

# **Mark Scheme for June 2010**

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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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Abbreviations, annotations and conventions that are used in this Mark Scheme vary from paper to paper. The following annotations are available

<i>Stamp</i>	<i>Description</i>
	Tick
	Cross
	Benefit of doubt
NBOD	Benefit of doubt not given
	Repeat
	Not relevant
	Omission mark
	Level 1
	Level 2
	Level 3
	Expansion of a point
	Development of point
	Vague
	Not answered question

Question	Expected Answer	Mark														
1 (a)	<p data-bbox="327 205 1765 268"><b>Stephanie is a law student determined to do well in her exams. She knows there are three main ways in which law is made.</b></p> <p data-bbox="327 308 1458 339"><b>Help Stephanie revise by matching the type of law to the law making body below.</b></p> <table data-bbox="327 376 1603 778"> <thead> <tr> <th data-bbox="327 376 779 408">Law making body</th> <th data-bbox="790 376 1603 408">Type of law</th> </tr> </thead> <tbody> <tr> <td data-bbox="327 443 779 475"><b>A</b> Parliament</td> <td data-bbox="790 443 1603 539"><b>1</b> Judges reform the law of murder when a case shows them that the present law does not do justice and is out of date.</td> </tr> <tr> <td data-bbox="327 579 779 643"><b>B</b> Case law and the doctrine of precedent</td> <td data-bbox="790 579 1603 675"><b>2</b> A regulation is passed which says that instead of asking for a pint of lager in a pub customers will have to ask for a half-litre.</td> </tr> <tr> <td data-bbox="327 715 779 746"><b>C</b> European law</td> <td data-bbox="790 715 1603 778"><b>3</b> A statute is passed to say no one can buy alcohol until they are 21 years old.</td> </tr> </tbody> </table> <p data-bbox="327 818 1189 850"><b>Place the correct number next to each letter in the grid below.</b></p> <p data-bbox="327 882 725 914"><b>ASSESSMENT OBJECTIVE 1</b></p> <p data-bbox="327 954 1122 986">Candidates will successfully match any or all of the following:</p> <p data-bbox="327 1026 1093 1058">1 mark for each correct item identified (maximum 3 marks).</p> <table data-bbox="779 1090 987 1185"> <tbody> <tr> <td data-bbox="779 1090 958 1121"><b>A</b></td> <td data-bbox="958 1090 987 1121">3</td> </tr> <tr> <td data-bbox="779 1121 958 1153"><b>B</b></td> <td data-bbox="958 1121 987 1153">1</td> </tr> <tr> <td data-bbox="779 1153 958 1185"><b>C</b></td> <td data-bbox="958 1153 987 1185">2</td> </tr> </tbody> </table>	Law making body	Type of law	<b>A</b> Parliament	<b>1</b> Judges reform the law of murder when a case shows them that the present law does not do justice and is out of date.	<b>B</b> Case law and the doctrine of precedent	<b>2</b> A regulation is passed which says that instead of asking for a pint of lager in a pub customers will have to ask for a half-litre.	<b>C</b> European law	<b>3</b> A statute is passed to say no one can buy alcohol until they are 21 years old.	<b>A</b>	3	<b>B</b>	1	<b>C</b>	2	[3]
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<b>C</b>	2															

Question	Expected Answer	Mark
1 (b)	<p data-bbox="331 204 1525 236">Law is one of the basic elements of a society. Explain <u>three</u> reasons why we need law.</p> <p data-bbox="331 272 730 304"><b>ASSESSMENT OBJECTIVE 3</b></p> <p data-bbox="331 341 1081 373">Candidates will explain any <u>three</u> of the following reasons:</p> <ul data-bbox="331 410 1816 619" style="list-style-type: none"><li data-bbox="331 410 1301 442">• law helps to create public order by setting limits of what is acceptable</li><li data-bbox="331 445 1760 477">• it helps to protect individual liberties by giving people rights when they are charged with criminal offences</li><li data-bbox="331 480 1451 512">• it helps to regulate relationships between people so there is fairness and equality</li><li data-bbox="331 515 1424 547">• it sets standards, particularly for those who owe responsibilities to other people</li><li data-bbox="331 550 1816 619">• it provides remedies for wrongs suffered so that people can be compensated in civil law and those who break the criminal law can be punished.</li></ul> <p data-bbox="331 687 965 719">1 mark for each explanation (maximum 3 marks).</p>	[3]
		<b>Total</b> [6 marks]

