

**GCE**

**Law**

Unit **G151**: English Legal System

Advanced Subsidiary GCE

**Mark Scheme for June 2016**

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.

It is also responsible for developing new specifications to meet national requirements and the needs of students and teachers. OCR is a not-for-profit organisation; any surplus made is invested back into the establishment to help towards the development of qualifications and support, which keep pace with the changing needs of today's society.

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.

© OCR 2016

## 1. Annotations

Annotation	Meaning
	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

## 2. 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										
1 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Under the, Criminal Justice Act 2003, the Crime and Disorder Act 1998 and the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012</p> <p><u>Adult Custodial sentences available in the Crown Court:</u></p> <ul style="list-style-type: none"> <li>• Mandatory life sentences: <ul style="list-style-type: none"> <li>○ Only sentence available for murder if over 18 years old. Minimum tariff] to be served before release on licence ranges from whole life to 12 years. Tariff set out in CJA (2003)</li> <li>○ Mandatory life sentence for a second serious or violent or sexual crime – LASPO [unless the court feels it would be unjust]</li> </ul> </li> <li>• Discretionary life sentences available for other serious offences eg manslaughter/rape but the judge has discretion in imposing a lesser sentence if it is more appropriate</li> <li>• Extended determinate sentences (LASPO) – custodial sentence up to the maximum for the crime followed by an extension period on licence</li> <li>• Minimum sentences for dealing in Class A drugs or a third burglary of a residential building</li> <li>• Suspended sentence – term of imprisonment set between 14 days and two years but suspended for between six months and two years. If breached the custodial sentence will be served</li> <li>• Fixed-term sentence – prisoner will be released after serving half their sentence. The length will depend upon various factors e.g. the maximum sentences available for that crime, seriousness of crime, defendant’s previous record</li> </ul>	18	<table border="1" data-bbox="1279 284 1659 459"> <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 <b>both</b> custodial <b>and</b> community sentences available. <b>Statutory reference and Community order needed for top L4</b></p> <p>Level 3 - an adequate description of both areas. A response may achieve Level 3 by giving a detailed description of four custodial sentences or detailed description of four community sentences</p> <p>Level 2- a limited description of both areas or a reasonable description of one area will be able to achieve Level 2.</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
AO1 Levels	AO1 Marks												
4	15–18												
3	11–14												
2	6–10												
1	1–5												



Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>• Home Detention Curfew – introduced by the Crime and Disorder Act 1998. Early release from prison on condition that a curfew is imposed. Available to those serving a custodial sentence of a minimum of three months (to a max of four years). The Home Detention Curfew is a privilege. There is no automatic right to be released on curfew.</li> </ul> <p><u>Community Sentences – adults:</u></p> <ul style="list-style-type: none"> <li>• Criminal Justice Act 2003</li> <li>• One Community Order under which the court can combine any requirements they think necessary - mixed and matched</li> <li>• Unpaid Work requirement – unpaid work in the community. Between 40-300 hours. 12 month period</li> <li>• Supervision requirement – the offender is put under the supervision of a probation officer. Regular, often weekly meetings. Will undertake work to promote personal and behavioural change</li> <li>• Drug rehabilitation requirement - individual must agree to a treatment plan. The plan will include treatment and testing. Varies in length between 6-36 months</li> <li>• Alcohol treatment requirement – usually given to hazardous and harmful drinkers. Range between 6-36 months</li> <li>• Curfew requirement – Offender will be required to be in a specific place for between 2-16 hours in a 24 hour period. Max 12 months. Often enforced by electronic tag</li> <li>• (Supervised) Activity requirement – 60 days. Must participate in range of activities eg day centre activities, education and learning, or basic skills assessment and training</li> <li>• Programme requirement – must specify number of days. Programme designed to address reasons for</li> </ul>		

Question	Answer/Indicative content	Mark	Guidance
	<p>offending behaviour</p> <ul style="list-style-type: none"> <li>• Prohibited activity requirement – Offender will be prevented from participating in certain activities on a day or days, or for a specific period of time. Eg attending football matches</li> <li>• Exclusion requirement – Offender directed not to enter a specific area for a period of up to two years. May include electronic monitoring</li> <li>• Residence requirement – Offender ordered to reside at a specific address eg approved hostel or private address</li> <li>• Mental health treatment requirement. Requires offenders consent. Includes both medical and psychological treatment</li> <li>• Attendance centre requirement – up to 24 years old. Between 12- 36 hours at an attendance centre over a set period of time.</li> </ul> <p>Credit any other relevant point(s)</p>		

Question	Answer/Indicative content	Mark	Guidance											
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Most custodial sentences achieve the aim of protecting the public. Prison sentences are given as a last resort but aim to protect the public by preventing the offender from re-offending and committing further crimes</li> <li>• The variety of sentences available for the range of new offences introduced in the Legal Aid Sentencing and Punishment of Offenders Act 2012 aim to protect the public</li> <li>• Whilst there is no longer Imprisonment for Public Protection there is now a new mandatory life sentence. This protects the public by giving a judge the option of passing a mandatory life sentence when an offender commits a 2<sup>nd</sup> serious offence ('two strikes')</li> <li>• Extended Determinate Sentences protect the public from offenders who have committed serious sexual or violent offences. There is no automatic release from prison halfway through the sentence. They will only be released when they have served at least 2/3s of their prison term and may be kept inside prison until the end of their term</li> <li>• Some of the requirements attached to a Community Order aim to protect the public. The fact that it is possible to mix and match allows the court to pick the most appropriate sentence(s) where appropriate, to protect the public</li> <li>• A requirement dealing with substance abuse such as drugs/intoxicating substances to a certain extent achieves the aim of protecting the public by helping the offender. By offering treatment and education to stop</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 without:</p> <p>Level 4 – candidates will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the extent to which <b>adult</b> sentences achieve the aim of protection of the public. 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 discussion 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 discussion points with no development e.g. a list</p> <p>Level 1 – less than four discussion points</p> <p>There will be no credit for mere AO1 comment eg the name of a sentence or the name of an aim if it is not accompanied by discussion.</p>
AO2 Levels	AO2 Marks													
4	8–9													
3	6–7													
2	4–5													
1	1–3													

