

**GCE**

**Law**

Unit **G151**: English Legal System

Advanced Subsidiary GCE

**Mark Scheme for June 2014**

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of candidates of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, Cambridge Nationals, Cambridge Technicals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

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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
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	Very well developed point (WDP)
	Unclear
	Applied point
	Developed point (DP)
	Well developed point (WDP)
	Not answered question
	Not Relevant
	Point
	Repetition
	Sort of
	Point has been noted, but no credit has been given / blank page has been checked for response
	Correct
	Applied
	Spare 1

Subject-specific marking instructions

**Before** you commence **marking each question** you must ensure that you are familiar with the following:

- the requirements of the specification
- these instructions
- the exam questions (found in the exam paper which will have been emailed to you along with this document)
- levels of assessment criteria \*<sub>1</sub> (found in the 'Levels of Assessment' grid at the back of this document)
- question specific indicative content given in the 'Answer' column\*<sub>2</sub>
- question specific guidance given in 'Guidance' column\*<sub>3</sub>
- the 'practice' scripts\*<sub>4</sub> provided in Scoris and accompanying commentaries

- \*<sub>1</sub> The levels of assessment criteria (found in the 'Levels of Assessment' grid) reflect the expectation of achievement for each Assessment Objective at every level.
- \*<sub>2</sub> The indicative content in the 'Answer' column provides details of points that candidates **may** be likely to make. It is **not** exhaustive or prescriptive and points not included in the indicative content, but which are valid within the context of the question, are to be credited. Similarly, it is possible for candidates to achieve top level marks without citing all the points suggested in the scheme.
- \*<sub>3</sub> Included in the 'Guidance' column are the number of marks available for each assessment objective contained within the question. It also includes 'characteristics' which a response in a particular level is **likely** to demonstrate. For example, "a level 4 response is likely to include accurate reference to all 5 stages of x with supporting detail and an accurate link to the source". In some instances an answer may not display all of the 'characteristics' detailed for a level but may still achieve the level nonetheless.
- \*<sub>4</sub> The 'practice' scripts are live scripts which have been chosen by the Principal Examiner (and senior examining team). These scripts will represent most types of responses which you will encounter. The marks awarded to them and accompanying commentary (which you can see by changing the view to 'definitive marks') will demonstrate how the levels of assessment criteria and marking guidance should be applied.

As already stated, neither the indicative content, 'characteristics' or practice scripts are prescriptive and/or exhaustive. It is imperative that you remember at all times that a response which:

- differs from examples within the practice scripts; or,
- includes valid points not listed within the indicative content; or,
- does not demonstrate the 'characteristics' for a level

**may still** achieve the same level and mark as a response which does all or some of this. Where you consider this to be the case you should discuss the candidate's response with your supervisor to ensure consistent application of the mark scheme.

### Awarding Assessment Objectives 1 and 2

To award the level for the AO1 or AO2 (some questions may contain both AO1 and AO2 marks) use the levels of assessment criteria **and** the guidance contained within the mark scheme to establish which level the response achieves. As per point 10 of the above marking instructions, when determining which **level** to award start at the **highest\*** level and work down until you reach the level that matches the answer.

Once you have established the correct level to award to the response you need to determine the mark within the level. The marks available for each level differ between questions. Details of how many marks are available per level are provided in the Guidance column. Where there is more than one mark available within a level you will need to assess where the response 'sits' within that level. Guidance on how to award marks within a level is provided in point 10 of the above marking instructions, with the key point being that you start at the **middle\*** of each level and work outwards until you reach the **mark** that the response achieves.

Answers, which contain no relevant material at all, should receive no marks.

**\* Remember: when awarding the level you work from top downwards, when awarding the mark you work from the middle outwards.**

### Awarding Assessment Objective 3

AO3 marks are awarded based on the marks achieved for either AO1, AO2 or in some cases, the total of AO1 and AO2. You must refer to each question's mark scheme for details of how to calculate the AO3 mark.

### Rubric

#### What to do for the questions the candidate has not answered?

The rubric for G151 instructs candidates to answer **four** questions (both parts) from either:

- 2 x Section A + 2 x Section B
- 3 x Section A + 1 x Section B

For the questions the candidate has not answered you should record NR (no response) in the mark column on the right-hand side of the screen. Do **not** record a 0.

**What to do for the candidate who has not complied with the rubric either by answering more than four questions or by answering more or less Section A or B questions than is permitted?** *This is a very rare occurrence but must be picked up to ensure the candidate is not unfairly advantaged or disadvantaged.*

Mark all questions the candidate has answered. Then work out the combination of questions which gives them the highest mark whilst conforming to the rubric. Do **not** 'violate' the rubric and do **not** submit the script. Send your supervisor the script number and combination of questions you are proposing for the script to give it the highest mark which conforms to the rubric. Your supervisor will then view the script in your 'Open' items and will check and confirm the correct combination for this candidate.

Once your team leader has confirmed the correct combination you will need to amend the marks on the script to ensure the candidate receives the correct overall mark. To do this reopen the script and for the response(s) which are not included in the correct combination change the marks to NR (no response). Do **not** remove the annotations – the annotations will demonstrate that the response(s) has been marked but is not included in the correct combination.

Once you have submitted this script, contact your supervisor. Your supervisor will then double check in your closed items that you have correctly processed this script.