Question	Expected Answer	Mark
2 (a)	<p>Identify <u>three</u> powers from the list below which the police have under the <u>Police and Criminal Evidence Act 1984</u> in respect of a suspect held at the police station.</p> <ul style="list-style-type: none"><li>• grant bail</li><li>• conduct searches</li><li>• detain suspect</li><li>• sentence</li><li>• convict</li><li>• take samples.</li></ul> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will identify the following:</p> <ul style="list-style-type: none"><li>• conduct searches</li><li>• detain suspect</li><li>• take samples (but not intimate ones).</li></ul> <p>1 mark for each correct power identified (maximum 3 marks).</p>	[3]

Question	Expected Answer	Mark
2 (b)	<p>Faye goes up to a woman at a bus stop and takes the woman's mobile phone. PC Jones, a plain-clothes police officer, is on duty nearby and hears the woman shout, "Give me my phone back!" PC Jones runs over to help. He thinks he sees Faye put something under the woolly hat she is wearing and he grabs Faye's arm aggressively. PC Jones tells Faye to take off her hat but Faye swears at him, punches him in the face as she does not realise he is a police officer because he is not wearing a uniform, and she runs away. PC Jones does not make any record of what happened in his police notebook.</p>	
2 (b) (i)	<p>Identify <u>three</u> items of clothing which a police officer is entitled to ask a suspect to remove if they are to be searched in a public place.</p> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will identify the following:</p> <ul style="list-style-type: none"><li>• outer coat</li><li>• jacket</li><li>• gloves.</li></ul> <p>1 mark for each correct item identified (maximum 3 marks).</p>	[3]

Question	Expected Answer	Mark
2 (b) (ii)	<p data-bbox="331 209 1144 240"><b>Explain <u>two</u> reasons why PC Jones' actions are not lawful.</b></p> <p data-bbox="331 272 734 304"><b>ASSESSMENT OBJECTIVE 2</b></p> <p data-bbox="331 336 949 368">Candidates will explain any <u>two</u> of the following:</p> <ol style="list-style-type: none"> <li data-bbox="331 400 1839 512">1 - PC Jones does not identify himself by giving his name, rank and station when he grabs hold of Faye (L1) - under PACE this is something a police officer must do (L2) - it is especially important if the police officer is on duty but is not wearing a uniform. (L3)</li> <li data-bbox="331 544 1823 679">2 - PC Jones has to have reasonable grounds to suspect Faye is in possession of stolen property (L1) - his vague identification may not be enough to be a reasonable suspicion (L2) - Code of Practice A says the power to stop and search must be used fairly, responsibly, respectfully and without unlawful discrimination. (L3)</li> <li data-bbox="331 711 1274 815">3 - PC Jones has asked Faye to remove her hat (L1) - this goes beyond the powers in s2(9) PACE (L2) - he needs to do this out of public view, eg in a police van. (L3)</li> <li data-bbox="331 847 1615 951">4 - PC Jones has not made a written report (L1) - as soon as possible after the search (L2) - if he does not do this the facts can be challenged and the search become unlawful. (L3)</li> <li data-bbox="331 983 1845 1118">5 - PC Jones grabs Faye aggressively when he should have shown more restraint in the street (L1) - since he is not in uniform (L2) - and been aggressive he has not used his power in Code of Practice A fairly, responsibly and respectfully. (L3)</li> </ol> <p data-bbox="331 1150 1274 1318">For each reason given: 1 mark for identifying the reason why PC Jones' actions may be unlawful 1 mark for explaining why PC Jones' actions may be unlawful 1 mark for good reasoning Maximum 2 reasons. Maximum for the question = 6 marks.</p>	[6]



