



GCE AS MARKING SCHEME

SUMMER 2025

**AS
LAW – COMPONENT 1
B150U10-1**

About this marking scheme

The purpose of this marking scheme is to provide teachers, learners, and other interested parties, with an understanding of the assessment criteria used to assess this specific assessment.

This marking scheme reflects the criteria by which this assessment was marked in a live series and was finalised following detailed discussion at an examiners' conference. A team of qualified examiners were trained specifically in the application of this marking scheme. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners. It may not be possible, or appropriate, to capture every variation that a candidate may present in their responses within this marking scheme. However, during the training conference, examiners were guided in using their professional judgement to credit alternative valid responses as instructed by the document, and through reviewing exemplar responses.

Without the benefit of participation in the examiners' conference, teachers, learners and other users, may have different views on certain matters of detail or interpretation. Therefore, it is strongly recommended that this marking scheme is used alongside other guidance, such as published exemplar materials or Guidance for Teaching. This marking scheme is final and will not be changed, unless in the event that a clear error is identified, as it reflects the criteria used to assess candidate responses during the live series.

EDUQAS GCE AS LAW

COMPONENT 1 - THE NATURE OF LAW AND THE ENGLISH LEGAL SYSTEM

SUMMER 2025 MARK SCHEME

Marking guidance for examiners

Summary of assessment objectives for Component 1

The questions in Section A and Section B assess all three assessment objectives - AO1, AO2 and AO3. The assessment objectives focus on the ability to demonstrate knowledge and understanding of legal rules and principles; the ability to apply legal rules and principles to given scenarios in order to present a legal argument using appropriate terminology, and the ability to analyse and evaluate legal rules, principles and concepts.

The structure of the mark scheme

The mark scheme for both Section A and Section B has two parts:

- indicative content which can be used to assess the quality of the specific response. The content is not prescriptive, and candidates are not expected to mention all the material referred to. Examiners should seek to credit any further admissible evidence offered by the candidates.
- an assessment grid advising bands and associated marks that should be allocated to responses which demonstrate the characteristics needed in AO1, AO2 and AO3.

Stage 1 - Deciding on the band

Beginning at the lowest band, examiners should look at the learner's answer and check whether it matches the descriptor for that band. If the descriptor at the lowest band is satisfied, examiners should move up to the next band and repeat this process for each band until the descriptor matches the answer.

If an answer covers different aspects of different bands within the mark scheme, a 'best fit' approach should be adopted to decide on the band and then the learner's response should be used to decide on the mark within the band. For instance, if a response is mainly in band 2 but with a limited amount of band 3 content, the answer would be placed in band 2, but the mark awarded would be close to the top of band 2 as a result of the band 3 content.

Examiners should not seek to mark candidates down as a result of small omissions in minor areas of an answer.

- The first stage for an examiner is to use both the indicative content and the assessment grid to decide the overall band.
- The second stage is to decide how firmly the characteristics expected for that band are displayed.
- Thirdly, a mark for the question is awarded.

Stage 2 - Deciding on the mark

During standardising (marking conference), detailed advice from the Principal Examiner on the qualities of each mark band will be given. Examiners will then receive examples of answers in each mark band that have been awarded a mark by the Principal Examiner.

Examiners should mark the examples and compare their marks with those of the Principal Examiner.

When marking, examiners can use these examples to decide whether a learner's response is of a superior, inferior or comparable standard to the example. Examiners are reminded of the need to revisit the answer as they apply the mark scheme in order to confirm that the band and the mark allocated is appropriate to the response provided.

Indicative content is also provided for banded mark schemes. Indicative content is not exhaustive, and any other valid points must be credited. In order to reach the highest bands of the mark scheme a learner need not cover all of the points mentioned in the indicative content but must meet the requirements of the highest mark band. Where a response is not creditworthy, that is contains nothing of any significance to the mark scheme, or where no response has been provided, no marks should be awarded.

Section A

1. Explain, with examples, what is meant by persuasive precedent. [6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining persuasive precedent, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the persuasive precedent. In demonstrating this knowledge and understanding, candidates are required to give an answer which is focused on the specific nature of the question, persuasive precedent and not give a general answer on precedent or types other than persuasive precedent.

