solicitor to take their case anyway. <p>Credit any other relevant points.</p>	9	<table border="1"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point and reference to both cuts</p> <p>Three well developed points is likely to receive full marks</p> <p>If there are only developed points and no well developed points maximum top Level 3 marks can be awarded</p> <p>A series of points with no real development can only be awarded top Level 2 marks.</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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3	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Knowledge of education and training of Barristers</p> <ul style="list-style-type: none"> Academic : law degree (7 core subjects) or other degree plus Common Profession Examination/Post Graduate Diploma in Law after one year's extra training on core subjects Vocational: join Inn of Court and dine 12 times or attend residential training courses during Bar Professional Training Course – practical training with emphasis on case preparation, advocacy, negotiation, interviewing skills and drafting opinions Practical: called to the Bar, pupillage of two six-month periods with a pupil master, programme of continuing education organised by the Bar, gaining a tenancy. <p>Dealing with problems/complaints against barristers</p> <ul style="list-style-type: none"> As there is no contract between the client and the barrister except in situations of direct access the client cannot sue for breach of contract but can sue for negligence regarding written advice, <i>Saif Ali v Sydney Mitchell and Co (1980)</i> They can also be sued for negligent advocacy in court, <i>Hall v Simons (2000)</i> Should complain to Head of Chambers using the complaints procedure Bar Standards Board investigates any alleged breach of the Code of Conduct. It can discipline any barrister who is in breach of the Code. If the matter is serious it will be referred to the Disciplinary Tribunal of the Council of the Inns of Court Complaints are now dealt with by the Office for Legal Complaints set up by the Legal Services Act 2007 who refers all complaints to the Legal Ombudsman The Legal Ombudsman has the power to ask the barrister to apologise to the client, give back any documents the client might need, put things right if more work can correct what went wrong, refund or reduce the legal fees, or pay compensation of up to £30 000. <p>Credit any other relevant points.</p>	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 without:</p> <p>Level 4 – both the education and training and how problems/complaints are dealt with must be described well</p> <p>If only one of these areas is described no more than top Level 3 marks can be awarded.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> • Originally the legal professions had complaints procedures run by their own professional bodies so they were not seen as independent especially as there were some questionable decisions • Complaints about solicitors in particular were very confusing as there were many possible avenues • The new system is seen as independent which should be an improvement • There are disadvantages in using a lawyer – reluctance to start new proceedings, cost, and difficulty in finding another lawyer although the Law Society has a panel. This was not really changed in 2010 • There were considerable delays in dealing with complaints this should improve with the new simplified system • The Legal Ombudsman originally had very few powers to actually deal with complaints. The extension to these powers has ensured that those who complain are more likely to get an impartial and just decision including a reasonable amount of compensation. <p>Credit any other relevant points.</p>	9	<table border="1" data-bbox="1391 228 1765 403"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to discuss the argument. Both barristers and solicitors should be discussed</p> <p>Three well developed points is likely to achieve full marks</p> <p>If there are only developed points and no well developed points maximum top Level 3 marks can be awarded</p> <p>A series of points with no real development can only be awarded top Level 2 marks.</p>		AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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4	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Community sentences for adults</p> <ul style="list-style-type: none"> • Generic “Community Order” under Criminal Justice Act 2003 which can include a range of 12 requirements for offenders over the age of 18. These can be mixed and matched • Unpaid Work Requirement – unpaid work in the community (40-300 hours) • Supervision Requirement – the offender is put under the supervision of a probation officer • Drug Treatment and Testing Requirement • Curfew Requirement – for a certain number of hours per day the offender has to be in a specific place (may include electronic tagging). <p>Community sentences for young offenders</p> <ul style="list-style-type: none"> • The Youth Rehabilitation Order brought in by the Criminal Justice and Immigration Act 2008 includes a range of 18 requirements that can be attached to it. Similar to the Community Order but for 10–18 year olds • Activity requirement • Attendance Centre requirement • Supervision requirement (supervision by local social services, a probation officer or a member of the Youth Offending Team) • Unpaid work requirement if 16-years-old or over on conviction • A programme requirement • An education requirement • A local authority residence requirement • Mental health treatment requirement • Drug testing requirement <p>Credit any relevant details of requirements and orders and any other requirements not listed here.</p>	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 without:</p> <p>Details about both the Community Order and the Youth Rehabilitation Order for Level 4 marks.</p> <p>As there are so many possible requirements candidates are not expected to cover them all. If at least four from each order are covered in detail that it likely to be enough to achieve full marks. If there is not a great deal of detail given at least six or seven requirements would need to be described for each order to achieve full marks.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	
