Cambridge International AS & A Level

Cambridge Assessment International Education
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/11**

Paper 1 **May/June 2019**

MARK SCHEME

Maximum Mark: 75

Published

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge International will not enter into discussions about these mark schemes.

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Generic Marking Principles

These general marking principles must be applied by all examiners when marking candidate answers. They should be applied alongside the specific content of the mark scheme or generic level descriptors for a question. Each question paper and mark scheme will also comply with these marking principles.

GENERIC MARKING PRINCIPLE 1:

Marks must be awarded in line with:

- the specific content of the mark scheme or the generic level descriptors for the question
- the specific skills defined in the mark scheme or in the generic level descriptors for the question
- the standard of response required by a candidate as exemplified by the standardisation scripts.

GENERIC MARKING PRINCIPLE 2:

Marks awarded are always **whole marks** (not half marks, or other fractions).

GENERIC MARKING PRINCIPLE 3:

Marks must be awarded **positively**:

- marks are awarded for correct/valid answers, as defined in the mark scheme. However, credit is given for valid answers which go beyond the scope of the syllabus and mark scheme, referring to your Team Leader as appropriate
- marks are awarded when candidates clearly demonstrate what they know and can do
- marks are not deducted for errors
- marks are not deducted for omissions
- answers should only be judged on the quality of spelling, punctuation and grammar when these features are specifically assessed by the question as indicated by the mark scheme. The meaning, however, should be unambiguous.

GENERIC MARKING PRINCIPLE 4:

Rules must be applied consistently e.g. in situations where candidates have not followed instructions or in the application of generic level descriptors.

GENERIC MARKING PRINCIPLE 5:

Marks should be awarded using the full range of marks defined in the mark scheme for the question (however; the use of the full mark range may be limited according to the quality of the candidate responses seen).

GENERIC MARKING PRINCIPLE 6:

Marks awarded are based solely on the requirements as defined in the mark scheme. Marks should not be awarded with grade thresholds or grade descriptors in mind.

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General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior examiner must be consulted.
- Crossed out work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalised as long as the answer makes sense.
- Annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

The mark bands and descriptors applicable to all questions on the paper are as follows.
Band 1 [0 marks] The answer contains no relevant material. **Band 2 [1–6 marks]** The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge. **Band 3 [7–12 marks]** The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial **OR** The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules **OR** The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges. **Band 4 [13–19 marks]** Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue **OR** The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded. **Band 5 [20–25 marks]** The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

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Question	Answer	Marks
1	**Describe the routes of appeal from decisions in the civil justice system. Discuss how difficult it might be to make such an appeal.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of appeal. Candidates are unlikely to offer any illustration and no reference to the evaluative issues within the question is expected. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the pathways for appeal from some civil courts but is unlikely to have any accurate detail on appeal pathways. There will be little or no attempt to address the evaluative component of the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the pathways of appeal from most civil courts. Diagrams alone will not be enough to allow a candidate to access marks in band 4. There will be some attempts to link to the evaluative component of the question by discussion of the difficulty of appeal, cost, time and the likelihood of success. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the pathways of appeal from all civil courts including statutory authority where relevant. Candidates will address the evaluative component of the question by discussing in some detail the problems of appeal (as in band 4) and drawing reasoned and logical conclusions.	**25**

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Question	Answer	Marks
2	**Compare conciliation and arbitration as alternative methods of solving disputes. Evaluate the effectiveness of each method.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of conciliation and arbitration but there will be no coherent explanation or developed attempt to answer the evaluative element of the question. **Band 3 [7–12 marks]** Candidate gives a basic explanation of some of conciliation and arbitration and the circumstances in which each would be used. Candidate may offer simplistic and underdeveloped evaluation. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of conciliation and arbitration and the circumstances in which each may be used. However candidates who fail to address both will be unlikely to achieve marks at the top of the band. Candidates include some discussion of the effectiveness of each type. **Band 5 [20–25 marks]** Candidate gives a clear explanation of conciliation and arbitration and the circumstances in which each would be used. Candidate offers clear and informed links to the evaluative component of the question. **Note: A discussion of tribunals or other forms of ADR cannot be credited in any band.**	**25**