### **Blank pages and missed answers**

Sometimes candidates will skip a few pages in their answer booklet and then continue their answer. To be sure you have not missed any candidate response before you submit each script you must review the whole script and check every page of the script and annotate any blank pages with:

**SEEN**

This will demonstrate that every page of a script has been checked.

You must also check any additional pages eg A, A1 etc, 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.

### **Annotating and awarding marks**

**All part (a)** questions only have AO1 marks available so credit cannot be given for any AO2 points. Any AO2 points should be marked as not relevant. The main discriminator between the levels will be the level of detail and the level of understanding demonstrated in the answer.

**Section A part (b)** of questions require discussion. Each point should be annotated as follows:

**P**

for point = 1 mark

**DEV**

for developed point = 2 marks

**E**

for a well-developed (extended) point = 3 marks

**+**

for a very well-developed (extended) point = 4 marks (be careful not to use this where a response is merely restated the same point)

It is important to ensure that the discussion is based on the question asked.

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

If there are only developed points and no well-developed points only top Level 3 marks (7 marks) 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 annotated as follows:

**P**

for a point = 1 mark

**APP**

for a point applied to the situation = 2 mark

If there is no application but relevant points have been identified only top Level 2 marks (5 marks) for AO2 can be awarded as the answer does not meet the descriptor for Level 3.