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	(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> • Rehabilitation is one of the main aims of sentencing used for young offenders as it is felt they are more able to reform than adult offenders • Deterrence is thought of as very important in regard to young offenders as putting off an offender from further offending is felt to be more effective on young offenders • These both come under the heading of prevention of crime which is seen as the most important aim • Protection of the public will be an aim used for the most dangerous young offenders • Reparation is also seen as important regarding young offenders to make them aware of the damage they do to their victim • Punishment and denunciation are less likely to be used for young offenders as it is felt that young offenders can reform. <p>Credit should be given for consideration of any of the other relevant requirements. Credit should be given for sentences that illustrate how an aim is used.</p>	9	<table border="1"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to discuss the argument and reach a conclusion</p> <p>Three well developed points is likely to achieve full marks</p> <p>If there are only developed points and no well developed points maximum top Level 3 marks can be awarded</p> <p>A series of points with no real development can only be awarded top Level 2 marks.</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	
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5	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>County Court and the High Court are the main civil trial courts. Types of case that can be heard in each court.</p> <p>County Court:</p> <ul style="list-style-type: none"> • contract, tort, recovery of land to any value • partnerships, trusts, and inheritance up to £30 000 • divorce and bankruptcy • Small Claims – actions involving up to £5 000. <p>High Court:</p> <ul style="list-style-type: none"> • Queen’s Bench Division – contract and tort over £50 000 and some from £25 000 (multi-track). Includes Commercial Court, and Admiralty Court • Chancery Division – insolvency, mortgages, trusts, property disputes, copyright and patents, intellectual property and probate disputes • Family Division – Children Act 1989 cases, and other family matters. <p>Allocation of cases to different tracks dependent on the value of the claim and complexity of the case:</p> <ul style="list-style-type: none"> • Allocation questionnaire • Small claims for cases up to £5 000 (£1 000 for personal injury cases) • County Court Fast track for cases from £5 000 to £25 000 • Multi track cases usually in the County Court for £25 000 - £50 000 but can go to the High court especially in cases involving complex points • High Court Multi track usually for cases valued at over £50 000 but these can be heard in the County Court • Explain time limits for each track • Limit on number of witnesses. <p>Credit any other relevant details.</p>	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 without:</p> <p>Level 4 – both the jurisdiction of the courts and the track system need to be described in some detail</p> <p>If only one or the other are covered maximum top Level 2/bottom Level 3 would be possible</p> <p>Marks should be allocated according to the level of detail</p> <p>Detailed diagrams will be credited in the same way as prose.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> • Case management has improved matters including the allocation of tracks • Costs have increased overall due to the front-loading of costs for the fast track and the multi track • There are mixed views about whether delays have been reduced. Fast track cases can still take 48 weeks to get to trial which can hardly be called “fast”, but is faster than before the reforms, and even small claims can take 29 weeks to be heard. Multi track cases can still sometimes take years to get to court • The rate of settlement prior to the case being heard does appear to have improved reaching almost 80% in some areas • In fast track cases the time of the trial is limited with limitations on expert witnesses – does this lead to justice? • There has been little increase in the use of ADR and judges rarely stay cases for mediation • The courts are still under resourced with IT systems regarded as primitive in comparison with private practice. <p>Credit any other relevant comments.</p>	9	<table border="1" data-bbox="1384 225 1765 403"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>Responses will be unlikely to achieve the following without:</p> <p>Level 4 – at least one well developed point illustrating a real ability to discuss the arguments</p> <p>Three well developed points is likely to achieve full marks</p> <p>If there are only developed points and no well developed points maximum top Level 3 marks can be awarded</p> <p>A series of points with no real development can only be awarded top Level 2 marks.</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												
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	<p>Assessment Objective 3 – Communication and presentation</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 border="1" data-bbox="1384 1046 1765 1190"> <thead> <tr> <th>AO2 marks</th> <th>AO3 mark</th> </tr> </thead> <tbody> <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> </tbody> </table>	AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1		
AO2 marks	AO3 mark												
7–9	3												
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Question		Answer	Marks	Guidance											
6	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <ul style="list-style-type: none"> • The Bail Act 1976 and subsequent amendments in the Bail (Amendment) Act 1993, the Crime and Disorder Act 1998 and the Criminal Justice Act 2003 • Identify that bail enables a defendant to remain at liberty until the next stage of their case • The police can grant bail at the police station and magistrates and judges can grant bail in the courts • Unconditional and conditional bail, and the types of conditions that may be imposed on a defendant including sureties • General right to bail • Reasons for refusing bail eg failure to surrender to custody, likely to commit further offences or interfere with the course of justice • Factors to be taken into account including: nature and seriousness of offence, antecedents of defendant, previous bail record, strength of evidence against defendant • Bail only granted in exceptional circumstances for murder, attempted murder, manslaughter, rape or attempted rape if the defendant has already served a custodial sentence for such a crime • Bail can only be granted in the Crown Court for a murder suspect • Bail is restricted for adult drug users under the Criminal Justice Act 2003 in certain circumstances. <p>Credit any other relevant points. Credit should also be given for the process involved in making renewed applications and an appeal against a rejected bail application by the defendant but it is not necessary for full marks.</p>	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 without:</p> <p>Level 4 – at least a definition of bail, the general right to bail, reasons to refuse bail, factors to be taken into account and a description of unconditional and conditional bail</p> <p>Level 3 – if there are any of these central points missing.</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														
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Question	Answer	Marks	Guidance										