Question	Expected Answer	Mark
2 (c)	People have different attitudes to police powers. Some think the police have too many powers. Other people believe that they need their powers to do their job and keep people safe.	
2 (c) (i)	<p>Listed below are <u>three</u> methods by which the law tries to balance individual rights with police powers.</p> <p>Explain how each of these methods work.</p> <ul style="list-style-type: none"> <li>• <u>Police and Criminal Evidence Act 1984</u> and Codes of Practice</li> <li>• <u>Complaints Procedures</u></li> <li>• <u>Human Rights Act 1998</u></li> </ul> <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>Candidates will explain the following:</p> <ul style="list-style-type: none"> <li>• PACE and the Codes of Practice mean police behaviour is better regulated and they are accountable – this protects both the police and the individual. Having clear powers for the police helps us all feel safer, especially in relation to crimes of serious violence or terrorism</li> <li>• Complaints procedures - if an individual feels the police have exceeded their powers there are plenty of ways in which they can complain, such as the Independent Police Complaints Commission, speaking to the Duty Officer at any police station, talking to the Citizen's Advice Bureau, a solicitor or the local MP</li> <li>• Human Rights Act 1998 – this guarantees basic individual rights are protected and other laws ensure individuals cannot be subject to discrimination by the police.</li> </ul> <p>1 mark for each correct explanation (maximum 3 marks).</p>	[3]

Question	Expected Answer	Mark
2 (c) (ii)	<p><b>Discuss whether the law succeeds in balancing individual rights with police powers.</b></p> <p><b>ASSESSMENT OBJECTIVE 3</b></p> <p>Candidates will discuss any of the following (credit should be given for both breadth and depth):</p> <ul style="list-style-type: none"> <li>• The police need to do their job but they have to protect human rights – for example they cannot ask people to remove headgear in public as it may be worn for religious reasons – this protects the individual</li> <li>• If PACE and the Codes of Practice did not exist it would be very hard to investigate crimes – this helps the police do their job</li> <li>• Having clear rules means that people can know what the police are allowed to do – this helps the individual and stops the police taking advantage</li> <li>• If law is followed a conviction is unlikely to be appealed and this gives the law certainty – this is good for the individual as they know they deserved to be caught, it is good for the police as they know they did their job correctly and it is good for society as it shows us where the lines are and that the law can be trusted</li> <li>• Any other relevant comment.</li> </ul> <p>1 mark for each relevant point discussed (maximum 3 marks).</p>	<p><b>[3]</b></p>
		<p><b>Total [18 marks]</b></p>

Question	Expected Answer	Mark
3 (a) (i)	<p><b>Identify the most appropriate sentence for each of the following <u>three</u> scenarios. Fill in the table with the most appropriate sentence from the list below.</b></p> <ul style="list-style-type: none"> <li>• suspended sentence</li> <li>• community order</li> <li>• electronic tagging</li> <li>• disqualification from driving</li> <li>• mandatory life sentence.</li> </ul> <p><b>Scenario</b></p> <p><b>A</b> Gary, aged 30, has been convicted of murder after he stabbed a man who was rude to Gary's girlfriend. The man died.</p> <p><b>B</b> Candice, aged 17, has been repeatedly harassing her neighbours by shouting abuse through their letter box.</p> <p><b>C</b> William, aged 25, is drunk and is caught speeding on his motorbike.</p> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will identify any of the following:</p> <ul style="list-style-type: none"> <li>• The most appropriate sentence for Gary is a mandatory life sentence</li> <li>• The most appropriate sentence for Candice is a community order</li> <li>• The most appropriate sentence for William is disqualification from driving.</li> </ul> <p>1 mark for each correct sentence identified (maximum 3 marks).</p>	<p><b>[3]</b></p>

Question	Expected Answer	Mark
3 (a) (ii)	<p>Select <u>two</u> sentences from the list in <u>3(a)(i)</u>. Explain how each sentence works.</p> <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>Candidates will explain any <u>two</u> of the following:</p> <ul style="list-style-type: none"> <li>• Suspended sentence – this is a sentence which does not come into operation directly. The offender is told they have an amount of time in which they must obey the law and if they do so the suspended sentence does not come into effect. If they break any other law then the suspended sentence may become operational</li> <li>• Community orders – these are given to young offenders over the age of 16. Different sentences are combined depending on the individual offender but may include unpaid work, taking a course at an Attendance centre, getting help if drink or drugs area problem, an Action Plan Order, an exclusion order or a curfew order.</li> <li>• Electronic tagging – this is designed to monitor movements. It can be tracked by police to show where the offender is at any given time. It is used as a method of keeping the offender in the community, perhaps because of family or job but a heavier punishment follows if the tag is removed or the offender breaks the conditions imposed</li> <li>• Disqualification from driving – this is now an automatic penalty and is often accompanied by a fine which is an economic penalty and is the most common sentence in the magistrates’ court. The term of disqualification depends on the seriousness of the conditions in which the offence is committed. The fine can be paid in a lump sum or in instalments and may be deducted directly from earnings</li> <li>• Mandatory life sentence – this must be given on conviction for murder. It is usually a minimum of 12 years but can mean the person is never released. If they are released they are on licence for the rest of lives so they can go back to prison if they commit any other offence and they carry a life long stigma which can affect their social status and their economic prospects in terms of employment.</li> </ul> <p>For each of the two sentences explained:</p> <p>0 marks for no response or no response worthy of credit  1 mark each for one basic point explained  2 marks each for more than one point well explained  3 marks for basic point well explained with some elaboration.</p> <p>(maximum for the question = 6 marks)</p>	[6]