The response might consider issues such as:

Persuasive precedent is judgments, or elements of judgments that do not have to be followed and so are not binding but could provide good precedent for judges to follow.

Examples might include:

- **Courts lower in the hierarchy** – for example, in the case of R v R (1991), the House of Lords agreed with and followed the same reasoning of the Court of Appeal when deciding that a man could be guilty of raping his wife.
- **Decisions of the Privy Council** – Since many of its judges are also members of the House of Lords, their judgements are treated with respect and may often be followed. For example, A-G for Jersey v Holley (2005) is a decision of the Privy Council which was followed in R v James; R v Karimi by the Court of Appeal instead of following a House of Lords precedent.
- **Statements made obiter** - For example, in R v Gotts (1992), the Court of Appeal followed *obiter* from R v Howe (1987).
- **A dissenting judgment** - For example, Hedley Byrne v Heller & Partners followed dissenting judgements in Candler v Crane Christmas & Co (1951).
- **Decisions made by courts in other countries** - For example, Re A (2000) Conjoined Twins; Re S Refusal of Medical treatment.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to persuasive precedent. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to persuasive precedent. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to persuasive precedent. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

2. Explain what is meant by Parliamentary Sovereignty.

[6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining Parliamentary Sovereignty, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles Parliamentary Sovereignty. In demonstrating this knowledge and understanding, candidates are required to give an answer which is focused on the specific nature of the question, Parliamentary Sovereignty and no other aspects of sources of law.

The response might consider issues such as:

The United Kingdom does not have a **written constitution**, which unlike most other countries, means there is no formal regulation of the organisation and distribution of State power.

We therefore rely on three key principles to underpin the UK's unwritten constitution, one of which is Dicey's theory of Parliamentary Sovereignty.

Parliamentary Sovereignty is the principle of absolute and unlimited power and is based on three principles:

- Parliament is Sovereign and can make or unmake any law on any subject without legal constraints.
- No Parliament can bind another.
- No Act can be challenged by a Court, nor its validity questioned.

There are three big erosions to Parliamentary Sovereignty – Membership of the European Union, Human Rights Act 1998 and Devolution. Candidates may discuss these, but detail is not necessary.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to Parliamentary Sovereignty. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to Parliamentary Sovereignty. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to Parliamentary Sovereignty. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

3. Read the text below and answer part (a).

“Judicial review is a discretionary remedy of last resort – all other appeal options must be exhausted first”

Source: The Independent Review of Administrative Law, *UK Parliament, 2021*

(a) Explain the judicial controls on delegated legislation [6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the judicial controls on delegated legislation, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying judicial controls on delegated legislation. In demonstrating this knowledge and understanding, candidates are required to give an answer which focuses on the judicial controls only and not the parliamentary controls or the types of delegated legislation.

The response might consider issues such as:

The process for challenging delegated legislation in the courts is called **judicial review** and it takes place in the King's Bench Division of the High Court. The person making the challenge asks the judge to review the legislation and to decide whether it is *ultra vires* (beyond powers). If so, the delegated legislation will be declared void, with no legal force or binding effect.

The court can declare the delegated legislation *ultra vires* on a number of grounds:

- **Procedural Ultra Vires:** This is where the procedures laid down in the enabling Act for making the Statutory Instrument have not been followed. An example could be where consultation was required, but not carried out.
Cases: Agricultural Horticultural and Forestry Industry Training Board v Aylesbury Mushrooms Ltd (1972)
- **Substantive Ultra Vires:** This is where the delegated legislation goes beyond what Parliament intended.
Cases: R v Secretary of State for Education and Employment ex. parte NUT (2000), R v Home Secretary ex. parte Fire Brigades Union (1995)
- **Unreasonableness:** when the courts are assessing whether a regulation is *ultra vires*, they will presume that unless the enabling Act expressly allows it, there is no power to do any of the following: make unreasonable regulations, levy taxes or allow sub-delegation.
Cases: Strickland v Hayes Borough Council (1896)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to judicial controls on delegated legislation. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to judicial controls on delegated legislation. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to judicial controls on delegated legislation. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

3. Read the fictitious statute and the scenario below and answer part (b).

Public Health Protection (fictitious) Act 2024

Section 32(3):

- (a) ...the appropriate Minister may, by such Regulations as are necessary, provide that no retailer should sell a disposable vape to any individual under the age of 18.
- (b) ...enforcement authorities may issue penalty notices up to £1,000 for non-compliance with any Regulations made under this section.
- (c) Regulations made under this section shall be subject to the affirmative resolution method and consultation of relevant local authorities.