Question	Answer/Indicative content	Mark	Guidance										
(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b>Mediation</b></p> <ul style="list-style-type: none"> <li>• Neutral person helps parties reach a compromise solution acting as a facilitator.</li> <li>• Mediator does not offer an opinion unless asked – A passive role</li> <li>• Illustration - often used in relationship situations eg Relate</li> <li>• Both have control over the resolution process and may withdraw at any time</li> <li>• A resolution to the dispute cannot be imposed on them as they must agree to it</li> <li>• Formalised settlement conference is another method of approaching mediation – mini trial but no binding results. Illustrations include Centre for Dispute Resolution dealing with companies and more local mediation services to deal with disputes between neighbours</li> </ul> <p><b>Conciliation</b></p> <ul style="list-style-type: none"> <li>• Conciliation - conciliator goes beyond mediation (takes an active role) in that they have the power to suggest grounds for compromise or a settlement. Illustration includes using in industrial disputes (ACAS)</li> <li>• Both have control over the resolution process and may withdraw at any time</li> <li>• A resolution to the dispute cannot be imposed on them as they must agree to it</li> </ul> <p><b>Arbitration</b></p> <ul style="list-style-type: none"> <li>• Arbitration – both parties voluntarily agree to let their dispute be left to the judgment of an arbitrator or a panel of arbitrators who are neutral</li> <li>• Agreements to arbitrate are governed by the Arbitration Act 1996 and are usually in writing.</li> </ul>	18	<table border="1" data-bbox="1279 236 1653 416"> <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 levels without:</p> <p>Level 4 - a <b>detailed</b> description of <b>three</b> types of ADR <b>and</b> illustrations. Mention of the Arbitration Act and the <i>Scott v Avery</i> clause are the level of detail that would be likely for high level 4 marks. Statutory reference required for full marks.</p> <p>Level 3. If no illustrations are given an answer cannot go beyond the top of level 3 as the question specifically asks for illustration. If a candidate describes the different types of ADR as a series of stages (that if one fails you go on to the next) the answer should not be placed in level 4 as it demonstrates a lack of understanding of ADR. Some description of arbitration is necessary to go beyond the top of level 2</p> <p>Level 2 marks are likely to be awarded if there is a basic understanding but very little detail</p> <p>Level 1 – a very limited description.</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question	Answer/Indicative content	Mark	Guidance										
	<p>Agreement to go to arbitration can be made before a dispute arises [usually by a <i>Scott v Avery</i> clause in a contract]. Agreement will either name an arbitrator or provide a method for choosing one. A court may also appoint an arbitrator. The parties agree the procedure for hearings and this ranges from a 'paper' arbitration to a formal court like hearing</p> <ul style="list-style-type: none"> <li>Arbitration awards are binding on the parties and can be enforced by the courts if necessary. An award by an arbitrator can be challenged in the courts for serious irregularity in the proceedings or on a point of law. Illustrations of situations where arbitration is used include building contracts, holiday contracts and as a result of various other business contracts</li> </ul> <p>Credit any other relevant point(s).</p>												
(b)*	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>Advantages:</b></p> <ul style="list-style-type: none"> <li>The parties can choose their arbitrator and appoint a technical expert if appropriate as the use of an expert to decide saves the necessity for expert witnesses</li> <li>The time and place of the hearing can be decided by the parties to suit their needs and working commitments unlike court where such control by the parties is not possible</li> <li>Hearings are held in private saving the publicity of court and bad feeling is more likely to be avoided between the parties</li> <li>Cases are likely to be dealt with more quickly than the courts</li> <li>Tends to be cheaper than court</li> <li>Award is final and can be enforced by the courts</li> </ul>	9	<table border="1" data-bbox="1279 783 1653 959"> <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 levels without:</p> <p>Level 4 – candidates are required to give at least one well-developed point demonstrating a real ability to focus on the question (the advantages <b>and</b> disadvantages of arbitration) and a range of other points relating to the quote. Three well-developed points would receive full marks.</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) maximum top Level 3 marks can be awarded. A one-sided response will achieve max Level 3.</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer/Indicative content	Mark	Guidance									
		<p><b><u>Disadvantages</u></b></p> <ul style="list-style-type: none"> <li>• An unexpected legal point may arise in the case which is not suitable for decision by non-lawyer arbitrators</li> <li>• Professional arbitrators may be very expensive and unexpected legal points may crop up which the arbitrator may not be able to fully take into account</li> <li>• The costs may also be as high as going to court particularly if the parties opt for a formal hearing with witnesses and legal representation</li> <li>• The use of arbitration has grown over the years and has resulted in delays for hearings particularly in commercial and international matters. The track systems has case management and strict timetables</li> <li>• There is no legal aid available for arbitration which may result in parties being not on equal footing in terms of legal assistance. A business is more likely to be able to afford legal representation. However, there is very limited funding now available for civil matters in court</li> <li>• The rights of appeal in arbitration are very limited. There are more opportunities to appeal following a decision of the court.</li> </ul> <p>Credit any other relevant comment(s).</p>		<p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points</p> <p>To gain the Point (P) there must be more than a mere statement of fact, for example, stating ‘One advantage of Arbitration is that it is legally binding’. It is necessary for the candidate to give more information e.g. ‘One of the main advantages of Arbitration is that the arbitrator will come to a final and binding decision. One which both parties must follow’.</p>									