Question	Expected Answer	Mark
3 (b)	<b>Whenever a criminal pleads guilty or is convicted of an offence an important part of the criminal process is for the court to decide on a sentence. There are several aims relating to sentencing which try to explain the reason why a particular sentence is given.</b>	
3 (b) (i)	<b>Identify any <u>three</u> aims of sentencing.</b>  <b>ASSESSMENT OBJECTIVE 1</b>  <b>1 mark for each aim identified (maximum 3 marks)</b>  Candidates will identify any <u>three</u> of the following: <ul style="list-style-type: none"><li>• retribution or punishment</li><li>• deterrence</li><li>• reform and rehabilitation</li><li>• public protection</li><li>• reparation</li><li>• denunciation.</li></ul>	<b>[3]</b>

Question	Expected Answer	Mark
3 (b) (ii)	<p data-bbox="376 204 1104 236"><b>Discuss the effectiveness of the aims of sentencing.</b></p> <p data-bbox="376 272 779 304"><b>ASSESSMENT OBJECTIVE 3</b></p> <p data-bbox="376 341 1610 373">Candidates will discuss any of the following (credit should be given for both breadth and depth):</p> <ul data-bbox="376 410 1827 890" style="list-style-type: none"> <li>• Retribution or punishment - there is a need to punish those who break the law ('an eye for an eye') but a sentence should be proportionate and not just be revenge</li> <li>• Deterrence - this tries to reduce crime by deterring the individual from re-offending, by putting other potential offenders off and by teaching people in society that something bad will happen if they break a law</li> <li>• Reform and rehabilitation - this tries to teach offenders the errors of their ways and should be accompanied by rehabilitation which gives them education and skills so that when they rejoin society they can fit in and earn a living so as to encourage them not to revert to crime</li> <li>• Public protection - really dangerous offenders can be removed from society and this makes society safer</li> <li>• Reparation - this makes an offender give something back to society, often as unpaid work; it can even mean supervised meetings between offender and victim so that both sides can talk about their experiences and move on</li> <li>• Denunciation - this allows a criminal to be identified; society can express their disapproval of what the criminal has done which enforces legal and moral boundaries and it reflects the blameworthiness of the offender.</li> </ul> <p data-bbox="376 927 871 959">Candidates will gain marks as follows:</p> <p data-bbox="376 963 1178 995">0 marks for no response or no response worthy of credit</p> <p data-bbox="376 1000 947 1032">1-2 marks at least one basic point made</p> <p data-bbox="376 1037 1093 1069">3-4 marks at least two points with some elaboration</p> <p data-bbox="376 1074 1240 1106">5-6 marks three or more points discussed with good reasoning.</p>	<p data-bbox="1861 204 1973 236"><b>Mark</b></p> <p data-bbox="1861 240 1973 272"><b>[6]</b></p>
		<p data-bbox="1861 1134 2024 1198"><b>Total</b> <b>[18 marks]</b></p>

Question	Expected Answer	Mark
4 (a)	<b>Magistrates are one of the types of lay people found in the criminal justice system and there are about 29,000 of them sitting in magistrates' courts.</b>	
4 (a) (i)	<p><b>Identify <u>three</u> of the requirements which have to be met before a person can be appointed as a magistrate.</b></p> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will identify any <u>three</u> of the following:</p> <ul style="list-style-type: none"> <li>• they must have the six key qualities identified by the Lord Chancellor – good character, understanding and communication skills, social awareness, maturity and sound temperament, sound judgment, commitment and reliability</li> <li>• they must be between 18 and 65 when appointed</li> <li>• they must live or work within or near the local justice area to which they are allocated</li> <li>• candidate must have no serious criminal record</li> <li>• they must commit to sitting for at least 26 half days each year</li> <li>• they must not be people disqualified from being magistrates, eg police officers, members of the armed forces and traffic wardens.</li> <li>• must not be an undischarged bankrupt.</li> <li>• must not be any person whose physical or mental impairment means they cannot carry out duties.</li> </ul> <p>1 mark for each requirement identified (maximum 3 marks).</p>	<b>[3]</b>

