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Cambridge International Advanced Subsidiary and Advanced Level

MARK SCHEME for the October/November 2015 series

9084 LAW

9084/11 Paper 1, maximum raw mark 75

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1 Consider the effectiveness of the system of precedent in the development of the law. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of precedent, but with no real detail or accuracy. Candidates may make brief reference to the ability to effect change, but fail to present a reasoned argument.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the workings of precedent. These are, however, likely to be superficial, poorly explained and bear little relevance to the question. There is unlikely to be any discussion of detail or case examples to illustrate the answer and little reference to the analytical aspect of the question. Answers which fail to include any case citation may not gain more than 12 marks.

Band 4 (13–19) Candidate gives a reasonable explanation of the concepts of precedent with some useful detail and example. Candidates may consider ratio, obiter and the position of the various courts with reference to the ability to develop law. Better responses will go on to illustrate this with a range of case law and example, but at the lower end of the band this may be limited. Candidates may address some of the analytical issues concerning the abilities of the courts to vary precedent, and relate this to the question.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the concepts of precedent (as in Band 4) with good levels of illustration and explanation. Candidate clearly links the powers of variance in the courts to the question and presents a logical and reasoned argument.

2 There have been a number of burglaries in Newton. Tim is stopped in the street by a police officer who insists that he has the right to search him. Nothing is found but Tim is taken to the police station.

Discuss whether the police officer has acted within his powers under the Police and Criminal Evidence Act 1984 and consider whether the Act adequately protects the liberty of citizens. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the police powers of stop, search and arrest but is unlikely to include any detail or any reference to the scenario within the question.

Band 3 (7–12) Candidate gives a basic explanation of the police powers of stop, search and arrest. There is unlikely to be any detail or citation of statute, codes or case examples. The scenario may not be addressed. The analytical aspect of the question is unlikely to be considered in any detail.

Band 4 (13–19) Candidate gives a reasonable explanation of the police powers of stop, search and arrest. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. This is linked to the scenario. Candidate makes attempts to address the analytical component of the question

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Band 5 (20–25) Candidate gives a clear explanation of the police powers of stop, search and arrest with good citation of statute, codes and case law. This is well linked to the scenario. Candidate clearly addresses the analytical component of the question.

3 Describe and comment critically on the training and work of barristers and solicitors. [25]

Band 1 (0 Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the training and/or role of either barristers or solicitors, but is unlikely to include any detail or any reference to the issues within the question.

Band 3 (7–12) Candidate gives a basic explanation of the training and/or role of barristers and/or solicitors. There is unlikely to be any detail or comparison of the professions. The analytical aspect of the question is unlikely to be considered in any depth.

Band 4 (13–19) Candidate gives a reasonable explanation of both the training and role of both barristers and solicitors and draws points of comparison. Candidate makes attempts to address the analytical component of the question

Band 5 (20–25) Candidate gives a clear explanation of the training and role of the barristers and solicitors and draws clear and well explained points of comparison over both training and role. Candidate clearly addresses the analytical component of the question.

4 There are two major criticisms made of lay magistrates; firstly that the method of selection does not produce a representative panel and secondly that their training is inadequate.

Consider to what extent these criticisms could be justified. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the selection and/or training of the lay magistrates but with no real detail or accuracy. No analytical content is expected.

Band 3 (7–12) Candidate gives a brief account of the selection and/or training of the lay magistrates. This is, however, likely to be superficial and poorly explained. There is unlikely to be any detailed analytical content.

Band 4 (13–19) Candidate gives a reasonable explanation of the selection and training of the lay magistrates with, at the upper end of the band, some useful detail and example. Better candidates will attempt to include some analytical content addressing the question, but this may be vague, unbalanced and lacking in detail or reasoned argument.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the selection and training of the magistracy and with good levels of illustration and explanation. Candidate will address the analytical component well, with clear analysis, presenting a well-reasoned argument and drawing logical and well-informed conclusions.

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5 Explain the various forms of delegated legislation and consider whether the available controls are adequate. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of most of the main types delegated legislation, perhaps offering very basic definitions. Candidates are unlikely to offer any illustration or reference to the analytical issues within the question.

Band 3 (7–12) Candidate gives a generally accurate explanation of most of the main types of delegated legislation, with some examples or illustration, but this is likely to be weak and poorly explained. There is unlikely to be any discussion beyond the three types and little or no reference to the analytical issues within the question.

Band 4 (13–19) Candidate gives a reasonable explanation, with illustration, of the three main types of delegated legislation. Some reference to controls and methods of creation may be included, but may not have wide ranging illustration or explanation at the lower end of the band. Better candidates may offer some analytical discussion issues within the question identifying the effectiveness of the controls. Candidates who fail to consider the controls may achieve no more than 15 marks

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the three types of delegated legislation, with good levels of illustration and explanation. Candidates explain the controls clearly and in some detail, evaluate the issues within the question well and draw well-informed conclusions.

6 Andy, aged 32, has been found guilty in Barchester Crown Court of assaulting Bill and causing him serious injury.

Briefly explain the types of sentence the court may decide to impose and discuss which aims they may be trying to achieve. [25]

Band 1 (0) Irrelevant answer

Band 2 (1–6) Candidate gives a very basic explanation of the issues, but with no real detail or accuracy. Candidates may make brief reference to sentences or aims, but fail to present a coherent link to actual sentences, reasoned argument or the scenario.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation the types of sentences available for adult offenders. These are, however, likely to be superficial and poorly explained. There is unlikely to be any discussion of detail or clear link between sentences and aims, and little reference to the scenario.

Band 4 (13–19) Candidate gives a reasonable explanation of the types of sentences with some useful detail and example. Better responses will go on to link these sentences to the relevant aims with appropriate reference to the scenario, but this may be limited and there may be only limited commentary.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the types of sentences available with good levels of citation, illustration and explanation.

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Candidate clearly links available sentences to the aims with detailed reasoning and high levels of accurate definition and explanation.

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