		<p><b>Assessment Objective 3 – Communication and presentation</b></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"> <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	
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Question	Answer/Indicative content	Mark	Guidance					
	<p>Demonstrate knowledge of recruitment:</p> <ul style="list-style-type: none"> <li>• Local Advisory Committee (LAC) undertake recruitment</li> <li>• Vacancies advertised in a range of different areas or individuals may put themselves forward</li> <li>• Application form needs to be completed and submitted</li> <li>• LAC carry out two interviews               <ul style="list-style-type: none"> <li>○ one to assess attitudes in particular the six key qualities</li> <li>○ good character, communication skills, sound judgment, social awareness and commitment</li> <li>○ one practical based on sentencing</li> </ul> </li> <li>• LAC intend to create a panel representative of society (Cross Section)</li> </ul> <p>Demonstrate knowledge of appointment:</p> <ul style="list-style-type: none"> <li>• LAC submit names of suitable candidates to the Lord Chancellor and Secretary of State for Justice</li> <li>• Candidates appear in court and swear the oath of allegiance</li> </ul> <p>Demonstrate knowledge of training:</p> <ul style="list-style-type: none"> <li>• Supervised by the Magistrates' Committee of the Judicial Studies Board - Bench Training and Development Committees deliver the training</li> <li>• The Magistrates' New Training Initiative (MNTI 2) provides a competence, training and appraisal framework</li> <li>• Four competencies: Managing yourself, Working as a team member, Making judicial decisions and for Chairmen, Managing judicial decisions</li> <li>• Training syllabus divided into three parts; Initial introductory training, Core training</li> <li>• Activities - or Visit Prisons etc – sit with Mentors</li> <li>• Trainee required to keep a Personal Development Log</li> </ul>		<table border="1"> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">6–10</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1–5</td> </tr> </table>	2	6–10	1	1–5	<p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – a detailed description of recruitment, appointment <b>and</b> training of lay magistrates required</p> <p>Level 3 –an adequate description of all three or a very good description of either the recruitment and appointment <b>or</b> training</p> <p>Level 2 – a limited description of either the recruitment and appointment or the training or a very basic description of the three</p> <p>Level 1 - a very limited description</p> <p>Marks should be allocated according to the level of detail.</p>
2	6–10							
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Question	Answer/Indicative content	Mark	Guidance										
	<ul style="list-style-type: none"> <li>• First two years between 8 and 11 sittings will be mentored by experienced magistrate and trainee expected to attend approximately seven training sessions.</li> <li>• After two years (or when felt necessary) appraised to check the competencies have been acquired</li> <li>• Consolidation training (12 hours) after 2 years</li> <li>• Extra training for a Chair Person and for work in the Youth and Family courts is available after three years' service</li> <li>• Further training and appraisal possible for someone who has failed their first appraisal</li> </ul> <p>Credit any other relevant point(s).</p>												
(b)*	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Training discussion points:</p> <ul style="list-style-type: none"> <li>• Prior to 1998 there were many criticisms of the training of magistrates as it was not well organised. Since MNTI 2 training is very organised and seeks to prepare magistrates well for their various roles</li> <li>• Bench Training and Development Committees deliver the training to ensure consistency across the country</li> <li>• The initial training ensures magistrates are not put in a position where they cannot manage their role coupled with the use of a mentoring scheme has enabled new magistrates to have individual assistance in any area they are not sure of. It also allows for continual appraisal to ensure a new magistrate can manage their role</li> <li>• The competencies set guidelines for those appraising</li> </ul>	9	<table border="1" data-bbox="1279 791 1653 970"> <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 levels without:</p> <p>Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the question - the improvement in the <b>training</b> proving that they should not be <b>abolished</b>. Three well-developed points would receive full marks</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded. If the candidate fails to address the issue of</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question	Answer/Indicative content	Mark	Guidance
	<p>to ensure magistrates can do their job properly</p> <ul style="list-style-type: none"> <li>• Extra training for any additional roles such as the Family Court, the Youth Court or chairing a bench again ensures magistrates can manage their role</li> </ul> <p>In addition to training discussion credit may be given for the following points of discussion:</p> <ul style="list-style-type: none"> <li>• There is a good cross section of society. The magistracy is diverse in terms of occupation, gender equality and good representation of ethnic minorities.</li> <li>• Public involvement in the criminal justice system, sign of a democracy – not just the state charging, convicting and sentencing.</li> <li>• Local knowledge. Lay magistrates must live or work in the local justice area. This, in theory means that they should have awareness of local events, local patterns of crime and local opinions which a judge is unlikely to have. This ensures local justice is dispensed by local people. However, most magistrates come from professional and managerial classes and it is questioned whether these people do actually have any real knowledge of the problems in certain areas of the justice system eg poorer areas</li> <li>• Lay magistrates are unpaid and are therefore cheap for the government in such times of austerity.</li> <li>• Lay magistrates work part time – they are only required to commit to 26 half days per year. They are not sitting in court everyday seeing the same types of cases and defendants. This means that they are not as case-hardened as judges.</li> </ul> <p>a. Credit any other relevant comment(s).</p>		<p>training then a maximum top Level 3 marks are available.</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points</p>

