

Mark Scheme for June 2013

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

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

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

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

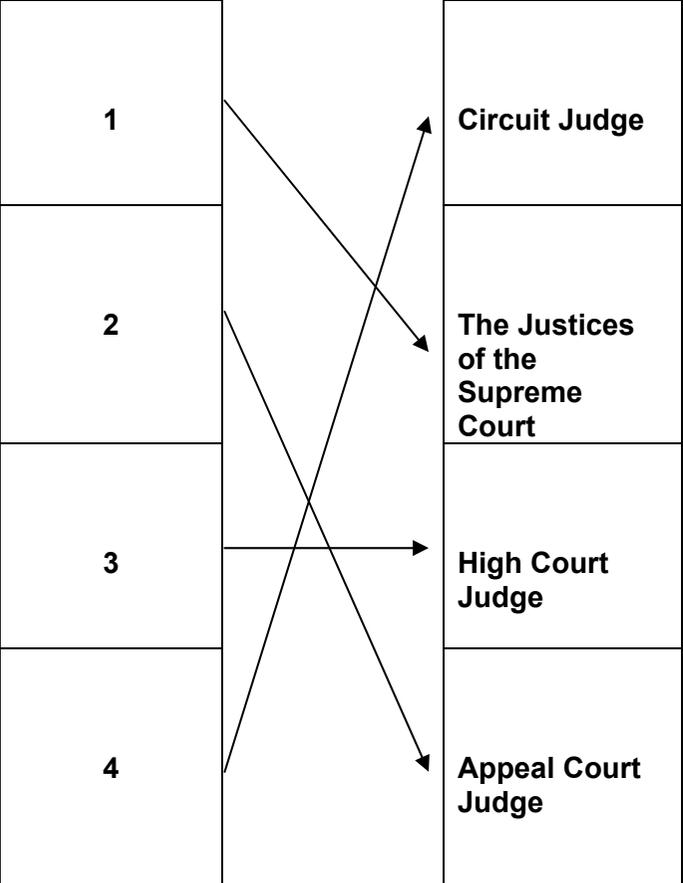
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Annotations

Annotation	Meaning
	Benefit of the doubt
	Incorrect point
	Expansion of a 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
	Development of point
	Vague
	Omission mark

