

GCSE

Law

Unit **B142**: Civil Courts and Civil Processes
Civil Liberties and Human Rights

General Certificate of Secondary Education

Mark Scheme for June 2017

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning of annotation
	Benefit of the doubt
	Incorrect point
	Level one point made
	Level two point made
	Level three point made
	Not answered question
	No benefit of doubt given
	Not relevant or to indicate all or part blank answer pages have been seen by the marker.
	Repeat of question or answer
	Correct point
	Vague

Here are the subject specific instructions for this question paper

To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:



Additional Objects

You must also check any additional pages (shown as Additional Objects) 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.

All additional pages must be annotated with the  stamp, so it is clear to centres that the additional pages have been viewed by the marker.

Question	Answer	Mark	Guidance						
1 (a)	<ol style="list-style-type: none"> 1. Trades Unions 2. Charities 3. Insurance companies 4. Solicitor/Barrister 5. Internet/using free on-line web-site 6. Community legal advice/law centre <p>Credit any other relevant response.</p>	3	<p>Assessment Objective 1</p> <p>1 mark for each correct answer</p> <p>Maximum 3 marks.</p>						
1(b)	<table border="1" style="margin-left: auto; margin-right: auto;"> <tbody> <tr> <td style="text-align: center;">A</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">B</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">C</td> <td style="text-align: center;">1</td> </tr> </tbody> </table>	A	2	B	3	C	1	3	<p>Assessment Objective 2</p> <p>1 mark for each correct answer.</p> <p>Maximum 3 marks.</p>
A	2								
B	3								
C	1								
2(a)	<p>Fast Track can save time and expense and ensure access to justice in the following ways:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fast Track cases have to use a strict timetable <input type="checkbox"/> There are standard pre-trial directions about disclosure and exchange of evidence. <input type="checkbox"/> This stops time-wasting and running up costs. <input type="checkbox"/> Fast Track deals with more higher value civil claims <input type="checkbox"/> This includes personal injury claims of between £1,000-£25,000 and non-personal injury claims of between £10,000-£25,000 	6	<p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis:</p> <p>Level 3: Well-developed point: Analysis of how that reason saves time and cost and</p>						

	<ul style="list-style-type: none"> <input type="checkbox"/> This means that cases are likely to be heard by an experienced Circuit judge who will ensure that the Civil Procedure Rules (CPR) are followed to move the case quickly to trial. <input type="checkbox"/> Fast Track deals with claims under the CPR <input type="checkbox"/> Cases are heard in open court, under oath with strict rules of evidence <input type="checkbox"/> This formality means that time-wasting is prevented and it ensures that the case moves forward promptly. <input type="checkbox"/> Fast Track cases should take 30 weeks to get to trial <input type="checkbox"/> This speed ensures all parties have to comply with directions and move case forward <input type="checkbox"/> This timescale means that the parties can get to trial and give evidence comparatively quickly which aids access to justice. <input type="checkbox"/> Fast track has 'fixed costs' <input type="checkbox"/> This limits solicitors' fees <input type="checkbox"/> Also, the courts often only allow one expert witness who is objective so this saves time and aids access to justice. <input type="checkbox"/> Cases allocated to fast track usually straight-forward <input type="checkbox"/> This means they can be dealt with in a day <input type="checkbox"/> So there is a quicker resolution of the dispute. <p>Credit any other relevant response.</p>	<p>enables access to justice.</p> <p>Level 2: Developed point: Explanation/detail/example to describe reason.</p> <p>Level 1: Point: Identification of reason</p> <p>Mark as follows for each of the two advantages:</p> <p>Level 3: 3 marks Level 2: 2 marks Level 1: 1 mark 0 marks = no response or nothing worthy of credit.</p> <p>Maximum 6 marks</p>
<p>2(b)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Defendant <input type="checkbox"/> Grounds <input type="checkbox"/> Supreme Court <input type="checkbox"/> Leap-frog 	<p>4</p> <p>Assessment Objective 2</p> <p>1 mark for each correct answer</p> <p>Maximum 4 marks</p>