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		<p><b>Assessment Objective 3 – Communication and presentation</b></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"> <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		
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3	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Different routes through the educational stage</p> <ul style="list-style-type: none"> <li>Academic: qualifying law degree (core subjects) or other degree plus, after one year's extra training on core subjects take CPE/GDL. Mature students can take the course over 2 years</li> </ul> <p>Training:</p> <ul style="list-style-type: none"> <li>Vocational: join Inn of Court and dine 12 times or attend residential training courses during Bar Professional Training Course (BPTC)</li> <li>Practical: BPTC; one year full time or over two years part-time; entails practical training with emphasis on advocacy and drafting opinions and statements of case</li> <li>Called to the Bar</li> <li>Apply for pupillage via Pupillage Gateway</li> <li>Pupillage of two six month periods with a pupil master at a set of chambers or in an Authorised Training Organisation eg Government Legal Service (GLS) who employ practising barristers. Only organisations authorised by the by the Bar Standards Board as a Pupillage Training Organisation may take pupils</li> </ul>	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 levels without:</p> <p>Level 4 - a detailed description of the qualifying routes (education and training) <b>and</b> the work of barristers</p> <p>Level 3 - an adequate description of both the qualifying routes and work or a good description of one accompanied by a limited description of the other</p> <p>If only the qualifying routes or work is covered it is not possible to award more than top Level 2/bottom Level 3 marks depending on the quality of the answer</p> <p>An answer on only half the question would have to be very detailed to merit a Level 3 mark</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question	Answer/Indicative content	Mark	Guidance										
	<ul style="list-style-type: none"> <li>• Tenancy</li> </ul> <p>Work:</p> <ul style="list-style-type: none"> <li>• Those practicing at the Bar are self-employed but usually work from a set of chambers with a clerk to organise the administration</li> <li>• Most will concentrate on advocacy but will also write opinions, give advice and draft documents for use in court</li> <li>• Some specialise in areas such as tax and rarely appear in court</li> <li>• Some barristers are employed eg in the Crown Prosecution Service</li> <li>• Usually work on instruction from a solicitor but there is direct access in civil cases</li> <li>• Apply to become a Queen's Counsel after ten years</li> </ul> <p>Credit any other relevant point(s)</p>		<p>Level 2- a limited description of both qualifying routes and work or a good or adequate description of one</p> <p>Level 1 – a very limited description</p> <p>Marks should be allocated according to the level of detail</p> <p>Answers which include a diagram of the training are acceptable and should be marked in the same way as a prose answer taking the level of detail into account</p>										
(b)*	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>The argument for fusion is still justified:</p> <ul style="list-style-type: none"> <li>• Although the changes under the Courts and Legal Services Act 1990 and the Access to Justice Act 1999 mean a solicitor can take a case from start to finish the LPC and BPTC concentrate on giving training on different aspects of the profession which results in those undertaking the BPTC being given far more advocacy training than those on the LPC. Fusion would result in one course and all students being equally trained in advocacy</li> <li>• Direct/Public Access has allowed barristers to take a case from start to finish. A barrister is now permitted to be directly approached in respect of all types of</li> </ul>	9	<table border="1" data-bbox="1279 863 1653 1038"> <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 levels without:</p> <p>Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the issue of whether the arguments for fusion are still justified. Three well-developed points would receive full marks</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question	Answer/Indicative content	Mark	Guidance
	<p>cases including criminal, family and immigration. However, a client cannot use Direct/Public and receive public funding for their case. Therefore it is still necessary to instruct a solicitor in the first instance for criminal, family and immigration cases where funding is required. Fusion would result in just one 'lawyer' being needed</p> <ul style="list-style-type: none"> <li>• Both solicitors and barristers can now undertake the same work yet a decision as to which part of the legal profession they wish to enter has to be taken before graduation. Fusion would result in a student being able to experience all aspects of the profession on a training court before making the decision as to which area to specialise in</li> <li>• Fusion of the professions is still justified as it would reduce costs in many areas but particularly criminal and family (where legal funding is required). Both these areas have had legal aid cut but still there is a requirement for both a solicitor and barrister to be instructed</li> <li>• Fusion of the professions is still justified as it would also reduce duplication of work again particularly in terms of criminal and family cases where there is only Direct/Public access in respect of private work</li> <li>• The Legal Services Act 2007 enables solicitors and barristers to work together in the same legal business. Therefore there is no longer a requirements to retain separate professions</li> <li>• Complaints are now dealt with in a similar way with the Office for Legal Complaints dealing with both professions in the same way again justifying the argument to simply have one profession</li> </ul> <p>Credit any other relevant comment(s).</p>		<p>developed point(s) then maximum top Level 3 marks can be awarded</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded.</p> <p>Level 1 – less than four discussion points</p>