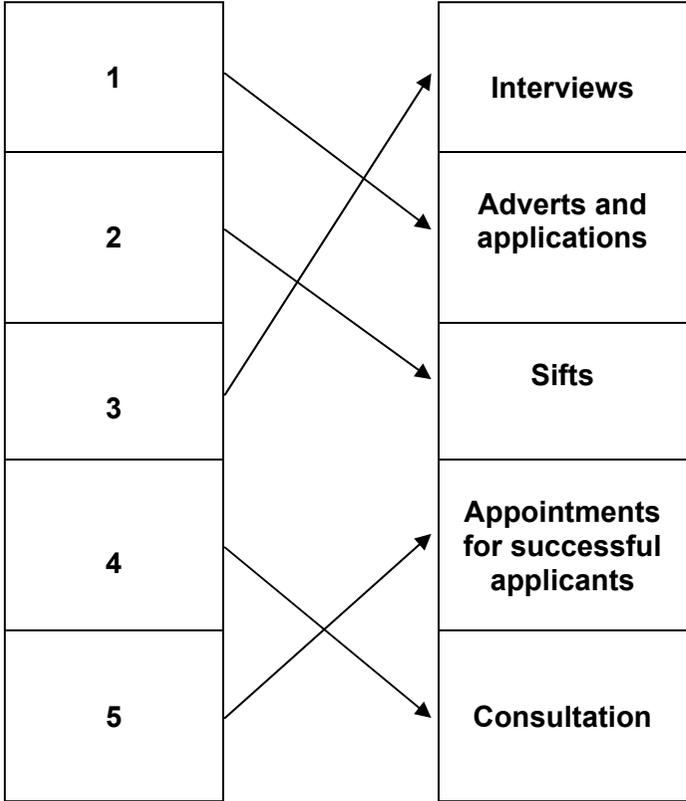
Question		Answer/Indicative content	Mark	Guidance
1	1	Conciliation Arbitration Mediation	3	AO1 One mark for each correctly placed answer
2	2	<p>Advantages will include:</p> <ul style="list-style-type: none"> • Quick and efficient • Private (avoids bad publicity) • Especially useful in certain areas (eg family and employment – to preserve relationship) • Not bound by a system of precedent (therefore) flexible. • Informal so leaves parties in control instead of courts • Expertise. Some ADR (especially arbitration) allows use of relevant expertise • Can ‘narrow down’ the legal issues even if it doesn’t work • Avoids confrontation/ bad feeling so successful resolution more likely. <p>Disadvantages will include:</p> <ul style="list-style-type: none"> • No guarantee it will work-may litigate anyway. • No public scrutiny • Woolf reforms have ‘forced’ (encouraged) ADR on parties in certain areas (divorce) even where not appropriate • At least decisions of civil courts are certain, predictable and binding • Can lack authority of civil courts • Can lack ‘legal’ expertise to deal with points of law • Not legally binding • Only works if both parties are willing to compromise. • Parties may be intimidated by third party. • Privacy can be abused by stronger party. 	6	<p>AO3</p> <p>Annotate as follows: Level 1: Point: Identification of advantage/disadvantage. Level 2: Developed point: Explanation/detail/example to illustrate advantage/disadvantage. Level 3: Well-developed point: Extended analysis of advantage/disadvantage.</p> <p>DO NOT CREDIT REFERENCE TO COSTS AS COVERED IN THE QUESTION</p> <p>Marks to be awarded on the following basis: Level three: (5–6) Good discussion covering both advantages and disadvantages. CHECK CAREFULLY THAT BOTH ADV AND DISADV COVERED.</p> <p>Level two: (3–4) Adequate discussion covering advantages <u>and/or</u> disadvantages.</p> <p>Level one: (1–2) Limited points covering advantages <u>and/or</u> disadvantages.</p> <p>Bare list of points lacks development for L2 and will be capped at 2 marks. Key words only then bottom L1. 0 marks = no response or nothing worthy of credit.</p> <p>Maximum 6 marks</p>

Question		Answer/Indicative content	Mark	Guidance
3	3	False	1	AO1 For one mark
4	4	True	1	AO1 For one mark
5	5	True	1	AO1 For one mark
6	6	Tribunals	1	AO2 For one mark Accept employment or industrial tribunals
7	7	High Court	1	AO2 For one mark Do not accept Divisional Courts
8	8	County Court	1	AO2 For one mark

Question	Answer/Indicative content	Mark	Guidance
9	9	4	<p>AO1 One mark for each correctly drawn line. Maximum 4 marks.</p> <p>If no lines drawn accept alternative correct annotation. if there are lines <u>and</u> alternative annotation, only accept the lines drawn.</p>
	<p>1. The Justices of the Supreme Court 2. Appeal Court Judge 3. High Court Judge 4. Circuit Judge</p> 		

Question		Answer/Indicative content	Mark	Guidance
10		10 Legal executive	1	AO2 For one mark Do not accept lawyer or 'executive' only
11		11 Solicitor	1	AO2 For one mark Do not accept lawyer
12		12 Barrister	1	AO2 For one mark Do not accept lawyer