The Health Minister has subsequently published the Disposable Vapes Sale (fictitious) (Age Restriction) Regulations 2024, which stipulate that every shop owner in the UK has to verify the age of any customers buying vapes by requesting photographic identification and refuse the sale if a customer cannot produce such verification.

Rhys owns a shop in the village of Glenville and has recently been fined £5,000 by his local council for selling vapes to under-age school children. When he appealed against this to the council, they claimed the fine had to be paid citing the Regulations, yet his MP knew nothing of the new rules.

- (b) **Using your knowledge of delegated legislation, advise Rhys as to whether the Regulations are lawful.** [18]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question. In order to achieve the highest marks, a response must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured.

The response might consider issues such as:

Candidates should first of all identify that power has been delegated to the Health Minister under the Public Health Protection (fictitious) Act 2024, which is the enabling Act.

Candidates should then go on to explain all the **parliamentary controls** to which the Regulations could be subject, including:

- Negative resolution
- Affirmative resolution (which is provided for in this scenario)
- Enabling Act
- Joint Committee on Statutory Instruments
- Super affirmative resolution

Candidates will then go on to explain all the **judicial controls** to which the Regulations could be subject, including a definition of judicial review and the concept of *ultra vires*.

- Procedural *ultra vires*
- Substantive *ultra vires*.

It is expected that candidates define all the key controls and support with case law, where appropriate.

In applying to Rhys, candidates could identify that:

- The Minister has not acted **substantively ultra vires**, by creating a fine that exceeded that which Parliament intended. The parent Act stipulated a fine of no more than £1,000 yet the Health Minister enforced a fine of £5,000 for offenders.
- The Minister could also have arguably acted **procedurally ultra vires** as Rhys' MP was not aware of the new rules, so it could be implied that the affirmative resolution method was not followed, and the Regulations were not laid before Parliament for approval.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology.
4	15-18	• Excellent application of legal rules and principles to Rhys' situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to delegated legislation. The legal argument is detailed, fully developed and persuasive.
3	10-14	• Good application of legal rules and principles to Rhys' situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to delegated legislation. The legal argument is generally detailed, fully developed and persuasive.
2	5-9	• Adequate application of legal rules and principles to Rhys' situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to delegated legislation. The legal argument includes some detail which is developed in places.
1	1-4	• Basic application of legal rules and principles to Rhys' situation. • Basic presentation of a legal argument using minimal legal terminology relating to delegated legislation. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

4. Read the text below and answer part (a).

“It is apparent that modern lawmaking in common law jurisdictions comes from a constant recurring argument and debate between Parliament and judges”

Source: Modern Statutory Interpretation, September 2016

(a) Explain the mischief and purposive rules of statutory interpretation. [6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the mischief and purposive rules of statutory interpretation, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying statutory interpretation. In demonstrating this knowledge and understanding, candidates are required to give an answer which is focused on the mischief and purposive rules only and not the other rules of statutory interpretation.

The response might consider issues such as:

Mischief – under this rule, the courts look at the gap in the law that Parliament felt necessary to fill and interprets the Act to fill that gap and remedy the ‘mischief’ Parliament had been aiming to remedy. The definition of the rule comes from Heydon’s Case (1584).

Cases: Smith v Hughes (1960), Eastbourne Borough Council v Stirling (2000), Royal College of Nursing v DHSS (1981)

Purposive – This is the preferred method of interpretation by the European Union and goes beyond the mischief rule in that judges are deciding what Parliament meant to achieve, so looking at the ‘spirit of the law’.