Question	Expected Answer	Mark
4 (a) (ii)	<p>Read the following passage and fill in the missing words from the list below.</p> <ul style="list-style-type: none"> <li>• qualified</li> <li>• tribunals</li> <li>• juror</li> <li>• lay</li> <li>• trials</li> <li>• qualified lawyer.</li> </ul> <p>..... magistrates usually sit in groups of three and deal with all summary..... Sometimes the case is heard by a district judge who is a ..... and sits alone.</p> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will correctly identify up to <u>three</u> of the missing words:</p> <ul style="list-style-type: none"> <li>• lay</li> <li>• trials</li> <li>• qualified lawyer.</li> </ul> <p>1 mark for each requirement identified (maximum 3 marks).</p>	[3]



Question	Expected Answer	Mark												
4 (b)	<p><b>Dmitri has been charged with theft which is an offence triable either way.</b></p> <p><b>Explain <u>three</u> reasons why Dmitri may prefer to have his case dealt with in the magistrates' court.</b></p> <p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>Candidates will explain any three of the following reasons:</p> <ul style="list-style-type: none"> <li>• a case will go to trial more quickly in the magistrates' court</li> <li>• a case is less likely to appear in the media if held in the magistrates' court</li> <li>• a sentence may be lower although the magistrates can send a case to the crown court if they feel their sentencing powers are insufficient for the seriousness of the offence</li> <li>• the trial will be concluded more quickly</li> <li>• the trial is easier to understand</li> <li>• any other relevant reason.</li> </ul> <p>1 mark for each correct explanation (maximum 3 marks).</p>	[3]												
4 (c) (i)	<p><b>Magistrates are sometimes said to be middle-aged, middle class and middle minded. Identify whether the following statements about magistrates are true or false by putting a tick in the correct box.</b></p> <p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>Candidates will tick the boxes as follows:</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;">TRUE</th> <th style="width: 20%; text-align: center;">FALSE</th> </tr> </thead> <tbody> <tr> <td>You can be a magistrate when you are 18 years old</td> <td style="text-align: center;">X</td> <td></td> </tr> <tr> <td>You need to have A levels to be a magistrate</td> <td></td> <td style="text-align: center;">X</td> </tr> <tr> <td>If you vote for Labour party you are more likely to be chosen as a magistrate</td> <td></td> <td style="text-align: center;">X</td> </tr> </tbody> </table> <p>1 mark for each correct tick (maximum 3 marks).</p>		TRUE	FALSE	You can be a magistrate when you are 18 years old	X		You need to have A levels to be a magistrate		X	If you vote for Labour party you are more likely to be chosen as a magistrate		X	[3]
	TRUE	FALSE												
You can be a magistrate when you are 18 years old	X													
You need to have A levels to be a magistrate		X												
If you vote for Labour party you are more likely to be chosen as a magistrate		X												

Question	Expected Answer	Mark
4 (c) (ii)	<p><b>*Discuss two <u>disadvantages</u> of using magistrates in criminal cases.</b></p> <p><b>ASSESSMENT OBJECTIVE 3</b></p> <ul style="list-style-type: none"> <li>• they are not a true reflection of society as many people do not apply because they are too busy or think they will not be chosen</li> <li>• almost half of them are retired and as they are older they can be out of touch with an offender and with society</li> <li>• most come from managerial or professional jobs so they have little in common with the offender</li> <li>• they tend to live in the better part of a community and so may not understand social and economic problems which face defendants</li> <li>• they can be inconsistent in their decisions and in granting bail</li> <li>• they have no legal qualifications</li> <li>• they are often accused of being too ready to believe the police</li> <li>• they may want to impose their own values on offenders</li> <li>• any other relevant reason.</li> </ul> <p>Candidates will score as follows:</p> <p>0 marks      no response or no response worthy of credit.</p> <p>1-2 marks    basic points made with basic communication. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>3-4 marks    points made with some elaboration and adequate communication. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p>5-6 marks    points explained with good reasoning and with effective communication through discussion. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p>Candidates will discuss any of the following (credit should be given for both breadth and depth):</p>	[6]
		<b>Total [18 marks]</b>

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