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Cambridge International Advanced Subsidiary and Advanced Level

MARK SCHEME for the October/November 2014 series

9084 LAW

9084/12 Paper 1, maximum raw mark 75

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1 'Magistrates are required to play too great a role in our legal system.'

Critically analyse this view of the role of magistrates and consider the qualities necessary in order to become a magistrate.

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of the role of magistrates in criminal trials and/or family and/or civil proceedings in the magistrates' court and a very brief outline of the qualities required.

Band 3 (7–12) Candidate gives a basic explanation of the role of magistrates in criminal trials and/or family and/or civil proceedings in the magistrates' court. Gives an outline of some of the qualities and qualifications needed but this will not have wide range or accuracy. There is unlikely to be any focussed consideration of the analytical component of the question

Band 4 (13–19) Candidate gives a reasonable explanation of the role of magistrates in criminal trials, family and civil proceedings in the magistrates' court. Some detail on the qualifications and qualities needed. Some attempt to analyse the view that the role of magistrates is too great.

Band 5 (20–25) Candidate gives a very clear explanation of the role of magistrates in criminal trials, family and civil proceedings in the magistrates' court. Detailed discussion of the qualifications and qualities required by magistrates. Clear and informed analysis of the merits of using magistrates in trials.

2 'The law has to be interpreted before it can be applied and interpretation is a creative activity' Lord Radcliffe. Discuss.

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of the rules of statutory interpretation. If no case law is used in illustration candidates are unlikely to gain more than 6 marks.

Band 3 (7–12) Candidate gives a basic explanation of the rules of statutory interpretation supported by relevant case law.

Band 4 (13–19) Candidate gives a reasonable explanation of the rules of statutory interpretation supported by relevant case law. Candidates who address only the three basic approaches are unlikely to gain more than 13 marks. Some attempt to link to the analytical component of the question e.g. why law has to be interpreted and to what extent this is a creative activity.

Band 5 (20–25) Candidate gives a very clear explanation of the rules of statutory interpretation supported by relevant case law. A good attempt to link this to the analytical component of the question e.g. why law has to be interpreted and to what extent this is a creative activity.

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3 Jamal, aged 20, has been charged with assaulting Gurjit and causing her actual bodily harm. He intends to plead not guilty at Wrexham Magistrates court. Describe the procedure at his trial in the magistrates' Court and the appeals available to him if he is found guilty. Critically assess whether the availability of such appeals is satisfactory.

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of the process of a criminal trials at the magistrates' court.

Band 3 (7–12) Candidate gives a basic explanation of the process of a criminal trials at the magistrates' court.

Band 4 (13–19) Candidate gives a reasonable explanation of the process of a criminal trials at the magistrates' court. Some attempt to link to the analytical component of the question and a discussion of the appeals available to Jamal and whether the availability of such appeals is satisfactory.

Band 5 (20–25) Candidate gives a very good explanation of the process of a criminal trial at the magistrates' court. A good attempt to link the analytical component of the question. A good discussion of the appeals available to Jamal and whether the availability of such appeals is satisfactory. Clear and informed analysis of whether the availability of such appeals is satisfactory.

4 'Delegated legislation is an increasingly important source of law, but one which can lead to abuse of the principle of democratic law making.'

Critically assess the value of delegated legislation and its role in law-making today. Consider the safeguards in place that aim to prevent any abuse of the principle.

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of delegated legislation.

Band 3 (7–12) Candidate gives a basic explanation of the different types of delegated legislation and the circumstances in which each type would be used. Some understanding on why it can lead to abuse of democratic law making.

Band 4 (13–19) Candidate gives a reasonable explanation of the different types of delegated legislation and the circumstances in which each type would be used. A real attempt to make a link with the analytical component of the question and to explain why it can lead to abuse of democratic law making. Some mention of the controls over the creation of DL. If no controls are considered, candidates will be unlikely to gain more than 15 marks.

Band 5 (20–25) Candidate gives a clear explanation of the all the different types of delegated legislation and the circumstances in which each type would be used. Clear and informed links to the analytical component of the question e.g. an explanation of why the use of DL can lead to abuse of democratic law making and an explanation of how this can be addressed by the controls.

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5 To what extent does the law relating to police powers (such as those to stop, search, arrest and detain at the police station) strike a balance between allowing the police sufficient freedom to investigate crime and adequately protecting the individual's rights?

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of police powers.

Band 3 (7–12) Candidate gives a basic explanation of police powers with some illustration of various powers under PACE. Some basic discussion of the issue of the question as to whether the law strikes a balance between allowing the police sufficient freedom to investigate crime and also to protect the individual's rights.

Band 4 (13–19) Candidate gives a reasonable explanation of police powers with illustration of various powers under PACE. A reasonable discussion of the issue of the question as to whether the law strikes a balance between allowing the police sufficient freedom to investigate crime and also to protect the individual's rights. If no Act and/or Codes are considered candidates will be unlikely to achieve more than 15 marks.

Band 5 (20–25) Candidate gives a very clear explanation of police powers with illustration of various powers under PACE using sections and Codes as authority. A very good discussion of the issue of the question as to whether the law strikes a balance between allowing the police sufficient freedom to investigate crime and also to protect the individual's rights.

6 'Equity was, and in many ways still is, common law's safety valve.

Assess whether this accurately describe the role of equity both in the past and today?

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of what constitutes equity.

Band 3 (7–12) Candidate gives a basic explanation of what constitutes equity and some basic discussion of its overlap with common law.

Band 4 (13–19) Candidate gives a reasonable explanation of what constitutes equity and a reasonable discussion of its overlap with common law. An outline of the historical growth of equity and also a discussion of its role today with some reference to what is meant by a safety valve

Band 5 (20–25) Candidate gives a very good explanation of what constitutes equity and a very good discussion of its overlap with common law. A clear outline of the historical growth of equity and also a discussion of its role today. A clear analysis of the modern role of equity and some analogy drawn with a safety valve.

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