Cases: Pepper v Hart (1993), Jones v Tower Boot Co (1997), R v Registrar General ex.p Smith (1990)

Credit will be given for any case that is used to support the definition of the mischief and purposive rules.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the mischief and purposive rules of statutory interpretation. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the mischief and purposive rules of statutory interpretation. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the mischief and purposive rules of statutory interpretation. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Read the fictitious statute and the scenario below and answer part (b).

The Prevention of Road Traffic Accidents (fictitious) Act 2024

Section 1: Introduction

- (1) This Act, entitled “The Prevention of Road Traffic Accidents (fictitious) Act 2024” is enacted with the aim of enhancing road safety by regulating the use of provisional driver plates (P plates) for newly qualified drivers in order to reduce the number of accidents involving new and inexperienced drivers.

Section 2: Display of P Plates

- (1) All new drivers, on passing their driving test, are required to prominently display P plates on their domestic vehicles for a period of one year from the date of passing the driving test.

Section 3: Exemptions

- (1) The following exemptions apply to the requirements stated in Section 2:
- (a) Medical Exemptions
 - (b) Commercial Vehicles
 - (c) Emergency situations

Section 4: Penalties for Non-Compliance

- (1) Any new driver who fails to comply with the requirements set forth in Section 2 and does not fall under one of the exemptions listed in Section 3, shall be subject to an automatic driving ban of six months.

Carmen passed her test 8 months ago and has her own car with a P plate on. However, she was recently prosecuted for not displaying a P plate when she had to use her parents’ car in an emergency to drive her sister to hospital when she was experiencing an asthma attack.

Derek passed his test 6 months ago and had a P plate displayed on his car. However, during recent storms, the P plate had blown upside down and he was prosecuted for not displaying it ‘prominently’.

Fred works for a local restaurant and delivers takeaways using the restaurant’s car. He passed his test 4 months ago and was recently prosecuted under the Act as he does not display a P plate when he is delivering meals.

- (b) **Using your knowledge of statutory interpretation, advise Carmen, Derek, and Fred as to whether their actions are lawful. [18]**

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question. In order to achieve the highest marks, a response must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured.

In advising Carmen, Derek and Fred, candidates are expected to apply the full range of rules of statutory interpretation. In this case, candidates may

apply the literal, golden and mischief rules as well as the purposive approach, to the given scenario in order to present a legal argument using legal terminology.

The response might consider issues such as:

Candidates should identify and explain the four rules of statutory interpretation, with some case illustration to support.

- **Literal Rule:** gives words the natural and grammatical meaning, even if the result is absurd – Whiteley v Chappel, Lees v Secretary of State, Fisher v Bell, London LNER v Berriman.
- **Golden Rule:** allows words in a statute to be modified in order to avoid an absurdity or repugnant result – Sweet v Parsley, Adler v George, Re Sigsworth, R v Allen. Candidates should explain the narrow approach and the broad approach.
- **Mischief Rule:** looks at the gap in the law Parliament intended to fill. Established in Heydon's Case. Used in Smith v Hughes, Royal College of Nursing v DHSS, Pepper v Hart.
- **Purposive Approach:** looks at the 'spirit of the law' and what Parliament intended; favoured approach of interpretation of EU Law. Used in Magor v St Mellons, Quinaville, Jones v Tower Boot Company.

Candidates will also be credited for making reference to other aids to interpretation, such as intrinsic aids (title, preamble, interpretation sections and rules of language) and extrinsic aids (dictionary, Hansard, international conventions)

In applying to Carmen, Derek and Fred, candidates could identify that:

- Under the Literal Rule, Carmen has committed an offence under s2 as she is within a year of passing her test. However, literally speaking, her situation may fall under one of the exemptions in s3(c) so she would be not guilty. Derek, under the literal rule has committed an offence under s2 as he is within a year of passing his test and so should 'prominently' display his P plate. Fred has committed an offence under s2 as he is within a year of passing his test. However, literally speaking, his situation may fall under one of the exemptions in s3(b) so she would be not guilty.
- Under the Golden Rule, there may also be some discussion over what is meant by "prominently" – given that Derek has displayed his P plate, albeit upside down. Candidates may explore how absurd it may be to find Derek guilty because he has attempted to display his P plate. Candidates may explore ways of modifying the statute to avoid these absurd results that could centre around being specific about what 'prominently' means.
- Any other sensible application of the Golden Rule would also be credited. For example, candidates may explore the meaning of 'commercial' and whether delivering for a local restaurant constitutes 'commercial'.