Question	Answer/Indicative content	Mark	Guidance
13	<p>13 Candidates will discuss any two of the following:</p> <ul style="list-style-type: none"> • Cost of training- puts off able candidates- skews the representativeness of the profession • Training is a lengthy process -especially with GDL route- favours wealthy creating a barrier to entry • Supply and demand – limited training contracts-many law students end up in debt with no job. • Over representation of certain class-limited real life experience-not reflective of society/may impact on justice. • Under-representation of ethnic minorities – not representative of society-may impact on justice. • Legal fees too high-many cannot afford access to justice-legal aid cuts. • The bar is a ‘closed shop’ profession- requirements such as joining bar association, attending dinners- favours wealthy. • Legal profession supplies judiciary- knock-on effect on composition – may impact on justice. • Clementi Report – note regulatory and other changes. • Is training fit for purpose? -quality issue; different experience a different firms/chambers – effect on competence. • A divided profession – is this helpful? –additional costs for public of dual profession 	6	<p>AO3</p> <p>Annotate as follows: Level 1: Point: Identification of criticism. Level 2: Developed point: Explanation/detail/example to illustrate criticism. Level 3: Well-developed point: Extended analysis of criticism.</p> <p>Mark as follows for each of the two situations: Level 3: 3 marks-develops a discussion of a relevant criticism Level 2: 2 marks-identifies a relevant criticism with some elaboration. Level 1: 1 mark-identifies a relevant criticism or makes any valid point.</p> <p>0 marks = no response or nothing worthy of credit.</p> <p>Maximum 6 marks</p> <p>Do not credit for reference to gender inequality as that is referred to in the question.</p>

Question	Answer/Indicative content	Mark	Guidance
<p>14</p>	<p>14</p> <ol style="list-style-type: none"> 1. Adverts and applications 2. Sifts 3. Interviews 4. Consultation 5. Appointments for successful applicants 	<p>5</p>	<p>AO1 One mark for each correctly drawn line. Maximum 5 marks.</p> <p>If correctly numbered but lines are wrong, lines take precedence.</p> <p>If <u>only</u> numbered annotations, accept this.</p>

Question	Answer/Indicative content	Mark	Guidance																																				
15	<p>15</p> <p>i. False ii. True iii. False iv. False v. True</p> <table border="1" data-bbox="427 399 1131 608"> <thead> <tr> <th></th> <th>Statement</th> <th>True</th> <th>False</th> </tr> </thead> <tbody> <tr> <td>i</td> <td></td> <td></td> <td>✓</td> </tr> <tr> <td>ii</td> <td></td> <td>✓</td> <td></td> </tr> <tr> <td>iii</td> <td></td> <td></td> <td>✓</td> </tr> <tr> <td>iv</td> <td></td> <td></td> <td>✓</td> </tr> <tr> <td>v</td> <td></td> <td>✓</td> <td></td> </tr> </tbody> </table>		Statement	True	False	i			✓	ii		✓		iii			✓	iv			✓	v		✓		5	<p>AO1 One mark for each correctly ticked answer. Maximum 5 marks.</p>												
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16	<p>16 (Case 1) the right to respect for private and family life (Article 8)</p> <p>17 (Case 2) freedom of thought, conscience and religion (Article 9)</p> <p>18 (Case 3) the right to liberty apart from lawful arrest (Article 5)</p> <table border="1" data-bbox="371 791 1131 1331"> <thead> <tr> <th>CBT question numbers:-</th> <th>16</th> <th>17</th> <th>18</th> </tr> <tr> <td></td> <th>Case 1</th> <th>Case 2</th> <th>Case 3</th> </tr> </thead> <tbody> <tr> <td>Freedom of peaceful assembly and association</td> <td></td> <td></td> <td></td> </tr> <tr> <td>The right to respect for private and family life</td> <td>✓</td> <td></td> <td></td> </tr> <tr> <td>The right to liberty apart from lawful arrest</td> <td></td> <td></td> <td>✓</td> </tr> <tr> <td>The right to a fair trial</td> <td></td> <td></td> <td></td> </tr> <tr> <td>The right not to suffer torture or degrading treatment</td> <td></td> <td></td> <td></td> </tr> <tr> <td>The freedom of thought, conscience and religion</td> <td></td> <td>✓</td> <td></td> </tr> <tr> <td>The right to life</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	CBT question numbers:-	16	17	18		Case 1	Case 2	Case 3	Freedom of peaceful assembly and association				The right to respect for private and family life	✓			The right to liberty apart from lawful arrest			✓	The right to a fair trial				The right not to suffer torture or degrading treatment				The freedom of thought, conscience and religion		✓		The right to life					<p>AO2 One mark for each correct answer. Maximum 3 marks.</p>
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17	<p>19 Freedom 1: Freedom of information</p> <ul style="list-style-type: none"> • It ensures personal data held about you is lawful • It ensures surveillance by police and others is subject to lawful controls • It ensures listening devices and covert observation devices are used lawfully • It ensures you have the right to access information held about you. <p>Freedom 2: Freedom of thought, conscience and religion</p> <ul style="list-style-type: none"> • It allows you to hold and express religious beliefs and other beliefs like veganism, agnosticism, humanism, pacifism and atheism • They include taking public oaths in accordance with beliefs • They include education in schools • They allow the tolerance of religious diversity • Freedom to wear religious clothing like the hijab and turban. 	4	<p>AO1</p> <p>For each freedom: Award one mark for each description. Accept examples as part of description.</p> <p>Do not accept “If you ask for information on <u>something</u>, they have to give it to you.” Too vague.</p> <p>Do not accept a re-writing of the question in relation to Freedom 2. Annotate this as repetition.</p>
18	<p>20 Freedom of expression Stir up racial hatred Article 10</p>	3	<p>AO2</p> <p>One mark for each correctly ticked answer</p>
19	<p>21 Freedom of association and assembly It is an illegal strike Article 11</p>	3	<p>AO2</p> <p>One mark for each correctly ticked answer</p>
20	<p>22 Freedom of the person Have intelligence from a member of the public that Charlie has a knife Article 5</p>	3	<p>AO2</p> <p>One mark for each correctly ticked answer</p>