(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> • Although Philip has been charged with a serious offence of GBH there is still a presumption in favour of bail, however the seriousness of the offence will be taken into account and as it is serious he is less likely to be given bail • As Philip has a previous record for minor assaults the likelihood of his re-offending whilst on bail will need to be considered • The fact that he has previously complied with bail conditions will go in his favour • The fact that he has no family ties to the area would mean that the risk of his absconding before the trial is more likely • He does have a local job which may be enough to keep him in the area but as his offence is serious and the possible sentence may involve imprisonment this may not be seen as a strong factor in his favour • Conditions could be attached to his bail to enable bail to be granted for example a curfew, surrender of his passport and reporting to the police station. <p>Credit any other relevant factors or conditions.</p>	9	<table border="1" data-bbox="1384 225 1765 403"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>It is important to keep in mind that this is an application question. Points need to be applied to the situation.</p> <p>Identification of a relevant point should be awarded a P for a point if it is not then applied to the situation and an AP applied point should be awarded if a point is applied to the situation given.</p> <p>P = 1 AP = 2</p> <p>If there is no application but relevant points have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met.</p> <p>“Philip”, “he” or “D” needs to be mentioned to access Level 3 as this is an application question The following points need to be considered and an applied point (worth 2 marks) is available for each – max 9 marks in total:</p> <ol style="list-style-type: none"> 1) the offence 2) previous convictions 3) relevance of his family 4) the relevance of his job 5) previous bail record 6) conditions. 	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer	Marks	Guidance										
7	(a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Stop and search</p> <ul style="list-style-type: none"> Section 1 of PACE – police have the power to stop and search a person in a public place if they have reasonable suspicion that prohibited articles, stolen goods or articles made, adapted or intended for use in burglary or criminal damage are in their possession (prohibited fireworks were added in the Serious Organised Crime and Police Act 2005) Police officer must give his/her name, station + reason for the search Only a request to remove outer coat, jacket and gloves is permitted Code of Practice A sets out guidance for police on stop and search Meaning of reasonable suspicion, <i>Castorina, Osman</i> Written report required for every stop and search. <p>Searches at the police station</p> <ul style="list-style-type: none"> Show knowledge that searches can only be done in certain circumstances – there is no automatic right to search – there must be reasonable suspicion that something will be found Initial search to remove any dangerous or prohibited articles on booking in Strip search in private with same-sex officer and only half clothing removed at any one time Intimate search only if authorised by a high ranking officer in order to search for drugs or weapons and must be carried out by a doctor or nurse. <p>Credit any other relevant points.</p>	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 without:</p> <p>Level 4 -a description of both stop and search on the street and further searches at the police station</p> <p>Do not credit search powers from under other statutes as PACE is specified</p> <p>A good description of only stop and search can gain Level 3 marks</p> <p>A description of only searches at the police station is unlikely to merit more than Level 2 marks.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question	Answer	Marks	Guidance										
(b)*	<p>Potential answers may:</p> <p>Assessment Objective 2 – Analysis, evaluation and application</p> <ul style="list-style-type: none"> • It is lawful for fingerprints to be taken from Paul using force but it must be reasonable force in the circumstances • It is lawful for Paul to be strip searched in order to find stolen earrings • The strip search should only have officers of the same sex as Paul present. The presence of the female officer makes it unlawful according to the Codes of Practice • He should not have been made to remove all his clothes, only half of his body should be undressed at one time – this also makes it unlawful • It was lawful for the intimate search on Paul to be done by a doctor • It was not lawful to do an intimate search to look for stolen property. An intimate search may only be done to find drugs or weapons • The earrings found may be excluded as evidence because there was no right to do such a search. <p>Credit any other relevant points.</p>	9	<table border="1" data-bbox="1388 223 1765 402"> <thead> <tr> <th>AO2 Levels</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>It is important to keep in mind that this is an application question. Points need to be applied to the situation.</p> <p>Identification of a relevant point should be awarded a P for a point if it is not then applied to the situation and an AP applied point should be awarded if a point is applied to the situation given.</p> <p>P = 1 AP = 2</p> <p>If there is no application but relevant points have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met.</p> <p>“Paul” or “he” needs to be mentioned to access Level 3.</p> <p>Five of the following points need to be considered and an applied point (worth 2 marks) is available for each – max 9 marks in total:</p> <ol style="list-style-type: none"> 1) fingerprints taken by force 2) strip search for stolen earrings 3) presence of female officer 4) all clothes removed 5) intimate search by doctor 6) intimate search for stolen earrings. 	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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APPENDIX 1**Advanced Subsidiary GCE Law Levels of Assessment**

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course. Similarly, there are **three** levels of assessment of AO3 in the AS units.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation of relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform or identify most of the relevant points of law in issue. Ability to develop clear arguments or apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question or identify the main points of law in issue. Ability to develop arguments or apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question or identify some of the points of law in issue. A limited ability to produce arguments based on their material or limited ability to apply points of law to a given factual situation, but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

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