Question	Answer/Indicative content	Mark	Guidance									
	<p>the dependency on or misuse of drugs/intoxicating substances the offender is less likely to offend in the future thus protecting the public</p> <ul style="list-style-type: none"> <li>• A curfew requirement (enforced by electronic tag) achieves the aim of protecting the public by removing the offender from the area at certain times of the day/night making the area safer for the public</li> <li>• New sentences for driving offences, again introduced by the Legal Aid Sentencing and Punishment of Offenders Act 2012 aim to protect the public. The maximum of five year custodial sentence for causing serious injury by dangerous driving protects other road users and the general public on the street from people who have caused injury due to dangerous driving.</li> <li>• Driving bans protect the public from careless and reckless drivers. Banning a person from driving removes them from the road and limits the dangers to the public.</li> </ul> <p><b>Credit any other relevant comment(s) including those approaches from a negative perspective.</b></p>											
	<p><b>Assessment Objective 3 – Communication and presentation</b> 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 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	
AO2 marks	AO3 mark											
7–9	3											
4–6	2											
1–3	1											

Question	Answer/Indicative content	Mark	Guidance										
2 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Jurisdiction of the High Court:</p> <p>Queen’s Bench Division – jurisdiction to hear:</p> <ul style="list-style-type: none"> <li>• contract and tort matters over £50,000</li> <li>• complex multi-track cases transferred from the County Court</li> <li>• applications for Judicial Review</li> <li>• Appeals by way of case stated from criminal cases decided at the Magistrates’ Court</li> <li>• Applications for <i>habeas corpus</i></li> <li>• The Commercial Court – claims relating to the transactions of trade and commerce</li> <li>• The Admiralty Courts – exclusive jurisdiction over certain maritime claims</li> <li>• The Mercantile Court - business disputes which fall outside the remit of the Commercial Court or the Chancery Division</li> <li>• The Technology and Construction Court - disputes in the field of technology and construction</li> </ul> <p>Chancery Division – jurisdiction to hear:</p> <ul style="list-style-type: none"> <li>• corporate and personal insolvency disputes</li> <li>• business, trade and industry disputes</li> <li>• the enforcement of mortgages</li> <li>• intellectual property matters, copyright and patents</li> <li>• disputes relating to trust property</li> <li>• contentious probate</li> </ul>	18	<table border="1" data-bbox="1279 248 1655 427"> <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 - to demonstrate good well developed knowledge and a clear understanding of the jurisdiction of the High Court <b>and</b> the routes of appeal from this court both need to be described in detail. Candidates will be required to demonstrate knowledge of the three divisions</p> <p>Level 3 - if any of the central issues mentioned above are missing then maximum level 3 can be awarded. A very detailed description of jurisdiction of the three divisions and no mention of appeals will achieve low Level 3</p> <p>Level 2 - a limited description of both. A description of the appeal process from the High Court without mention of the jurisdiction will be able to achieve Level 2</p> <p>Level 1 - the candidate will show very limited knowledge of one or both areas. There will be limited detail.</p> <p>Answers which include a diagram of the appeal process are acceptable and should be marked in the same way as a prose answer taking the level of detail into account</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												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<p>Family Division – jurisdiction to hear:</p> <ul style="list-style-type: none"> <li>• cases relating to children under the Children Act 1989</li> <li>• court has exclusive jurisdiction in wardship matters</li> <li>• appeals from family proceedings courts and cases transferred from the county court</li> </ul> <p>Appeals from the <b>High Court</b>:</p> <ul style="list-style-type: none"> <li>• From the High Court the appeal usually goes to the Court of Appeal (Civil Division)</li> <li>• On a point of law</li> <li>• Leave to appeal required</li> <li>• Possible leapfrog appeal directly to the Supreme Court</li> <li>• Can only leapfrog if statutory interpretation or precedent is involved or the Court of Appeal is bound by one of its own previous decisions</li> <li>• Permission to leapfrog required from the Supreme Court</li> </ul> <p><b>Further appeals:</b></p> <ul style="list-style-type: none"> <li>• From a decision in the Court of Appeal there is further appeal to the Supreme Court on a point of law</li> <li>• On a point of general public importance</li> <li>• leave either from the Court of Appeal or the Supreme Court</li> </ul> <p>Credit any other relevant point(s) eg High Court sitting with 2 judges as a Divisional Court - appeals</p>		<p>NOTE: an application to the CJEU under Art 267 TFEU is not technically an appeal, it is where a question (reference) is put to the CJEU and therefore no credit</p>

Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• One advantage of using the civil courts is that the cases will be dealt with by a legally qualified person – a judge. This is appropriate in cases where there are complex legal issues involved. This will result in a competent legal decision at the end of the case</li> <li>• An advantage is that the Judge will have control over proceedings. The allocation questionnaire ensures that the case is allocated the correct track. Case management takes place where a strict timetable as to the length of hearing, number of witnesses is set. This minimises the delay in the case being heard</li> <li>• There will be a legally binding decision made at the end of the hearing. Therefore both parties are guaranteed that the matter will be resolved</li> <li>• Parties are not at liberty to walk away during the proceedings and in the long-term, this may save cost. A failed attempt at mediation or conciliation may result in additional costs and delay if the matter has to then go to court</li> <li>• An advantage of using the civil courts is that there is a clear, structured appeal route. This includes appeals from the Small claims</li> <li>• Some say that having an open system of justice in many of the civil courts is an advantage as this means that companies cannot hide behind arbitration which is private eg holiday companies. If such issues were dealt with by public arbitration the general public might be more aware of certain issues and would be able to guard against them</li> </ul>	9	<table border="1" data-bbox="1279 248 1659 427"> <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 will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the advantages of using the civil court system to resolve a dispute 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 discussion 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 discussion 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>	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												
2	4–5												
1	1–3												

Question	Answer/Indicative content	Mark	Guidance								
	<ul style="list-style-type: none"> <li>• The civil courts use precedent. This is an advantage to individuals as it allows lawyers to advise clients on the likely outcome of cases. It allows for 'reasoned' decisions</li> <li>• Whilst there is very limited legal funding available for civil matters there remains some. There is no legal funding available for ADR</li> </ul> <p>Credit any other relevant comments</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="margin-left: auto; margin-right: auto;"> <thead> <tr> <th data-bbox="1279 587 1469 625">AO2 marks</th> <th data-bbox="1469 587 1659 625">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1279 625 1469 663" style="text-align: center;">7–9</td> <td data-bbox="1469 625 1659 663" style="text-align: center;">3</td> </tr> <tr> <td data-bbox="1279 663 1469 702" style="text-align: center;">4–6</td> <td data-bbox="1469 663 1659 702" style="text-align: center;">2</td> </tr> <tr> <td data-bbox="1279 702 1469 740" style="text-align: center;">1–3</td> <td data-bbox="1469 702 1659 740" style="text-align: center;">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										
4–6	2										
1–3	1										



Question	Answer/Indicative content	Mark	Guidance										
3 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><u>Name the three categories and the court the trial will take place in:</u></p> <ul style="list-style-type: none"> <li>• Summary offences – always tried in the Magistrates’ Court e.g. most driving offences</li> <li>• Triable either way offences. Can be tried either in the Magistrates’ Court or in the Crown Court eg theft</li> <li>• Indictable offences. Always tried in the Crown Court eg murder.</li> </ul> <p><b><u>PRE-TRIAL PROCEDURE</u></b></p> <p><u>Early Administrative Hearing</u></p> <ul style="list-style-type: none"> <li>• Undertaken by a single magistrate (or clerk) where the issues of legal aid, bail and reports are addressed</li> </ul> <p><u>Pre-trial procedure for summary offences</u> Defendant will be asked whether they plead guilty or not guilty. If they plead guilty the magistrates will sentence If they plead not guilty a trial will take place and sentence passed if guilty verdict</p> <p><u>Pre-trial procedure for indictable offences</u> Case transferred to the Crown Court s.51 Crime and Disorder Act 1998</p> <p><u>Pre-trial procedure for triable either way offences:</u></p> <ul style="list-style-type: none"> <li>• First the defendant will be asked whether they plead guilty or not guilty to the offence - plea before venue</li> </ul>	18	<table border="1" data-bbox="1279 248 1655 427"> <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 – in order to achieve Level 4 the response will require a detailed description of categories of offences <b>and at least 2</b> pre-trial procedures for summary, triable either way <b>or</b> indictable offences – categories and all 3 for maximum marks</p> <p>Level 3 – an adequate description of both categories and pre-trial procedure. A detailed description of the pre-trial procedure for the three categories of offences would allow the response to achieve Level 3. Candidates should be given credit for an example of a correct offence for each category. Both categories and pre-trial procedure are required for top Level 3 marks</p> <p>Level 2 – a description of categories and the courts can achieve upper Level 2 marks</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
AO1 Levels	AO1 Marks												
4	15–18												
3	11–14												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>• If the defendant pleads guilty the case is automatically heard by the Magistrates' Court</li> <li>• The magistrates then sentence but retain the option of sending the defendant to the Crown Court for sentencing if necessary</li> <li>• If the defendant pleads not guilty a mode of trial procedure takes place and the magistrates will decide on the most appropriate court to try the case</li> <li>• The magistrates will consider               <ul style="list-style-type: none"> <li>○ whether or not they have the jurisdiction and</li> <li>○ whether they consider they have adequate sentencing powers</li> </ul> </li> <li>• If they feel they lack jurisdiction or sentencing power they will transfer it to the Crown Court for trial</li> <li>• If the magistrates are prepared to accept jurisdiction the defendant is given the choice of which court he wishes to be tried in</li> <li>• The magistrates retain the right to send the case to Crown Court for sentencing upon completion of the trial and a guilty verdict being passed</li> </ul> <p>Credit any other relevant point</p>		

Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><u>Factors that may influence the defendant to elect trial at the Crown Court:</u></p> <ul style="list-style-type: none"> <li>• There will be a jury deciding whether the defendant is guilty or not guilty. The jury is made up of ordinary members of the public and there is a far higher chance of an acquittal than when tried by magistrates. Juries acquit approximately 60% of defendants</li> <li>• Having a jury means that everything is explained using everyday terms making it more understandable and less daunting to the defendant</li> <li>• Although the wait for trial at the Crown Court is longer than that of the Magistrates' Court this gives the defendant and their legal team time to put the defence case together including obtaining witness statements and any crucial evidence</li> <li>• In the Crown Court the defendant will require the services of either a barrister or solicitor advocate both of whom are experts at advocacy</li> <li>• Even with the cuts in funding the defendant is more likely to have their case legally funded in the Crown Court particularly if liberty is an issue. In the Magistrates' court the defendant is more likely to find themselves unrepresented.</li> </ul> <p><u>Factors that may influence the defendant not to elect trial at the Crown Court</u></p> <p>Although the conviction rate is lower than the Magistrates' Court there is a risk that a higher sentence will be imposed upon a guilty verdict</p>	9	<table border="1" data-bbox="1279 248 1659 427"> <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 will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the factors taken into account when deciding whether or not to elect to have a triable either way matter dealt with by the Crown or Magistrates' Court. 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 discussion 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 discussion points with no development eg a list, then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points</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												
2	4–5												
1	1–3												

Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>• The trial will take longer than it would have had it been in the Magistrates' Court. Everything needs to be explained to the jury before the trial begins and during the trial. Juries are removed during legal argument which is also time consuming</li> <li>• If the defendant is refused bail and placed on remand whilst awaiting trial this period of remand can be long. If eventually found not guilty there will no compensation for remand time. The financial consequences on this person can be quite devastating</li> <li>• The time spent on remand awaiting trial may be greater than the eventual sentence given upon a guilty verdict as remand time is doubled when being deducted from any sentence given</li> <li>• There is greater interest in cases being held at the Crown Court and as a result more likely to receive publicity.</li> </ul> <p><u>Factors that may influence the defendant to elect trial at the Magistrates' Court</u></p> <ul style="list-style-type: none"> <li>• The speed. Cases in the magistrates tend to be completed very quickly with trials rarely lasting more than one day</li> <li>• The Magistrates' Court is restricted in terms of penalties. The maximum custodial sentence is 6 months imprisonment for one offence and £5,000 fine for an individual</li> <li>• There is usually less publicity in the Magistrates' Court. Although there will often be a reporter from a local paper the cases are of less interest to the public and often not considered news worthy</li> <li>• Court proceedings in the Magistrates' Court are less daunting. There are no judges and barristers in wigs and gown and no jury</li> </ul>		

Question	Answer/Indicative content	Mark	Guidance								
	<p><u>Factors that may influence the defendant not to elect trial at the Magistrates' Court</u></p> <ul style="list-style-type: none"> <li>• There is a higher conviction rate at the Magistrates' Court. The conviction rates is approximately 60%</li> <li>• Very unlikely to get legal funding for a case in the Magistrates' court unless liberty is at stake. This may result in the defendant having to represent themselves</li> <li>• In a triable either way matter, despite having elected summary trial, there is a still a risk of the case sent to the Crown Court for sentencing</li> </ul> <p>Credit any other relevant comment(s).</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="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="padding: 2px;">AO2 marks</th> <th style="padding: 2px;">AO3 mark</th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 2px;">7–9</td> <td style="text-align: center; padding: 2px;">3</td> </tr> <tr> <td style="text-align: center; padding: 2px;">4–6</td> <td style="text-align: center; padding: 2px;">2</td> </tr> <tr> <td style="text-align: center; padding: 2px;">1–3</td> <td style="text-align: center; padding: 2px;">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										
4–6	2										
1–3	1										

Question	Answer/Indicative content	Mark	Guidance										
4 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Demonstrate understanding of relevant statute(s):  <b>Bail Act 1976 (as amended)</b>            Bail (Amendment) Act 1993            Crime and Disorder Act 1998            Criminal Justice Act 2003            Prevention of Terrorism Act 2005            LASPO 2012</p> <p><u>Court Bail</u>  <b><u>Definition of Bail – right to remain at liberty</u></b>            May be granted at both Magistrates’ and Crown Court            S.4 Bail Act states that there is a general right to unconditional bail - BUT LASPO has introduced the ‘no real prospect test’. It sets the starting point as ‘bail must be given if there is no real prospect that the defendant will be sentenced to a custodial sentence’</p> <p>The courts will address the following:  <b><u>Reasons for refusing bail:</u></b></p> <ul style="list-style-type: none"> <li>• Belief that they would fail to appear</li> <li>• previously failed to appear</li> <li>• likely to commit further offences</li> <li>• interfere with witnesses/the course of justice</li> </ul> <p><b><u>Factors to be taken into account including:</u></b></p> <ul style="list-style-type: none"> <li>• nature and seriousness of offence</li> <li>• antecedents of defendant</li> <li>• previous bail record</li> <li>• strength of evidence against defendant</li> </ul>	18	<table border="1" data-bbox="1279 248 1655 427"> <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 – to reach level 4 an answer may include</p> <ul style="list-style-type: none"> <li>• the general right to bail,</li> <li>• reasons to refuse bail,</li> <li>• factors to be taken into account,</li> <li>• restrictions and a</li> <li>• description of conditional bail.</li> </ul> <p><b><u>Statutory authority required for full marks</u></b></p> <p>Level 3 - if any of the central points mentioned above are missing then maximum level 3 can be awarded. Without these the response will not demonstrate good well developed knowledge and clear understanding of the relevant principles and would be considered adequate</p> <p>Level 2 - a limited description of some of the central points will be awarded a maximum top Level 2. This may include simple lists without any development or a general overview with limited elaboration of the principles</p> <p>Level 1 - the candidate will show very limited knowledge of the basic principles. There will be limited detail and a lack of accurate reference to statutes or key aspects</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												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<p><u>Restrictions on the grant of bail:</u></p> <ul style="list-style-type: none"> <li>• for an offence committed while already on bail, bail can only be granted if the court is satisfied there is no significant risk of further offending</li> <li>• bail will only be 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</li> <li>• bail will be restricted for adult Class A drug users under the Criminal Justice Act 2003 in certain circumstances</li> <li>• restrictions relating to terrorism (home detention under the Prevention of Terrorism Act 2005)</li> <li>• only the Crown Court can grant bail in murder cases.</li> </ul> <p>Demonstrate a clear understanding of <b>unconditional and conditional</b> bail, and the types of conditions that may be imposed on a defendant eg</p> <ul style="list-style-type: none"> <li>• Sureties/recognisance</li> <li>• Residence - bail hostel, named address</li> <li>• Curfew</li> <li>• Hand in passport</li> <li>• Reporting at police station</li> <li>• Exclusion zones</li> <li>• Contact bans</li> <li>• Tagging</li> <li>• Security</li> </ul> <p>Credit any other relevant point(s) e.g. mental health assessments for people who are charged with murder</p>		<p>Question specifically directs candidate to discuss court bail. No credit for description of police bail.</p>

Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><u>Public safety:</u></p> <ul style="list-style-type: none"> <li>• The public’s safety is adequately protected as if there are any reasons or factors which suggest bail is not appropriate it will be declined and the suspect remanded. This means that public safety is considered</li> <li>• The public is adequately protected because even when bail is granted it is often conditional bail which may restrict the movements of the suspect. More and more curfews enforced by electronic tagging are being used as a means of monitoring those on bail</li> <li>• The public is not adequately protected as a number of suspects released on bail fail to surrender. This may suggest that the balance is more in favour of the suspect than in the interests of public safety. This may also be for economic reasons</li> <li>• The public is not adequately protected as even when given conditional bail the re-offending rates are high. This includes people being granted bail who then commit very serious cases such as murder whilst on bail</li> </ul> <p><u>Suspect’s rights:</u></p> <ul style="list-style-type: none"> <li>• Suspect’s rights are adequately protected as LASPO has introduced the ‘no real prospect test’. It sets the starting point as ‘bail must be given if there is no real prospect that the defendant will be sentenced to a custodial sentence</li> </ul>	9	<table border="1" data-bbox="1279 280 1655 456"> <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 will achieve Level 4 by giving at least one well-developed point and a series of additional developed points. The assessment will demonstrate an ability to focus on the issue of whether the balance of interests between <b>both</b> public safety and the suspect right to liberty are adequately protected. 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 (no well-developed point(s)) then a maximum top Level 3 marks can be awarded. If the candidate produces a one-side response (only discusses either public safety <b>or</b> suspect’s right to liberty) 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 then the maximum top Level 2 can be awarded</p> <p>Level 1 – less than four discussion points or one point developed or one well developed point</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												
2	4–5												
1	1–3												



Question	Answer/Indicative content	Mark	Guidance								
	<ul style="list-style-type: none"> <li>• Suspect's rights are not adequately protected as only a small percentage (approx 20%) of those refused bail and put on remand are found guilty and sent to prison at the end of the case. This seriously interferes with the suspect's right to liberty. There is no compensation awarded for the time spent on remand if the case is dropped or the suspect is found not guilty</li> <li>• The suspects rights are adequately protected because if there is any doubt they may still be given bail but with conditions. This allows those who otherwise might have been put on remand to have their liberty</li> <li>• Suspect's rights are adequately protected because to not do so would interfere with their Human Rights and the right to liberty.</li> </ul> <p>Credit any other relevant comment(s).</p>										
	<p><b>Assessment Objective 3 – Communication and presentation</b>  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="margin-left: auto; margin-right: auto;"> <thead> <tr> <th data-bbox="1279 794 1469 831">AO2 marks</th> <th data-bbox="1469 794 1659 831">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1279 831 1469 868" style="text-align: center;">7–9</td> <td data-bbox="1469 831 1659 868" style="text-align: center;">3</td> </tr> <tr> <td data-bbox="1279 868 1469 904" style="text-align: center;">4–6</td> <td data-bbox="1469 868 1659 904" style="text-align: center;">2</td> </tr> <tr> <td data-bbox="1279 904 1469 941" style="text-align: center;">1–3</td> <td data-bbox="1469 904 1659 941" style="text-align: center;">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										
4–6	2										
1–3	1										