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		<p><b>Assessment Objective 3 – Communication and presentation</b></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"> <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													
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4	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Demonstrate knowledge of qualifications - Tribunals, Courts and Enforcement Act 2007:</b></p> <p><u>District Judges:</u></p> <ul style="list-style-type: none"> <li>• Barristers or solicitor with 5 years' legal experience</li> <li>• CILEx Fellow with five-years post-qualification experience</li> </ul> <p><u>Circuit Judges:</u></p> <ul style="list-style-type: none"> <li>• Barrister or solicitor with 7 years' legal experience, or</li> <li>• Recorder, District Judge or Chairman of an Employment Tribunal for 3 year, or</li> </ul> <p><u>Recorders</u> Barrister or solicitor with 7 years' legal experience 5 year appointment</p> <p><b>Demonstrate knowledge of selection</b></p> <ul style="list-style-type: none"> <li>• Selected by the Judicial Appointments Commission (JAC) (established under the Constitutional Reform Act 2005) which is made up of a mixed panel of judges, lay people and lawyers</li> <li>• Vacancies are advertised on the JAC's website, on the Law Society's website, in the Law Society's e-newsletter Professional Update, depending on the vacancy, in the Times, the Law Society Gazette and other media</li> <li>• Selection solely on merit and only people of good character should apply</li> <li>• The aim is to diversify the judiciary and applications</li> </ul>	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 levels without:</p> <p>Level 4 - a detailed description of the qualifications, selection <b>and</b> appointment process - all three areas must be addressed. Statutory reference required for full marks</p> <p>Level 3 - an adequate description of all three areas or a good description of qualifications and selection</p> <p>Level 2- a limited description of all areas or a very good description of qualifications or selection</p> <p>Level 1 – a very limited description</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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	<p>are sought from a wide diversity of those qualified</p> <ul style="list-style-type: none"> <li>• Candidates apply and provide references</li> <li>• JAC will look to see that the candidate has the five core qualities and related abilities which are required for judicial office (1) Intellectual capacity (2) Personal qualities (3) An ability to understand and deal fairly (4) Authority and communication skills (5) Efficiency</li> <li>• Increasingly a qualifying test is used to shortlist candidates. Candidates attend a local centre and are provided with a scenario on which to answer a number of questions</li> <li>• Successful candidates are invited to a selection day, which consists of either an interview, or an interview and a role playing exercise</li> </ul> <p><b>Demonstrate knowledge of appointment:</b></p> <ul style="list-style-type: none"> <li>• Crime and Courts Act 2013 – LC no longer has any say in appointment of inferior judges. Power now transferred to the Lord Chief Justice</li> </ul> <p>Given the recent changes in the law, answers referring to the Lord Chancellor should also be credited</p> <p>Credit any other relevant point(s)</p>												
(b)*	<p>Potential answers <b>may:</b></p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Previously judges were selected by secret soundings. So a prospective judge never knew what anyone said about them and it was very much who you knew rather than on merit</li> <li>• A person did not apply as they were ‘asked’ to be a judge. This did not give anyone opportunities unless they knew the right people to put their name forward to the Lord Chancellor</li> <li>• Applications have to be advertised in the media, on</li> </ul>	9	<table border="1" data-bbox="1279 995 1653 1169"> <thead> <tr> <th data-bbox="1279 995 1464 1027">AO2 Levels</th> <th data-bbox="1464 995 1653 1027">AO2 Marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1279 1027 1464 1059">4</td> <td data-bbox="1464 1027 1653 1059">8–9</td> </tr> <tr> <td data-bbox="1279 1059 1464 1091">3</td> <td data-bbox="1464 1059 1653 1091">6–7</td> </tr> <tr> <td data-bbox="1279 1091 1464 1123">2</td> <td data-bbox="1464 1091 1653 1123">4–5</td> </tr> <tr> <td data-bbox="1279 1123 1464 1169">1</td> <td data-bbox="1464 1123 1653 1169">1–3</td> </tr> </tbody> </table> <p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the issue of whether the selection of judges is much fairer than it was in the past. Three well-developed points</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer/Indicative content	Mark	Guidance										
		<p>certain websites and these advertisements have improved openness</p> <ul style="list-style-type: none"> <li>• Applications have to be made and the applicant can nominate their referees. The aim is to diversify the judiciary by seeking applications from a wide diversity of those qualified opening up the possibility of promotion to being a judge to anyone with the qualifications. Previously due to the closed method of selection only white males tended to be appointed</li> <li>• The selection is solely on merit and those who fulfil the core qualities as set by the JAC not on the basis of who you know</li> <li>• The whole procedure is now transparent and much fairer than the secretive methods of the past</li> <li>• System is now fairer because there is far less executive interference in the process – the powers of the Lord Chancellor have been significantly curtailed (even more so under the Crime and Courts Act 2013)</li> </ul> <p>Credit any other relevant comment(s).</p>		<p>would receive full marks</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded.</p> <p>Level 1 – less than four discussion points</p>										
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5	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b> <b>Arrest Powers</b></p> <ul style="list-style-type: none"> <li>• Section 24 PACE as amended by SOCPA 2005 - sets out the power to arrest without warrant. Code G gives guidelines for arrest</li> <li>• The police have the power to arrest a person if:</li> </ul>	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 levels</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
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Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>○ a person has committed an offence (past) or</li> <li>○ is in the act of committing an offence (present) or</li> <li>○ is about to commit an offence (future) or</li> <li>○ there are reasonable grounds for suspecting one of these occurrences (even if no offence is actually committed)</li> </ul> <ul style="list-style-type: none"> <li>● The police may use reasonable force to carry out the arrest under s117</li> <li>● Police have the power to search the arrested person for anything which might be used to help them escape, or anything which might be evidence relating to an offence.</li> </ul> <p><u>Other powers of arrest</u></p> <ul style="list-style-type: none"> <li>● Arrest for breach of the peace (common law power) preserved by Section 26 PACE</li> <li>● Arrest for breaching bail conditions</li> <li>● Any other power of arrest, eg aggravated trespass under the Criminal Justice and Public Order Act 1994</li> <li>● Arrest with a warrant – Section 8 Magistrates Court Act</li> <li>● Section 41 Terrorism Act</li> </ul> <p><u>Arrest Limitations</u></p> <ul style="list-style-type: none"> <li>● The necessity test sets limits on when an officer has the power to arrest. The officer can only arrest if he has reasonable grounds for believing that it is necessary to make the arrest for one of the following reasons: <ul style="list-style-type: none"> <li>○ to enable the name and address of suspect to be ascertained</li> <li>○ to prevent the person - causing physical injury to himself or any other person, suffering physical injury, causing loss or damage to property, committing an offence against public decency, causing an unlawful obstruction of the</li> </ul> </li> </ul>		<p>without:</p> <p>Level 4 - a detailed description of the <b>range</b> of powers the police have to arrest on the street <b>and</b> limitations of both. The range will require a description of more than PACE/SOCPA powers. For full marks statutory reference is required</p> <p>Level 3 - maximum of top Level 3 marks can be awarded if there is no mention of powers other than PACE/SOCPA. A detailed answer on powers only can achieve Level 3</p> <p>Level 2 – limited description</p> <p>Level 1 – very limited description</p> <p>There is a lot of available detail on arrest so full marks can be reached without all the detail. All the grounds for arrest under the necessity test do not need to be set out.</p> <p>Marks should be allocated according to the level of detail.</p>