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Question	Answer	Marks
3	**Assess how far the Practice Statement 1966 (House of Lords/Supreme Court) and the case of *Young v Bristol Aeroplane Co Ltd [1944]* (Court of Appeal Civil Division) allow the courts to adapt the common law.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of precedent, but with no real links to the question. Candidates may make brief reference to some courts. **Band 3 [7–12 marks]** Candidate gives a brief but generally accurate explanation of how the Supreme Court (SC) and/or the Court of Appeal (CA) use precedent. These are, however, likely to be superficial and poorly explained and bear little relevance to the question. There may be brief reference to the evaluative issues in the question, but they may have little detail. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of how the SC and/or the CA use precedent with some useful detail and example. Better candidates will go on to address the main issues of the position of the SC and CA concerning their ability to adapt the law. Candidates may use this material to offer answers to the evaluative part of the question. **Band 5 [20–25 marks]** Candidate gives a clear and very detailed explanation of how the SC and/or the CA use precedent (as in band 4) with good levels of illustration and explanation. Candidate clearly links the powers of the courts to adapt the law to the question and presents a logical and reasoned argument.	**25**

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Question	Answer	Marks
4	**Discuss the impact of the *Human Rights Act 1998* on the English legal system.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the HRA but is unlikely to include any detail beyond general aims. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the HRA and its effect on the role of the judge and the legislator in the UK. There is unlikely to be any detail or citation of Articles or sections of the act. Candidates may do little more than rehearse the rights protected by the act. The evaluative aspect of the question is unlikely to be considered. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the HRA and the way in which it can influence judicial and legislative decisions. Candidates may offer examples of cases where the rights were upheld. At the upper end of the band there may be references to declarations of incompatibility and the consequences of this. Better candidates may recognise the impact on statutory interpretation. Candidate makes attempts to address the evaluative component of the question. **Band 5** **[20–25 marks]** Candidate gives a clear explanation of the HRA with good citation of the act (as in band 4) and an awareness of the impact on statutory interpretation and legislative processes. Candidate clearly addresses the evaluative component of the question.	**25**

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Question	Answer	Marks
5	**The creation of the Crown Prosecution Service (CPS) has ensured justice in the prosecution process.** **Explain the function of the CPS and assess the validity of the statement above.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the function of the CPS but goes no further. There may be very limited points of evaluation but these are not developed. **Band 3** **[7–12 marks]** Candidate gives a brief but generally accurate explanation of the function of the CPS. There may be brief mention of detail, but this may be superficial and poorly explained. There is likely to very little, if any, reference to the evaluative issues within the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the function of the CPS, but at the lower end of the band this may not be wide ranging or detailed. Candidate can explain the criteria used in prosecution decisions. Better candidates may begin to address the evaluative issues and discuss some cases as examples of miscarriages of justice prior to the creation of the CPS but at the lower end of the mark band this may be limited and unfocussed on the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the function of the CPS with detailed explanation of the prosecution criteria and use of cases to illustrate this. Candidate considers the evaluative issues concerning miscarriages of justice in some detail drawing well-reasoned conclusions.	**25**

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Question	Answer	Marks
6	**Explain both the civil and criminal role of the magistrate in the English legal system. Assess how far it is true to say that they are representative of society.** **Band 1 [0 marks]** Irrelevant answer. **Band 2 [1–6 marks]** Candidate gives a very basic explanation of the role of magistrates in criminal and/or civil cases. There may be some very limited evaluative content but it is unlikely to be developed. **Band 3 [7–12 marks]** Candidate gives an outline of the civil and/or criminal role but this will not have wide range or accuracy. There is unlikely to be any consideration of the evaluative component of the question beyond simplistic points of advantages/disadvantages. Candidates who consider only the civil or criminal role may achieve no more than 12 marks. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the role of magistrates in civil **and** criminal cases. Candidates may refer to the selection process as far as that links to representation. Candidates at the upper end of the band may make an attempt at a discussion of the evaluative component of the question, focussing their arguments on the issues of social class, becoming case hardened, age, occupation etc. **Band 5 [20–25 marks]** Candidate gives a very clear explanation of the role of magistrates in civil and criminal cases. Candidate may offer detailed and thoughtful commentary on the selection process as far as it links to representation. Candidates will offer clear and informed analysis and draw logical conclusions.	**25**

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