Cambridge International AS & A Level

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LAW **9084/11**

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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 our work should be marked unless the candidate has replaced with an alternative response.
- Poor spelling, handwriting or grammar should not be penalized 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	**Assess whether the Human Rights Act 1998 has had a positive impact on the law in England and Wales. Illustrate your answer with relevant case law.** **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 history/aims/articles. **Band 3 [7–12 marks]** Candidate gives a basic explanation of the HRA, its background, and its effect on the law in the UK. There is unlikely to be any detail beyond brief citation of Articles or sections of the act. Candidates may do little more than rehearse the rights protected by the act, supported by limited case citation. The evaluative aspect of the question is unlikely to be considered. **Band 4 [13–19 marks]** Candidate gives a reasonable explanation of the HRA, its background, and the impact which it has had on domestic law. At the upper end of the band there may be good examples drawn from case law and detail on the relevant articles and perhaps a discussion of incompatibility and interpretation issues. Candidate makes an attempt to address the evaluative component of the question. **Band 5 [20–25 marks]** Candidate gives a clear explanation of the HRA and its background with good citation of the act/articles (as in Band 4) and a wide range of relevant case law. Candidate discusses the impact on both law makers and the role of the judge. Candidate clearly addresses the evaluative component of the question.	**25**

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Question	Answer	Marks
2	**Compare the role of barristers and solicitors. Assess the extent to which the two branches of the legal profession now provide the same services to the public.** **Band 1** **[0 marks]** Irrelevant answer **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the role of barristers and/or solicitors but is unlikely to include any detail or any reference to the evaluative issues within the question. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the role of barristers and/or solicitors. There is unlikely to be any detail or comparison of the professions. The evaluative aspect of the question is unlikely to be considered in any depth. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the role of both barristers and solicitors and draws points of comparison and difference, but at the lower end of the mark band this may not have extensive detail or be fully balanced. There may be citation of relevant statutes. Candidate makes attempts to address the evaluative component of the question. **Band 5** **[20–25 marks]** Candidate gives a clear explanation of the role of the two professions and draws clear and well explained points of comparison and differences of role. There will be extensive citation of statutory provisions. Candidate clearly explains and addresses the evaluative component of the question by recognising changes to the roles of the profession. Candidate draws reasoned and well supported conclusions.	**25**

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Question	Answer	Marks
3	**Describe the various forms of Alternative Dispute Resolution (ADR). Critically analyse the reasons for the increased popularity of ADR.** **Band 1** **[0 marks]** Irrelevant answer **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the idea of ADR but there will be no coherent explanation of the various types or developed attempt to answer the evaluative element of the question **Band 3** **[7–12 marks]** Candidate gives a basic explanation of some or all of the different types of ADR perhaps including the circumstances in which each type would be used. Candidates can demonstrate some limited understanding for its increased popularity, but this may be generic and unsophisticated. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of most or all of the different types of ADR and the circumstances in which each type may be used. However candidates who fail to address all of the types will be unlikely to achieve marks at the top of the band. Candidates include some discussion of the various merits of each type and a comparison to the use of the courts to explain its increased popularity. **Band 5** **[20–25 marks]** Candidate gives a clear explanation of the all the different types of ADR and the circumstances in which each type would be used. Candidate offers clear and informed links to the evaluative component of the question. Note: A discussion of tribunals cannot be credited in any band.	**25**

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Question	Answer	Marks
4	**Equity has always shown itself to be capable of adapting and expanding to meet changing needs.** **Using examples assess the validity of the above statement.** **Band 1** **[0 marks]** Irrelevant answer **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the concept of Equity. There may be some historical detail. 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 and generally accurate explanation of the historical development of equity and/or mentions of remedies/maxims. This is unlikely to have any case/concept illustration and little or no reference to the question. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the concept of Equity, a concise and relevant historical account, linking it to the command in the question. There may be reference to and definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern application and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, and trusts) but these may not be extensive or detailed at the lower end of the band. However candidates who link these to the command in the question may achieve higher marks There will be some attempts to link to the evaluative component of the question. **Band 5** **[20–25 marks]** Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Makes good reference to modern application (as in Band 4) with clear and informed links to the question. Candidate links commentary clearly to the evaluative component of the question.	**25**

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Question	Answer	Marks
5	**Examine the functions of the Crown Prosecution Service (CPS) within the justice system. Assess how effective it is in performing these functions.** **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 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	**Assess whether the rights of those who are arrested and detained by the police are sufficiently protected by law.** **Band 1** **[0 marks]** Irrelevant answer. **Band 2** **[1–6 marks]** Candidate gives a very basic explanation of the police powers of arrest, and/or detention and associated suspects' rights but is unlikely to include any detail or any reference to the act or codes of practice. **Band 3** **[7–12 marks]** Candidate gives a basic explanation of the police powers of arrest, and/or detention There is unlikely to be much detail or citation of statute, codes or case examples. The evaluative aspect of the question is unlikely to be considered. **Band 4** **[13–19 marks]** Candidate gives a reasonable explanation of the police powers of arrest and detention. At the upper end of the band there may be references to PACE and the relevant codes, perhaps with some illustration using case law. Candidate makes attempts to address the evaluative component of the question. **Band 5** **[20–25 marks]** Candidate gives a clear explanation of the police powers of arrest and detention with good citation of statute, codes and case law. Candidate clearly addresses the evaluative component of the question.	**25**

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