Question	Answer/Indicative content	Mark	Guidance										
5 (a)	<p>Potential answers may:</p> <p>Assessment Objective 1 – Knowledge and understanding</p> <p>Conditional Fee Arrangements:</p> <ul style="list-style-type: none"> <li>• S44 Legal Aid, Sentencing and Punishment of Offenders Act 2012, Conditional Fee Agreements Order 2013</li> <li>• The lawyer's payment is conditional on the case being successful. If the case is lost, the lawyer is not paid.</li> <li>• The client is advised of the fee the solicitor will be charging for the case</li> <li>• Success fees can be up to 100% of the basic fee but are now capped at a maximum of 25% for cases at first instance and are dependent on case type – 15% for PI claims</li> <li>• The success fee must not exceed 25% of the damages, excluding damages for future care and loss</li> <li>• Success fee is paid by the winning party, typically out of damages recovered</li> <li>• To protect a losing party from having to pay the other sides costs out of their own pocket 'after the event' insurance will be taken out. A premium will need to be paid at the end of the case</li> </ul> <p>Damages based agreements (contingency fees)</p> <ul style="list-style-type: none"> <li>• An agreement between lawyer and client under which the client agrees to pay the lawyer a percentage of sums recovered in a claim.</li> <li>• Maximum payment that the lawyer can recover from the claimant's damages is capped at: <ul style="list-style-type: none"> <li>○ 25% of damages (excluding damages for future care and loss) in personal injury cases</li> <li>○ 35% of damages on employment tribunal cases</li> </ul> </li> </ul>	18	<table border="1" data-bbox="1279 248 1655 427"> <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 the different sources of non-funded legal advice is required for Level 4 marks. The question refers specifically to 'legal advice' and 'not eligible for public funding' therefore there is no credit available for discussion of representation or the criteria for public funding</p> <p>Level 3 - a less detailed description will achieve Level 3</p> <p>Level 2 a limited description lacking in detail</p> <p>Level 1 – a very limited description/list</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												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"> <li>○ 50% of damages in all other cases.</li> </ul> <p>Other sources of Legal Advice:</p> <ul style="list-style-type: none"> <li>• Solicitors firms – there are many firms of solicitors willing to offer free initial legal advice. This may be by visiting the offices, by phone or by email. This is often limited to 30 minutes</li> <li>• Public Access – allows a person to go directly to a barrister for advice. Quicker than firstly instructing a solicitor and for them to seek Counsel's opinion on the client's behalf</li> <li>• The Bar Pro Bono Unit is a charitable organisation run by volunteer barristers who will offer free advice to those unable to afford legal advice and who cannot obtain public funding</li> <li>• Citizens Advice Bureaux are able to give free legal advice on a variety of issues connected to social welfare problems and debt. Local solicitors will offer their time free. The CABx are also able to give advice on local solicitors who do legal aid work or have cheap or free initial interviews</li> <li>• Law Centres specialise in social welfare law and offer free advice to those in areas where there are few solicitors and to those who cannot afford a solicitor</li> <li>• Free Representation Unit is a charity offering free legal advice to those who cannot afford legal advice and who cannot obtain public funding for the advice. The Unit is staffed by volunteer law students and newly qualified professionals under the supervision of case workers</li> <li>• Insurance companies/ RAC/ AA offer, at an additional cost, legal cover which will allow access to legal advisers who will be able to give advice on most civil matters</li> </ul>		

Question	Answer/Indicative content	Mark	Guidance
	<ul style="list-style-type: none"><li>• Websites – there are many websites eg AdviceNow, Online Legal Advice from Which Magazine and other such organisations</li><li>• Trade Unions are able to give members advice.</li></ul> <p>Credit any other relevant point(s).</p>		

Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Issues affecting both:</p> <ul style="list-style-type: none"> <li>The Ministry of Justice, in such times of austerity, has been required to cut the legal aid budget and did so by some £320m in 2014. The effect will be a limitation on what will and what will not be funded and how much a lawyer will be paid limiting access to justice</li> <li>The fixed-fee has resulted in fewer solicitors taking Government funded work. This results in a lack of providers in certain parts of the country leading to advice deserts. The fixed sums paid for criminal legal aid work in respect of less serious matters eg minor assaults, burglaries and theft is not enough to cover costs</li> <li>Different regions are allocated different sums of money and the cuts will result in the poorest cities eg Liverpool suffering unduly. This may result in a lack of publicly funded services in certain parts of the country leading to advice deserts</li> <li>Means tested eligibility levels are so low that only those on very low levels of income will qualify resulting in only the poorest having access to justice. Those of modest means but who own homes will more often than not fall outside the eligibility levels.</li> </ul> <p>Criminal funding issues:</p> <ul style="list-style-type: none"> <li>The fixed-fee is one of the reasons criminal lawyers ‘walked out’. The low fees may result in limited access to justice as the ‘best’ lawyers will no longer be willing to take on publicly funded cases</li> <li>The interests of justice test is very difficult to fulfil unless liberty is an issue. There must be a ‘real risk’</li> </ul>	9	<table border="1" data-bbox="1279 248 1655 427"> <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 quote ‘Government cuts to civil <b>and</b> criminal funding has resulted in many being denied access to justice’ and a range of other points relating to the quote. Three well-developed points would receive full marks. There must be mention of civil <b>and</b> criminal funding <b>and</b> access to justice in order to achieve Level 4. The candidate disagreeing with the quote can achieve Level 4</p> <p>Level 3 – if the candidate has only given developed points or one developed point and a range of other discussion points and no well-developed point(s) maximum top Level 3 marks can be awarded. A response only acknowledging either civil <b>or</b> criminal funding or a general discussion with no specific mention to either will achieve max Level 3</p> <p>Level 2 – if the candidate has given a series of discussion 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>	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												
2	4–5												
1	1–3												