Question	Answer/Indicative content	Mark	Guidance
21	<p>23</p> <p>Arguments for the HRA 1998:</p> <ul style="list-style-type: none"> • Basic rights to protect the individual. Specific Articles cited. • Upholds universal values of equality and stops discrimination • To avoid the atrocities of the past. • Because a civilised society protects the weak and vulnerable • Recognises that certain rights cannot be taken away or interfered with • Since rights come with responsibilities they are balanced. • Fundamental rights are above man-made law. Should be protected above and beyond ordinary laws <p>Arguments Against the HRA 1998:</p> <ul style="list-style-type: none"> • Restrictions on individual freedoms. Right to death cases. • Misuse. Criminals remaining in UK due to having developed a family life. • HRA does not work-still discrimination. • Restrictions – some argue that human rights place undue burdens on business and public bodies (e.g. provision of services for minorities, housing, NHS). • Restore (or maintain) sovereignty – i.e. British courts deciding British matters. • Democracy – matters in the UK should be determined by people who have been voted for • Exceptions – replacing the HRA with a Bill of Rights would allow for exceptions to be created (e.g. people – UK citizens only; public bodies – police exempt; situations – criminal excepted) <p>Credit any other relevant points</p>	6	<p>AO3</p> <p>Annotate as follows:</p> <p>Level 1: Point: Identification of the argument in favour or against the HRA 1998.</p> <p>Level 2: Developed point: Explanation/detail/example to illustrate the argument.</p> <p>Level 3: Well-developed point: Extended analysis of the argument.</p> <p>Care: Do not credit examples given in the question.</p> <p>Marks to be awarded on the following basis:</p> <p>Level three: (5–6) Good discussion covering both arguments for and against HRA 1998. CHECK CAREFULLY THAT BOTH FOR AND AGAINST ARE COVERED.</p> <p>Level two: (3–4) Adequate discussion covering either arguments for or arguments against HRA1998.</p> <p>Level one: (1–2) Limited points covering either arguments for or arguments against HRA 1998.</p> <p>Bare list of points lacks development for L2 and will be capped at 2 marks. Key words only then bottom L1.</p> <p>0 marks = no response or nothing worthy of credit.</p> <p>Maximum 6 marks</p>

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