

Mark Scheme for June 2010

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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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Question	Expected Answers	Marks	Rationale
1	Correct order is: 1. Mediation; 2. Conciliation and 3. Arbitration	[3]	
2	<p>Candidates may include any of the following typical points:</p> <ul style="list-style-type: none"> • Expense: too expensive – costs often exceed the value of the claim • Time & delay: too slow in bringing cases to court in the first place then too slow in reaching a conclusion • Inequality: there is a lack of equality between the powerful, wealthy litigant and the under-resourced litigant • Fear, uncertainty and complexity – uncertain because of difficulty of forecasting cost and how long a case will last = fear of the unknown; much litigation is incomprehensible and too complicated for many litigants to understand • Inefficiency and lack of legal aid: fragmented and disorganised as there's no one with clear overall responsibility for the administration of civil justice; and lack of legal aid help • Adversarial nature: too adversarial as cases are run by the parties, not by the courts. <p>Level one: limited discussion (1) Level two: adequate discussion (2) Level three: good discussion (3)</p>	[3]	A bare list will be capped at 1 mark
3 (a)	Small Claims Track.	[1]	
3 (b)	<p>Breach of Contract (1) Goods sold must be fit for the purpose for which they are sold (1) The case involves a relatively small sum of money (1)</p>	[3]	

Question	Expected Answers	Marks	Rationale
4 (a)	Multi Track	[1]	
4 (b)	Defamation (1) The case involves a claim for damages of over £15,000 (1) The High Court (1)	[3]	
5 (a)	Fast Track	[1]	
5 (b)	Negligence (1) The case involves more than £5,000 but less than £15,000 (1) The local County Court (1)	[3]	
6 (a)	Appeal heard by a Circuit Judge	[1]	
6 (b)	Appeal heard by the Court of Appeal	[1]	
6 (c)	Appeal heard by a High Court Judge	[1]	
7 (i) (ii) (iii)	Top row: High Court Judge Middle row: District Judge Bottom row: Circuit Judge	[3]	
8	Solicitor	[1]	
9	Barrister	[1]	

Question	Expected Answers	Marks	Rationale
10	Legal Executive	[1]	
11 (i)	FALSE	[1]	
11 (ii)	FALSE	[1]	
11 (iii)	TRUE	[1]	
12 (i)	Citizen's Advice Bureau	[1]	
12 (ii)	Trades Union Congress	[1]	
12 (iii)	The Legal Services Commission	[1]	
13	<p>Candidates may discuss any of the following points:</p> <p>Strengths QLD must cover foundation subjects therefore = good knowledge of theory of law Good combination of academic (law degree) and practical (BVC/LPC) training Courses often include practical work, eg providing free legal advice at FRUs, advice centres etc Pupillage/traineeship offers opportunity to observe good practice before starting work Closely supervised during initial advocacy/work Able candidates <u>can obtain funding</u> for training from chambers/firms</p>		

Question	Expected Answers	Marks	Rationale
	<p>Although costly, LPC can be done over 2 years PT to spread cost.</p> <p>Weaknesses GDL is not sufficient grounding in law for non-law graduates Early choice has to be made as to whether to become a barrister or solicitor... sometimes wasting talent/money/time LPC tries to cover too much ground in one year and 'City LPC' means trainees specialise too early Quality of pupillage/traineeships variable and not well supervised Cost of courses and training puts off many able candidates Many trainees with financial backing from family are more likely to be middle-class and not necessarily the most able or representative Debt at end of training means trainees will look for well-paid jobs rather than those dealing with welfare cases Lack of pupillages and traineeships.</p> <p>Level one: limited discussion of strengths <u>or</u> weaknesses (3) Level two: adequate discussion of strengths <u>and/or</u> weaknesses (6) Level three: good discussion of both strengths <u>and</u> weaknesses. (9)</p> <p>Credit reference to education or class only once within a single context.</p> <p>If list only – one-sided then max top level one (3). Two-sided max top level two (6)</p>	[9]	
14	'Freedoms' 'World War II' 'European Court of Human Rights'	[3]	
15	'Article 9 – The Right to Freedom of Thought, Conscience and Religion'	[1]	
16	'Article 11 – The Right to Freedom of Peaceful Assembly and Association'	[1]	

Question	Expected Answers	Marks	Rationale
17	'Article 3 – The Right not to Suffer Torture or Degrading Treatment'	[1]	
18 (a)	'Freedom of Expression' or Article 10 or "Speech"	[1]	
18 (b)	'Privacy' or Article 8 or Right to respect of private and family life	[1]	
18 (c)	'Freedom of Assembly' or Article 11 and accept association and assembly	[1]	
19	In any order: Fair Trial Discrimination Slavery.	[3]	
20	Candidates may typically discuss general arguments for: <ul style="list-style-type: none"> • Some rules are better than none • Right to choose • Best interests • Medical resources • Possibility of a universal law • Regulations • Is death a bad thing? and/or legal arguments made in the Pretty case such as: <ul style="list-style-type: none"> • Article 2 (right to life) argument – Pretty argued that a 'right' to life meant that a person could choose when and how to end that life. Counter-argument – article 2 provides a guarantee that no individual should be deprived of life by intentional human intervention. 		

Question	Expected Answers	Marks	Rationale
	<ul style="list-style-type: none"> • Article 3 (prohibition of torture) argument – Pretty argued that denying her the right to die constituted ‘torture or inhuman or degrading treatment or punishment’. Counter-argument – while article 3 should not be given a narrow interpretation, it could not be taken to convey the idea that the State had to guarantee to individuals a right to die. • Article 8 (respect for private and family life) argument – Pretty argued that the principle of personal autonomy meant that all individuals had a right (enforceable against the State) to choose to die. Counter-argument – the article protected individuals from unnecessary interference by the State in how they led their lives, not the manner in which they wished to die. • Article 9 (freedom of thought and conscience) argument – Pretty argued that she was entitled to manifest her belief in assisted suicide by having her husband commit it. Counter-argument – the article is not designed to give individuals the right to perform any acts in pursuance of whatever beliefs they might hold. • Level one: limited discussion of point or points (2); • Level two: adequate discussion of point or points (4); • Level three: good discussion covering more than one point (6). 	[6]	Concentrate on arguments not commentary

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