<p>2(c)</p>	<p>There is a problem with the fear of the courts or going to litigation. Many people are worried about using the civil courts as they are nervous or even frightened about giving evidence or of facing intimidation by the judges or lawyers involved.</p> <p>There is a problem with inequality between the claimant and the defendant. Cases can involve poorly resourced claimants facing well-resourced defendants and this creates unfairness.</p> <p>There is a problem with the capacity of the courts to deal with all possible types of disputes. If litigation was the only way of resolving problems, the courts would be overwhelmed.</p> <p>There is a problem with the delay in civil cases getting to trial. Long waiting times for trial dates can cause additional stress and cost to claimants in need of compensation.</p> <p>There is a problem with the formality involved in court proceedings. The wigs, language and ceremony of court proceedings can be off-putting to claimants.</p> <p>There is a problem with the adversarial nature of litigation which is about ‘winning’ rather than reaching the truth. The culture of treating your opponent as your enemy to be beaten can be unhealthy as a compromise is sometimes better than a ‘win or lose’ mentality.</p> <p>There is a problem with the cost of pursuing a claim in the civil courts. Legal costs can be very high and can very quickly become disproportionate to the value of the damages received.</p> <p>There is a problem with the complexity of the rules governing litigation. The strict Civil Procedure Rules can be very confusing and put people off.</p> <p>Press often present in court which means there is a risk of private business being put in the public domain.</p> <p>Credit any other relevant response.</p>	<p>6</p>	<p>Assessment Objective 2</p> <p>1 mark for identification of each reason.</p> <p>1 mark for explanation.</p> <p>Maximum 6 marks</p>
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<p>3(a)</p>	<p>Arbitration is a voluntary process. This means it involves a private process, presided over by an Arbitrator who makes a binding decision.</p> <p>Arbitration is a more formal process than negotiation, mediation or conciliation. The strict rules are set out in the Arbitration Act 1996.</p> <p>The agreement to arbitrate should be in writing. This agreement can take the form of a clause within the original contract or it can be made after the dispute has arisen.</p> <p>Arbitration clauses are known as a Scott v Avery clause after the leading case. Common examples of <i>Scott v Avery</i> clauses include those seen in the Association of British Travel Agents (ABTA) forms.</p> <p>The Arbitrator's decision is final and is known as an award. Awards have the advantage of being enforced through the civil courts in the same way as county court judgments.</p> <p>Arbitrator is third party with expertise in field of dispute. This saves time and cost of instructing experts.</p> <p>Credit any other relevant response.</p>	<p>6</p>	<p>Assessment Objective 2</p> <p>1 mark for each feature identified.</p> <p>1 further mark for elaboration of that feature.</p> <p>2 marks maximum for each feature</p> <p>Maximum of 6 marks.</p>
<p>3(b)</p>	<p>One advantage is that mediation is quicker than litigation. Mediation generally lasts between a few hours and one day whereas trials in civil cases can take much longer. A quicker resolution is better for all parties and research has found that the majority of disputes were settled at the mediation stage.</p> <p>One advantage is that mediation is cheaper and more convenient. Mediation is often free and can be dealt with at a venue to suit the parties. This means a compromise that is acceptable to all parties is more likely to be reached.</p> <p>One advantage is that the parties can choose their own mediator with expertise in the particular area of dispute e.g. family law. Many mediators are trained by the Centre for Dispute Resolution so have specialist skills in mediation. This helps the parties to reach a compromise that they are both happy with and so are more likely to stick to.</p> <p>One advantage is the lack of formality of mediation compared to litigation. The parties can agree the process whereas the Civil Procedure Rules (CPR) set out the process in</p>	<p>6</p>	<p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis for each reason:</p> <p>Level 3: Well-developed point: Analysis of reason. Level 2: Developed point: Explanation/detail/example to describe reason. Level 1: Point: Define reason.</p> <p>Mark as follows: Level 3: 3 marks Level 2: 2 marks</p>

	<p>litigation. This is less intimidating than litigation and enables the parties to reach a more equitable settlement.</p> <p>One advantage of mediation is that flexible settlements can be reached. For example, an apology can be agreed which is not a remedy that would be available in litigation. Parties agree the settlement rather than it being imposed by the court so mediation is more likely to work successfully as there is no ‘winner’ or ‘loser’ as in litigation.</p> <p>One advantage of mediation is that it is confidential unlike litigation which takes place in open court. The public or press can attend court whereas the parties can keep details of a mediated settlement confidential. This is more beneficial in family cases to protect children.</p> <p>Credit any other relevant response.</p>		<p>Level 1: 1 mark 0 marks = no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each reason discussed.</p> <p>Maximum 6 marks</p>								
<p>3(c)</p>	<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 25%;">1. Negotiation</td> <td style="width: 25%;">2. Mediation</td> <td style="width: 25%;">3. Conciliation</td> <td style="width: 25%;">4. Tribunals</td> </tr> <tr> <td colspan="4">Least formal to most formal</td> </tr> </table>	1. Negotiation	2. Mediation	3. Conciliation	4. Tribunals	Least formal to most formal				<p>4</p>	<p>Assessment Objective 1</p> <p>1 mark for each correct answer</p> <p>Maximum 4 marks</p>
1. Negotiation	2. Mediation	3. Conciliation	4. Tribunals								
Least formal to most formal											
<p>4(a)(i)</p>	<ol style="list-style-type: none"> 1. Academic stage / QLD or non law degree and GDL 2. Vocational stage/ BVC or join Inns of Court or Keep terms (12 dinners) 3. Professional stage/ Pupillage or sixes or tenancy or squatting 4. Continuing Professional Development/ 45 hours over 3 years and 12 hours per year thereafter 	<p>4</p>	<p>Assessment Objective 1</p> <p>1 mark for each correct answer</p> <p>Maximum 4 marks</p> <p>Note to marker: Only give credit given for either the stage or one step within that stage.</p>								
<p>4(a)(ii)</p>	<p>One problem with training is that there is a lack of funding for the vocational stage of a barrister’s training. This means that many able candidates are put off. Consequently, only wealthy students can afford the training which means that the profession becomes unrepresentative of wider society.</p>	<p>3</p>	<p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis for each reason:</p>								