Question	Answer/Indicative content	Mark	Guidance											
	<p>highway</p> <ul style="list-style-type: none"> <li>○ to protect a child or vulnerable person or</li> <li>○ to allow the prompt and effective investigation of the offence or the conduct of the person or</li> <li>○ to prevent any prosecution for the offence from being hindered by the disappearance of the person in question</li> </ul> <ul style="list-style-type: none"> <li>● Police must tell a person at the time of arrest, or as soon as practicable afterwards <ul style="list-style-type: none"> <li>○ why they are under arrest</li> <li>○ the reason for arrest (no set words but must be understandable <i>Taylor v Chief Constable of Thames Valley Police</i>)</li> <li>○ why the arrest is necessary and</li> <li>○ give a caution</li> </ul> </li> <li>● They also have to identify themselves if not in uniform to make the arrest lawful</li> <li>● Any evidence obtained through oppression will be inadmissible</li> <li>● Must make a record of the arrest</li> <li>● In a public place suspect only required to remove outer coat, jacket and gloves more detailed search must be undertaken in private</li> </ul> <p>b.</p> <p>c. No credit available for citizens arrest as outside remit of question</p> <p>d. Credit any other relevant point(s).</p> <p>e.</p> <p>f.</p>													
(b)*	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>● Reasonable suspicion is open ended and fairly easy to justify. Code A goes some way to explain what reasonable suspicion is and how it should be used but there are no absolute guidelines as to what it means</li> </ul>	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>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3	<p>Responses will be unlikely to achieve the following levels</p>
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	<p>therefore giving the police wide powers</p> <ul style="list-style-type: none"> <li>• Evidence suggests that some forces exercise their stop and search powers not on intelligence and reasonable suspicion but stereotypical assumptions. This is evidenced by the disproportionate number of black youths stopped and searched. Statistics suggest that a black person is 6 times more likely to be stopped and searched than a white person</li> <li>• Approximately one million stop and searches take place a year with only 9% of those leading to arrest. This may imply that the police use the powers widely and excessively</li> <li>• S.60 Criminal Justice and Public Order Act is used excessively by some forces to stop and search. There is no requirement to show reasonable suspicion. For example the Metropolitan Police force used s.60 more so than any other power to stop and search. Forces have agreed to cut back on using this power unless absolutely necessary</li> <li>• Counter terrorism laws gave police excessive powers to stop and search. s.44 Terrorism Act has been used excessively and 'abused' to such an extent that the ECHR rules such stop and searches unlawful due to the lack of reasonable suspicion required</li> <li>• Huge disparities regarding the number of stop and searches taking place across the country. Therefore although wide powers available not excessively used in all areas.</li> </ul> <p>Credit any other relevant comment(s).</p>		<p>without:</p> <p>Level 4 – Candidates are able to achieve Level 4 by giving at least one well-developed point demonstrating a real ability to focus on the issue of whether the police powers have become excessive in relation to stop and search. Three well-developed points would receive full marks</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other points and no well-developed point(s) then maximum top Level 3 marks can be awarded</p> <p>Level 2 – if the candidate has given a series of points with no development e.g. a list then the maximum top Level 2 can be awarded.</p> <p>Level 1 – less than four discussion points</p>									
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6	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Describe three aims as set out in the Criminal Justice Act:</p> <ul style="list-style-type: none"> <li>• Punishment – retribution for wrongdoing, society’s revenge for the offence. ‘Let the punishment fit the crime’; ‘an eye for an eye’. Based on proportionality or ‘just desserts’ it contains an element of denunciation – society’s outrage at the offence committed. Most sentences fulfil this aim – life sentence for taking a life</li> <li>• Reduction of crime - this includes both deterrence and rehabilitation <ul style="list-style-type: none"> <li>• Deterrence has two types - individual and general <ul style="list-style-type: none"> <li>○ Individual – aimed at a particular offender to put him/her off re-offending by either a very severe sentence e.g. custodial sentence or a fine, or by the threat of imprisonment e.g. a suspended sentence or conditional discharge</li> <li>○ General – put society off committing crimes by exemplary sentences or minimum sentences. These are not concerned with fairness and may be harsher than the usual tariff for the offence so they can lead to injustice in particular cases e.g. very severe sentences for the theft of mobile phones on the street</li> </ul> </li> </ul> </li> <li>• Rehabilitation – a forward looking aim - aims to reform the offender to stop them re-offending. It is focussed on the longer term looking at the potential of the offender to reform, e.g. Drug Rehabilitation Order. It is now accepted that custodial sentences only have very limited rehabilitative effect – particularly focused on Young Offenders</li> <li>• Protection of the public by preventing the offender from re-offending - protects the public from dangerous or violent offenders - achieved by incapacitating the</li> </ul>	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>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5	<p>Responses will be unlikely to achieve the following levels without:</p> <p>Level 4 – detailed description of <b>three aims</b> (excluding reparation) <b>and</b> mitigating factors are required for level 4 marks <b>and</b> statutory reference</p> <p>Level 3 - if only purposes and no factors are described a maximum of top level 3 marks can be awarded</p> <p>Level 2 - if only factors and no purposes are described a maximum of mid-level 2 marks can be awarded. To achieve mid-level 2 the response would need to be detailed</p> <p>Level 2 marks are likely to be awarded if there is a basic understanding but very little detail</p> <p>Level 1 - a very limited description</p> <p>Marks should be allocated according to the level of detail</p>
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	<p>offender - e.g. imprisonment, curfew, driving ban - Extended sentences</p> <p>Mitigating factors (make the sentence more lenient) e.g.</p> <ul style="list-style-type: none"> <li>• early guilty plea</li> <li>• provocation</li> <li>• previous good character</li> </ul> <p>any factors which may be held to be mitigating Credit any other relevant point(s).</p>												
(b)*	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>In respect of Harry:</b></p> <ul style="list-style-type: none"> <li>• Murdered a Police Officer makes this an extremely serious offence – aggravating factor</li> <li>• Firearm used – aggravating factor</li> <li>• Mandatory life sentence – starting point 30 years as Police Officer killed and a firearm used.</li> </ul> <p><b>In respect of Elizabeth:</b></p> <ul style="list-style-type: none"> <li>• Excessive speed – twice the speed limit – aggravating factor</li> <li>• Current driving convictions – aggravating factor as of a similar nature</li> <li>• Almost certain driving ban. Points and heavy fine.</li> </ul>	9	<table border="1" data-bbox="1279 549 1653 724"> <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 Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given. P = 1 mark AP = 2 marks If there is no application but relevant points (i.e. just Ps) have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met.</p> <p>Level 4 can only be achieved if an applied appropriate sentence is given for both Harry and Elizabeth as stated in the question.</p> <p>The names of the offenders need to be mentioned to get out of Level 2 as this is an application question. The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total.</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question		Answer/Indicative content	Mark	Guidance										