Question	Answer/Indicative content	Mark	Guidance								
	<p>of imprisonment. This means the repeat offender is more likely to be eligible than the first time offender even if the same crime has been committed</p> <ul style="list-style-type: none"> <li>It is extremely difficult to obtain assistance in the Magistrates' Court unless on a very low income. In the Crown Court there are still limits but less severe. If a defendant does not qualify they will be left unrepresented or with a very large legal bill</li> </ul> <p>Civil funding issues:</p> <ul style="list-style-type: none"> <li>Funding of civil cases is being restricted continually. The starting point is that it is not available unless it is a category recognised in the Act or other regulations eg Mental Health Tribunal and children's rights. Many cases no longer qualify for funding eg child contact, divorce, employment, welfare benefits, medical negligence except in very limited circumstances</li> <li>The lack of legal funding may result in more people representing themselves ('litigants in person'). This person will be at a distinct disadvantage when faced with a qualified lawyer on the other side. This also makes the case very slow and costly to the losing party. However for many civil matters there are Conditional Fee Agreements and Damages Based Agreements available.</li> </ul> <p>Credit any other relevant comment(s)</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
AO2 marks	AO3 mark										
7–9	3										
4–6	2										
1–3	1										

Question	Answer/Indicative content	Mark	Guidance										
6 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p><b><u>When the juries are used:</u></b></p> <p><u>In criminal cases</u></p> <ul style="list-style-type: none"> <li>• Only used in approximately 1% of criminal cases</li> <li>• Used in the Crown Court</li> <li>• When the defendant has pleaded not guilty</li> <li>• In indictable or triable either way matters</li> </ul> <p><u>In civil cases</u></p> <ul style="list-style-type: none"> <li>• Used in very few cases per year</li> <li>• Used in both High Courts (s.69 Senior Courts Act 1981) and Country Courts (s.66 Country Courts Act 1984)</li> <li>• Parties have the right to jury trial only in the following types of case: <ul style="list-style-type: none"> <li>○ defamation (libel/slander)</li> <li>○ false imprisonment</li> <li>○ malicious prosecution and</li> <li>○ fraud</li> </ul> </li> <li>• Can be refused in these cases if the judge thinks the evidence is too complicated</li> <li>• In the Queen’s Bench Division of the High Court technically the parties can apply to a judge for trial by jury in personal injury cases but this will only be granted in exceptional circumstances</li> <li>• In Ward v James (1966) the Court of Appeal laid down strict guidelines for personal injury cases and these effectively put a stop to such cases being heard by juries.</li> </ul>	18	<table border="1" data-bbox="1279 248 1659 427"> <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 <b>both</b> when a jury is used and the role they perform in both criminal and civil courts</p> <p>Level 3 –an adequate description of both. A detailed description of one</p> <p>Level 2 – A limited description of the areas required</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
AO1 Levels	AO1 Marks												
4	15–18												
3	11–14												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<p><b><u>Role of the jury:</u></b></p> <ul style="list-style-type: none"> <li>• They listen to the evidence and the summing up by the judge;</li> <li>• They decide questions of fact, the judge will advise them on questions of law;</li> <li>• At the end of the trial they retire to the jury room to discuss the case in secret.</li> <li>• They should come to a unanimous decision if possible or a majority decision at least 10-2 if necessary;</li> <li>• They do not have to give any reasons for their decisions.</li> </ul> <p><b><u>Role of the jury in criminal cases:</u></b></p> <ul style="list-style-type: none"> <li>• Decide whether the defendant is guilty or not guilty</li> </ul> <p><b><u>Role of the jury in civil cases:</u></b></p> <ul style="list-style-type: none"> <li>• decide if the claimant has proved their case (liable or not)</li> <li>• assess damages to be awarded</li> </ul> <p>Credit any other relevant point(s)</p>		



Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>P1 One of the basic requirements to sit on a jury is being aged between 18-70 years. Alfie is 18 and therefore eligible to sit on the jury</p> <p>P2 As Alfie is related to the defendant he is unable to sit on that trial. He should notify a court official at once. and if not removed from the jury there is a risk that any subsequent conviction could be quashed</p> <p>P3 Both the prosecution and the defence may challenge the jury for cause. Alfie may be challenged for cause as he is related to the defendant</p> <p>P4 People are disqualified for life from sitting on a jury if they have been sentenced to a term of imprisonment of five years or more. As Beatrice has been given a 12 year custodial sentence she is disqualified for life</p> <p>P5 Charlie has served a period of 4 years in prison and would be disqualified for 10 years. He is now eligible to sit as his disqualification period ended in 1988.</p> <p>P6 Charlie is being treated from depression. This will no longer bar Charlie from sitting on the jury however, he may asked to be excused for this reason if he feels the depression will make him incapable of acting effectively as a juror.</p>	9	<table border="1" data-bbox="1279 248 1655 427"> <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> <p>P = 1 mark AP = 2 marks</p> <p>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>The appropriate names Alfie, Beatrice and Charlie or 'he/she' needs to be mentioned to get out of Level 2 as this is an application question</p> <p>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. Age P2. Related to defendant P3. Challenge for cause P4. 12 year custodial sentence P5. 4 years imprisonment <b>P6.</b> Depression</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												
2	4–5												
1	1–3												

Question			Answer/Indicative content	Mark	Guidance									
			<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													
7–9	3													
4–6	2													
1–3	1													