	<p>One problem with training is that the supply of trainee barristers does not meet the demand. Far more students graduate with BVCs than there are pupillages available. This results in a waste of valuable resources and talent.</p> <p>One problem with training is it is difficult to secure pupillages. Many of these go to people who have a connection with the profession which tend to be mostly white middle/upper-class people. This is not representative of the society they serve in terms of ethnicity or gender.</p> <p>Note to markers: Only credit the problem of ethnicity, gender and class once.</p> <p>Credit any other relevant response.</p>		<p>Level 3: Well-developed point: Analysis of reason. Level 2: Developed point: Explanation/detail/example to describe reason. Level 1: Point: Define reason.</p> <p>Mark as follows: Level 3: 3 marks Level 2: 2 marks Level 1: 1 mark 0 marks = no response or nothing worthy of credit.</p> <p>Maximum 3 marks</p>
5(a)	<p>3 stages of the appointment process include any of the following:</p> <ol style="list-style-type: none"> 1. Adverts and applications 2. Sifting 3. Interviews 4. Consultation 5. Approval by Queen of Lord Chancellor's recommendations 6. Appointments for successful applicants 	3	<p>Assessment Objective 1</p> <p>1 mark for each correct answer</p> <p>Maximum 3 marks</p>
5(b)	<p>The role of a district judge in the civil courts is to sit in the county court. The district judges deal with civil cases such as personal injury or debt cases. Judges can enforce timetables in the run up to trials and will hear the trial of the case.</p> <p>Credit any other relevant response.</p>	3	<p>Assessment Objective 2</p> <p>1 mark for each feature of the role that is identified.</p> <p>2 further marks for elaboration of that feature</p> <p>Maximum 3 marks</p>

<p>6(a)</p>	<p>The freedom to associate freely and assemble may be restricted where:</p> <ol style="list-style-type: none"> 1. Individuals are participating in an illegal strike or illegal picketing. 2. Individuals belong to a banned organisation such as Al Qaeda or the IRA. 3. Free movement would spread disease. 4. Unauthorised public march or demonstration 5. Unlawful public meeting 6. Unlawful assembly such as illegal rave; staying on after a festival <p>Credit any other relevant response.</p>	<p>3</p>	<p>Assessment Objective 1</p> <p>1 mark for each correct answer</p> <p>Maximum 3 marks</p>
<p>6(b)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> One argument against a law that allows employers to check private correspondence is that this amounts to a breach of Article 8. Article 8 is a broad article that deals with the right to respect for private and family life, home and correspondence. This protects the individual from interference with their privacy. <input type="checkbox"/> One argument against a law that allows employers to check private correspondence is that it is unnecessary. Article 8 covers a broad range of rights which were not well protected in English law before the HRA 1998. However, new legislation has been put in place, such as the Regulation of Investigatory Powers Act 2000 (RIPA); the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 which makes further laws unnecessary. <input type="checkbox"/> One argument against a law that allows employers to check private correspondence is that this amounts to a breach of Article 8. It could be the start of inappropriate use of covert surveillance by employers. Such as telephone tapping and secret filming (the ‘slippery slope’ argument). <input type="checkbox"/> One argument against a law that allows employers to check private correspondence is that this amounts to a breach of Article 8. Workers will dislike “Big Brother” style surveillance and this could affect 	<p>6</p>	<p>Assessment Objective 3</p> <p>Levels to be awarded on the following basis for each reason:</p> <p>Level 3: Well-developed point: Analysis of reason. Level 2: Developed point: Explanation/detail/example to describe reason. Level 1: Point: Define reason.</p> <p>Mark as follows: Level 3: 3 marks Level 2: 2 marks Level 1: 1 mark 0 marks = no response or nothing worthy of credit.</p> <p>Credit should be given for both breadth and depth</p> <p>Maximum 3 marks for each reason discussed.</p>

	<p>productivity and morale in the workplace. Employees who feel under excessive stress could be ill and absent from work.</p> <ul style="list-style-type: none"> □ One argument in favour of a law that allows employers to check private correspondence is that it can be used to protect the public. Article 8 is not an absolute right and can be restricted. Restrictions can be for reasons like lawful investigation of criminal activity where there is reasonable suspicion. □ Candidates should be given credit if they advance a reasonable argument in favour of a law that allows employers to check private correspondence in the following situations: <ul style="list-style-type: none"> □ To protect the public from risks to national security especially the threat of terrorism □ To promote public safety □ To protect the economy □ To protect health and morals (e.g. monitoring of paedophiles) □ To protect the rights and freedoms of others. □ One argument in favour of a law that allows employers to check private correspondence is that it will prevent workplace discrimination. Employers can check their workers are only engaged in job related tasks and not bullying or harassment. <p>Credit any other relevant response.</p>		<p>Maximum 6 marks</p>
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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

www.ocr.org.uk

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

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