				<p><b>P1</b> Murder of <b>Police Officer</b> - serious therefore aggravating</p> <p><b>P2</b> Use of <b>firearm</b> – aggravating</p> <p><b>P3</b> Sentence, <b>mandatory</b> life – starting point <b>30 years</b></p> <p><b>P4</b> <b>Excessive</b> speed – aggravating</p> <p><b>P5</b> Similar previous convictions – aggravating</p> <p><b>P6</b> Any <b>relevant</b> sentence – <b>and the reason</b></p>										
		<p><b>Assessment Objective 3 – Communication and presentation</b></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"> <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		
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7–9	3													
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7	(a)	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Challenge by the defence to the Court of Appeal</p> <ul style="list-style-type: none"> <li>Defendant may appeal against conviction, sentence or both to the Court of Appeal (Criminal Division). Leave to appeal must be granted either by the trial judge or from the Court of Appeal itself</li> <li>Only ground for allowing an appeal against conviction is that the conviction is unsafe and the Court of Appeal may order a retrial or quash the conviction if it allows the defendant's appeal</li> <li>When hearing an appeal the Court of Appeal may admit new evidence in the interests of justice</li> <li>Criminal Cases Review Commission may refer cases back to the Court of Appeal after all routes of appeal have been exhausted if there is evidence of a miscarriage of justice</li> </ul>	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 levels without:</p> <p>Level 4 - challenges to decisions by both the defence <b>and</b> the prosecution <b>and</b> details of appeals against conviction and sentence in all relevant courts must be described for Level 4 marks</p> <p>Level 3 - an adequate description of all or a good description of one accompanied by a limited description of the others</p> <p>Level 2 - If only the defence or the prosecution are described</p>	AO1 Levels	AO1 Marks	4	15–18	3	11–14	2	6–10	1	1–5
AO1 Levels	AO1 Marks													
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Question	Answer/Indicative content	Mark	Guidance										
	<p>Challenges by the prosecution</p> <ul style="list-style-type: none"> <li>• The prosecution may ask the Attorney-General to seek leave from the Court of Appeal to consider an unduly lenient sentence</li> <li>• Attorney-General may refer a point of law to the Court of Appeal if the prosecution is concerned about an acquittal – this will merely settle the law on that point. It will not affect the acquittal</li> <li>• If there is evidence of jury tampering the prosecution may apply to the High Court for the acquittal to be set aside and a retrial ordered</li> <li>• Criminal Justice Act 2003 abolished double jeopardy rule so that the Director of Public Prosecutions may apply to the Court of Appeal to overturn an acquittal and order a retrial if there is new and compelling evidence</li> <li>• The prosecution may appeal against a ruling on law made by a judge in a Crown Court trial Appeals to the Supreme Court</li> <li>• Both the prosecution and the defence have the right to appeal from the Court of Appeal [Criminal Division] to the Supreme Court. The Court of Appeal have to certify that it involves a point of law of public importance and either the Court of Appeal or the Supreme Court must give permission to appeal</li> <li>• Very few cases are appealed to the Supreme Court</li> </ul> <p>Credit any other relevant point(s).</p>		<p>a maximum of Level 2 marks could be achieved. To achieve top Level 2 the response would need to be detailed</p> <p>Level 1 – a very limited description</p> <p>A fully annotated diagram is acceptable as a way of answering the question and if the level of detail warrants it can get full marks.</p> <p>The level of detail will inform the level and the mark.</p>										
(b)*	<p>Potential answers <b>may</b>:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Identify that George can appeal to the Court of Appeal against conviction and sentence</li> <li>• Identify that George has no automatic right of appeal</li> </ul>	9	<table border="1" data-bbox="1279 1203 1653 1378"> <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 levels</p>	AO2 Levels	AO2 Marks	4	8–9	3	6–7	2	4–5	1	1–3
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Question	Answer/Indicative content	Mark	Guidance									
	<p>against conviction to the Court of Appeal. He will need to get leave to appeal</p> <ul style="list-style-type: none"> <li>• Identify that the only ground for allowing the appeal is that it is unsafe. The new witness may be grounds for allowing the appeal</li> <li>• George can bring up the misinterpretation of the law of manslaughter in the appeal which could be another reason to make the conviction unsafe</li> <li>• The appeal against sentence can only result in the sentence being reduced or kept the same as he requires leave to appeal</li> <li>• There is a further opportunity to appeal on a point of law of public importance if the misinterpretation of the law on manslaughter is felt to need clarification by the Supreme Court. This is highly unlikely however</li> </ul> <p>Credit any other relevant comment(s).</p>		<p>without:</p> <p>It is important to keep in mind that this is an application question. Points need to be applied to the situation            Identification of a relevant point should be awarded a P for a point. An applied point (AP) should be awarded if a point is applied to the situation given.            P = 1 mark            AP = 2 marks            If there is no application but relevant points (i.e. just Ps) have been identified only top Level 2 marks can be awarded as the criteria for Level 3 will not have been met.</p> <p>“George” or “he” or “D” needs to be mentioned to get out of Level 2 as this is an application question.            The following points need to be considered and an applied point (worth 2 marks) is available for each – still max 9 marks in total.</p> <p>P1 Appeal to Court of Appeal – Conviction/Sentence            P2 No automatic right – needs leave            P3 The new <b>witness</b> – makes conviction unsafe            P4 Misapplication of the law on manslaughter - makes conviction unsafe            P5 Appeal against sentence – Unduly harsh            P6 Appeal to the Supreme Court – point of law or public importance or rare</p>									
	<p><b>Assessment Objective 3 – Communication and presentation</b></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" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">AO2 marks</th> <th style="width: 50%;">AO3 mark</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">7–9</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">4–6</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">1–3</td> <td style="text-align: center;">1</td> </tr> </tbody> </table>		AO2 marks	AO3 mark	7–9	3	4–6	2	1–3	1
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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 <b>or</b> identify most of the relevant points of law in issue. Ability to develop clear arguments <b>or</b> 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 <b>or</b> identify the main points of law in issue. Ability to develop arguments <b>or</b> 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 <b>or</b> identify some of the points of law in issue. A limited ability to produce arguments based on their material <b>or</b> 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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