- Under the Mischief Rule, it is clear from s1(1) that prior to the Act being passed, there were lots of accidents involving new and inexperienced drivers. Therefore, Carmen and Fred could be guilty as they are both inexperienced drivers who have not displayed P plates and therefore not alerted other road users that they are new drivers, which goes against the gap that the law was created to fill.
- The purpose of the Act is to improve road safety, so all three defendants go against this. Though looking at the 'spirit of the law', there is an argument to suggest that Derek is fulfilling the purpose of the statute by displaying his P plate and it is not his fault that the storms flipped it upside down.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology.
4	15-18	• Excellent application of legal rules and principles to Carmen, Derek and Fred's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument is detailed, fully developed and persuasive.
3	10-14	• Good application of legal rules and principles to Carmen, Derek and Fred's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument is generally detailed, fully developed and persuasive.
2	5-9	• Adequate application of legal rules and principles to Carmen, Derek and Fred's situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument includes some detail which is developed in places.
1	1-4	• Basic application of legal rules and principles to Carmen, Derek and Fred's situation. • Basic presentation of a legal argument using minimal legal terminology relating to statutory interpretation. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

Section B

- 5.(a) Explain the ways in which a defendant may appeal a decision of the Crown Court. [6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the appeal routes, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying appeals from the Crown Court. In demonstrating this knowledge and understanding, candidates are required to give a brief explanation of the appeal route to the Court of Appeal and the powers of the Court of Appeal if successful.

The response might consider issues such as:

Appeals by the defendant.

- The defendant can appeal against conviction and/or sentence.
- Rules on leave to appeal are set out in the Criminal Appeal Act 1995. The defendant must get leave to appeal from the Court of Appeal or a certificate that the case is fit for appeal from the trial judge. This ensures that only those cases of merit are given leave to appeal.
- The Criminal Appeal Act 1995 stipulates that the Court of Appeal can allow an appeal if the conviction is deemed to be unsafe. This is quite a broad definition in line with the European Convention on Human Rights.
- The Court of Appeal, in allowing the appeal, can:
 - (a) quash the conviction
 - (b) vary the conviction to a lesser offence
 - (c) decrease the sentence (they cannot increase it)
 - (d) order a retrial in front of a new jury.
- Further appeals may be taken to the Supreme Court and the Criminal Cases Review Commission could also be involved if it is felt a miscarriage of justice has occurred, but explanation of these is beyond the remit of this question.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to appeals from the Crown Court. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to appeals from the Crown Court. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to appeals from the Crown Court. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

5.(b) Analyse and evaluate the extent to which jury trial may be considered outdated and in need of reform. [18]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question where candidates are expected to draw together different areas of knowledge, skills and/or understanding from across the relevant specification content. In order to achieve the highest marks, candidates must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured.

Candidates will offer an analysis and evaluation of the legal rules, principles and concepts in order to evaluate the need for reform of the jury. In order to fully analyse and evaluate the issue, the response might consider issues such as:

An explanation of the concept of jury trial, its history and points of evaluation as to why it is outdated. Candidates may mention the traditional jury stems from the *Magna Carta* which included a clause that every person should be “*tried by their peers*”. Evaluation points may centre around its unreliability, the fact that few countries still use jury trial and some of the disadvantages which could render it out of date.

