

GCSE

Law

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

General Certificate of Secondary Education

Mark Scheme for June 2016

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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
BOD	Benefit of the doubt
	Incorrect point
L1	Level one point made
L2	Level two point made
L3	Level three point made
NAQ	Not answered question
NBOD	No benefit of doubt given
	Not relevant or to indicate all or part blank answer pages have been seen by the marker.
REP	Repeat of question or answer
	Correct point
VG	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	Candidates will identify the following: <ul style="list-style-type: none">• Claimant• Sue• Small Claims Court• County Court/High court• Balance of Probabilities• Liable• Damages	7	ASSESSMENT OBJECTIVE 1 1 mark for each correct answer (Maximum 7 marks)

Question	Answer	Mark	Guidance
2(a)	Pre-April 2013: County Court – Fast Track Claims of between £5,000 and £15,000 are dealt within this track and this debt is for £7,000. Post April 2013: County Court - Small Claims Track Claims of less than £10,000 are dealt within this track and this debt is for £7,000.	2	ASSESSMENT OBJECTIVE 2 1 mark for correct court 1 mark for explanation (Maximum 2 marks)

Question	Answer	Mark	Guidance
(b)	<p>County Court-Fast Track</p> <p>Personal injury claims of between £1,000- £25,000 are dealt with in this track and this claim is for £3,000.</p>	2	ASSESSMENT OBJECTIVE 2 1 mark for correct court 1 mark for explanation (Maximum 2 marks)

Question	Answer	Mark	Guidance
(c)	<p>High Court-Queens Bench Division</p> <p>Defamation cases can only be dealt with in the QBD of the High Court.</p>	2	ASSESSMENT OBJECTIVE 2 1 mark for correct court 1 mark for explanation (Maximum 2 marks)

Question	Answer	Mark	Guidance
(d)	<p>Pre-April 2013: County Court Multi-Track</p> <p>Personal injury claims of over £15,000 are dealt with in this track and this claim is worth £30,000.</p> <p>Post-April 2013: County Court- Multi Track.</p> <p>Personal injury claims of between £25,000- £50,000 are dealt with in this track and this claim is worth £30,000.</p>	2	ASSESSMENT OBJECTIVE 2 1 mark for correct court 1 mark for explanation (Maximum 2 marks)

Question	Answer		Mark	Guidance
3	A B	3 1	2	ASSESSMENT OBJECTIVE 1 1 mark for each correct answer (Maximum 2 marks)

Question	Answer	Mark	Guidance
4	<p>Legal expertise/experience in court:</p> <ul style="list-style-type: none"> Judges are able to apply the law to the facts. They can produce a detailed judgement explaining their decisions so that all parties understand the findings of fact which is not always the case in ADR. <p>Certainty of resolution in court:</p> <ul style="list-style-type: none"> Judges will give a final decision on a dispute after hearing all the evidence at trial. The judgement will include a remedy such as damages which can be enforced e.g. bailiff can be sent whereas a decision made in ADR has to be registered in the county court before enforcement. <p>Civil Procedure Rules (CPR) mean consistency:</p> <ul style="list-style-type: none"> Court manages the case and sets timetable to ensure claim proceeds to trial. Many ADR methods do not have this structure which means the claim can be delayed. <p>Credit any other relevant point.</p>	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Levels to be awarded on the following basis:</p> <p>L3 – 3 marks: Well-developed point: Analysis of how litigation is more beneficial than ADR</p> <p>L2 – 2 marks: Developed point: Explanation/detail/example to describe advantage.</p> <p>L1 – 1 mark : Point: Identification of advantage</p> <p>(Maximum 6 marks)</p>

Question	Answer	Mark	Guidance
5	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • Venue for resolving disputes in the work-place. • Panel of three members. • Legally qualified Chair • Two lay people. • Formal procedures (similar to court) • Legal aid not available • Adversarial process <p>Credit any other relevant point.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct answer.</p> <p>Credit examples given of caseload</p> <p>(Maximum 3 marks)</p>

Question	Answer	Mark	Guidance
6 (a)	<p>Privately funded legal representation means individuals chose their own solicitor/barrister and pay for them out of their own income.</p>	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for correct answer.</p> <p>(Maximum 1 mark)</p>

Question	Answer	Mark	Guidance
(b)	<p>Candidates will explain an advantage. For example:</p> <p>Choice: This means they have the best choice of lawyer for the particular job e.g. they can choose a specialist employment lawyer for a sex discrimination case.</p> <p>Credit any other relevant point.</p>	2	ASSESSMENT OBJECTIVE 2 1 mark for advantage 1 mark for explanation (Maximum 2 marks)

Question	Answer	Mark	Guidance
7	<p>Candidates will identify any two of the following:</p> <p>Lower Cost of qualification: It is much cheaper to complete the Cilex academic examinations (level 3 and level 6) than complete a law degree (with annual fees of £9,000).</p> <p>Specialist Training: Legal executives have on-the-job training whereas university students have to find a training contract which can be difficult to do.</p> <p>Immediate career: Legal executives have a job whereas trainee solicitors have to hope a job is available/will be offered to them after completion of a training contract.</p> <p>Credit any other relevant point.</p>	4	ASSESSMENT OBJECTIVE 1 and ASSESSMENT OBJECTIVE 2 1 mark for identifying a relevant point. 1 mark for explaining it. (Maximum 4 marks)