Question	Answer/Indicative content	Mark	Guidance										
7 (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Demonstrate knowledge of the rights set out under the Police and Criminal Evidence Act 1984 as amended by the Serious Organised Crime and Police Act 2005 and the Criminal Justice Act 2003 and Code of Practice C</p> <p><u>Powers of the police during detention and limitations:</u></p> <ul style="list-style-type: none"> <li>• Where a person is arrested on suspicion of a summary offence the police have the power to detain a suspect for a maximum of 24 hour.</li> <li>• The suspect at this point must be charged or released.</li> <li>• Where a person has been arrested on suspicion of an indictable (a more serious offence) then the police have the power to detain for a maximum of 36 hours.</li> <li>• Limitation; the permission of a senior officer (superintendent or above) must be sought</li> <li>• The police have the power to detain for a maximum of 96 hours for an indictable offence.</li> <li>• Limitation: the police must apply to the Magistrates' Court to extend custody time to 96 hours</li> <li>• The custody officer must ensure that a suspect is not detained for any longer than necessary by reviewing this on a regular basis</li> <li>• The police have the power to detain suspects in connection to terrorism offences for up to 14 days</li> <li>• Limitation: the detention must be approved by a magistrate</li> <li>• The police have the power to delay, for up to 36 hours, the suspects right to have someone informed of their</li> </ul>	18	<table border="1" data-bbox="1279 248 1655 427"> <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 powers of the police to detain and take samples and the limitations on these powers. All aspects need to be addressed in order to gain Level 4 marks. Statutory reference for maximum marks.</p> <p>Level 3 - an adequate description of all aspects. In the absence of limitations, a very detailed description of the powers of the police would achieve Level 3 marks</p> <p>Level 2- a limited description of all areas or, in the absence of police powers, a good description of individual rights</p> <p>Level 1 – a very limited description of powers/limitations during detention and the taking of samples</p> <p>This question specifically directs candidates to describe the power of the police and any limitations on those powers. There is no credit for individual rights</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												
2	6–10												
1	1–5												

Question	Answer/Indicative content	Mark	Guidance
	<p>arrest and the right to legal advice if there are reasonable grounds for believing that such will lead to interference or harm to evidence.</p> <ul style="list-style-type: none"> <li>• Limitation: this can only occur in respect of an indictable offence and with the authorisation of a senior officer.</li> </ul> <p><u>Police powers to take samples and limitations</u></p> <p>Non-intimate</p> <ul style="list-style-type: none"> <li>• S.61 states that the police have the power to take non-intimate samples at the police station</li> <li>• eg fingerprints, hair and saliva</li> <li>• They have the power to take these samples by force but it must be reasonable force</li> </ul> <p>Intimate</p> <ul style="list-style-type: none"> <li>• S.62 gives the police the power to request intimate samples</li> <li>• eg blood, semen or any other tissue fluid, urine or pubic hair.</li> <li>• The limitation on this power is that consent is required and the police themselves are not authorised to take the samples – must be a medical practitioner</li> <li>• The police are limited as to how long these samples may be kept on record</li> </ul> <p>Credit any other relevant point(s)</p>		

Question	Answer/Indicative content	Mark	Guidance										
(b)*	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>P1 If a suspect is under the age of 17 then there must be an ‘appropriate adult’ or solicitor present during the interview. As Michelle is 16 years old and interviewed on her own her treatment is unlawful</p> <p>P2 Michelle has been interviewed for eight hours without a break. Interviews should last no longer than 2 hours without a break. As the police have exceeded the 2 hours her treatment is unlawful</p> <p>P3 A strip search may be carried out to find an article which a person in detention should not be allowed to keep and there must be reasonable suspicion that the person has the article concealed on their person. As Michelle has been arrested on suspicion of arson, it would be lawful to perform a strip search for a lighter</p> <p>P4 A strip search must be undertaken by members of the same sex. As two female officers undertake the search Michelle’s treatment is lawful</p> <p>P5 Suspects should not be required to remove all their clothing at the same time during a strip search. Michelle should be given a robe or similar one she has removed her top garment. Making her strip naked means her treatment is unlawful</p> <p>P6 An intimate search can only be undertaken if there is reason to believe the person has with him an item which may cause injury eg weapon or Class A drugs. As the police are looking for a lighter Michelle’s treatment in respect of the intimate search may be lawful or unlawful, depending on justification.</p>	9	<table border="1" data-bbox="1279 248 1655 427"> <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>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>“Michelle” or “she” 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 Interviewed alone – aged 16 P2 Interviewed for 8 hours without a break P3 Strip search to find lighter P4 Strip search with female officers present P5 Strip search- naked <b>P6 Intimate search for lighter</b></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												
2	4–5												
1	1–3												

Question			Answer/Indicative content	Mark	Guidance									
			<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													
7–9	3													
4–6	2													
1–3	1													

### 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.

**OCR (Oxford Cambridge and RSA Examinations)**  
**1 Hills Road**  
**Cambridge**  
**CB1 2EU**

**OCR Customer Contact Centre**

**Education and Learning**

Telephone: 01223 553998

Facsimile: 01223 552627

Email: [general.qualifications@ocr.org.uk](mailto:general.qualifications@ocr.org.uk)

[www.ocr.org.uk](http://www.ocr.org.uk)

For staff training purposes and as part of our quality assurance programme your call may be recorded or monitored

**Oxford Cambridge and RSA Examinations**  
**is a Company Limited by Guarantee**  
**Registered in England**  
**Registered Office; 1 Hills Road, Cambridge, CB1 2EU**  
**Registered Company Number: 3484466**  
**OCR is an exempt Charity**

**OCR (Oxford Cambridge and RSA Examinations)**  
**Head office**  
**Telephone: 01223 552552**  
**Facsimile: 01223 552553**

© OCR 2016