Question	Answer	Mark	Guidance
8	<p>Candidates will discuss one of the following:</p> <p>Judges can save expense/ deliver proportionality in the trial process:</p> <ul style="list-style-type: none"> • They can do this by using allocation questionnaires to allocate cases to appropriate tracks. • This means that costs are limited according to the track. E.g. No costs rule in small claims track; Fixed costs in fast track; taxed costs in multi-track <p>Judges can ensure speed and fairness:</p> <ul style="list-style-type: none"> • They do this in a number of ways: E.g. by enforcing timetables/hearing pre-trial matters/managing case management conferences. • This means that the case is moved on by the Judge and not delayed by either party. <p>Judges can ensure that parties give greater cooperation to the court:</p> <ul style="list-style-type: none"> • They can do this in Case Management Conferences. • By ordering the parties to take steps to push the case to trial. <p>Judges can ensure the parties are on an equal footing:</p> <ul style="list-style-type: none"> • By using an inquisitorial approach in the small claims track to help litigants put their case. • Particularly in a situation where one party, maybe a company, has legal representation. <p>Credit any other relevant point.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>Levels to be awarded on the following basis:</p> <p>L3 – 3 marks: Well-developed point: Analysis or development of the point.</p> <p>L2 – 2 marks: Developed point: Explanation/detail/example.</p> <p>L1 – 1 mark: Point: Identification of relevant point.</p> <p>(Maximum 3 marks)</p>

Question	Answer	Mark	Guidance
9	Candidates will identify as follows: <ul style="list-style-type: none">• Precedent• Convictions• Awards• Law• Tracks• Leave	6	ASSESSMENT OBJECTIVE 1 1 mark for each correct word (Maximum 6 marks)

Question	Answer	Mark	Guidance
10	<p>Candidates will explain, using an example, the following:</p> <p>Absolute Rights Rights which cannot be restricted, interfered with or taken away in any circumstances.</p> <p>E.g. The right not to be tortured.</p> <p>Limited Rights Rights which can be limited in specific circumstances which will be set out in the document that gives the rights.</p> <p>E.g. The right to freedom of movement can be limited where a person is lawfully arrested or detained under mental health provisions.</p> <p>Qualified Rights Rights which have to be balanced against the rights of others and can be restricted for legitimate reasons in various circumstances.</p> <p>E.g. The right to freedom of movement may have to be restricted if there was an outbreak of a contagious disease to quarantine people in order to stop the spread of the disease.</p> <p>Credit any other relevant point.</p>	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for correct definition 1 mark for example to illustrate definition</p> <p>In the definition of limited rights, credit is only given if candidate explains that the limitation is detailed in the relevant document/statute. It is not enough to simply state that the right is 'limited'.</p> <p>(Maximum 6 marks)</p>

Question	Answer	Mark	Guidance
11	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none">• Working whilst in detention• Following orders in the military service• Performing certain emergency work• Work done under a civil obligation (such as tax collecting). <p>Credit any other relevant point.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct situation</p> <p>(Maximum 3 marks)</p>

Question	Answer	Mark	Guidance
12	<p>Arguments against a law on assisted suicide:</p> <p>Article 2: Everyone's right to life shall be protected by law:</p> <ul style="list-style-type: none"> • Life is sacred and helping to end it is morally unacceptable. • If assisted suicide is permitted, it is a 'slippery slope' and would make it harder to protect people from their families who are after their money or indeed, from rogue doctors like Harold Shipman. • The oath that doctors take to preserve life would be undermined and this could damage the doctor-patient relationship. • Doctors causing death on a regular basis could become a routine administrative task, leading to a lack of compassion when dealing with elderly, disabled or terminally ill people. <p>Article 3: No one shall be subjected to torture or to inhuman or degrading treatment or punishment:</p> <ul style="list-style-type: none"> • Many people suffering illnesses like 'locked-in syndrome' or serious spinal injuries maintain that the treatment to keep them alive is akin to torture. • However, the advances in palliative care and mental health treatment mean there is no reason why any person should ever feel they are suffering intolerably. • On that basis, if a person is given the right care, in the right environment, there is no reason why they should be unable to have a dignified and painless natural death. 	9	<p>ASSESSMENT OBJECTIVE 3 Levels to be awarded on the following basis:</p> <p>Level 1 = 1-3 marks Limited points covering arguments against assisted suicide.</p> <p>Bare list of points lacks development for L2 and will be capped at 3 marks.</p> <p>Level 2 = 4-6 marks Adequate discussion covering arguments against assisted suicide. At least one developed point to reach L2.</p> <p>Level three = 7-9 marks Good discussion covering distinct arguments against assisted suicide. Reference to HRA 1998 required for L3</p>

Question	Answer	Mark	Guidance
	<p>Article 8: Everyone has the right to respect for his private and family life:</p> <ul style="list-style-type: none"> • The danger is that many terminally ill people are vulnerable members of society. Some might feel under psychological pressure to ease the burden on their families by choosing assisted suicide • Yet advances in medicine will mean that we can cure diseases and disabilities that were once considered untreatable. So a terminally ill patient may, in the future, have a bearable quality of life. • Legalising assisted suicide risks turning it into a life-style choice. <p>Article 9: everyone has the right to freedom of thought, conscience and religion:</p> <ul style="list-style-type: none"> • The religious argument (made by many faiths not just Christian) is that human beings are created by God and only God should choose when a human life ends. • If doctors are asked to assist in suicide, this could bring them into conflict with their personal religious beliefs. Doctors and nurses have consistently voted against physician assisted suicide and euthanasia. <p>Credit any other relevant point.</p>		(Maximum 9 marks)

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