Points of evaluation could include, but are not limited to:

- **Contempt of court** – the new offences under the Criminal Justice and Courts Act 2015 around the use of the internet and social media were introduced to uphold the integrity of jury trial. However, this is very difficult to monitor and prove. Cases that could be used to support this point include R v Frail (2011), A-G v Davey & Beard (2013), R v Dallas (2012) and R v Smith & Deane (2016).
- **Bias** – the jury could be seen as biased, especially since the Criminal Justice Act 2003 allowed police officers and other legal professionals to serve on a jury. There is an argument that too much legal knowledge can undermine the effectiveness of the jury and that a different approach is needed. Cases that could be used to support this point include R v Abdouk (2007) and Hanif & Khan v UK (2011).
Also linked to bias is the danger of other bias or prejudice on the jury, such as racial bias as seen in the case of Sander v UK.
- **Secrecy of the jury room** – the deliberation process is shrouded in secrecy which is very old fashioned and traditional. This makes it very difficult to understand how the jury came to their decision and indeed whether they have understood the trial and what is expected of them. Cases to illustrate this are R v Young, R v Pryce.
- **Representativeness of the jury** – there is an argument that the jury is not representative of society, and that more needs to be done to make it more representative. Discretionary excusals make it easier for people to get out of jury service if they have caring responsibilities, childcare responsibilities or holidays. Also, some judges limit the representativeness by imposing certain restrictions on the jury, as seen in the jury selection for the Hillsborough Trial.

Candidates may also explore alternatives to the jury, such as:

- A single judge sitting alone which would save time through not having to explain everything to a jury. This would also reduce the number of verdicts which are in defiance of the law because the judge would feel it his/her duty to uphold the law even if it is harsh.
- A bench of judges consisting of three or five on a panel would give a more balanced view but would be far more expensive and again would lose the public participation.
- A specially trained jury selected from non-lawyers would ensure that the panel were capable of fulfilling their functions. However, if they were full-time, they might reflect the magistracy and comprise of older, middle-class persons.
- A mixed panel consisting of a judge and two lay members is used in Scandinavian countries. This would speed up the trial process as the judge would be involved in all discussions. Community participation would be retained but it could be argued that the judge might have too much influence on lay persons who might be intimidated or wish to defer to the experienced judge.

Credit will be given for any logical analysis and evaluation that links back to the extent to which jury trial needs reform. Candidates who consider the advantages and disadvantages of jury trial in general terms will be unlikely to be able to reach the higher mark bands.

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts.
4	15-18	• Excellent analysis of legal rules, principles and concepts relevant to the need for jury reform. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the need for jury reform, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	10-14	• Good analysis of legal rules, principles and concepts relevant to the need for jury reform. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the need for jury reform, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	5-9	• Adequate analysis of legal rules, principles and concepts relevant to the need for jury reform. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the need for jury reform, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	1-4	• Basic analysis of legal rules, principles and concepts relevant to the need for jury reform. Analysis includes minimal detail. • Basic evaluation of the need for jury reform. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

- 6.(a) Explain the process of appointing judges in the English and Welsh legal system. [6]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

Since the Constitutional Reform Act 2005, responsibility for the appointment of judges in England and Wales lies with the Judicial Appointments Commission.

The Judicial Appointments Commission is an independent body, and all judges are appointed through a process of advertisement with the Lord Chancellor having a limited power of veto. The Judicial Appointments Commission was set up to improve diversity in the judiciary and to appoint judges from a wider pool of candidates and on merit only, rather than the historic 'secret soundings' process prior to 2006.

Eligibility Criteria for the application:

- 5 or 7 years of post-qualification experience, depending on the role applied for
- Appropriate legal qualification – barristers, solicitors and Fellows of CILEX may apply.
- The retirement age is 75 and you must be able to offer a 'reasonable length of service' before reaching 75 (increased from 70 to 75 in March 2022).

Following application:

- there will be a **good character** consideration, which includes looking at criminal convictions, financial history and professional conduct.
- The **selection day** will include an interview consisting of a role play, situational questions, strategic leadership questions and a presentation.

The Commission will then make their decision and offer feedback to candidates.

Credit will be given for any other reference to the selection process or detail surrounding the provisions of the Constitutional Reform Act 2005 in relation to process and eligibility.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles.
3	5-6	• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the judicial appointments process. • Response is clear, detailed and fully developed.
2	3-4	• Good knowledge and understanding of the English legal system and legal rules and principles relating to the judicial appointments process. • Response is generally clear, detailed and developed.
1	1-2	• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the judicial appointments process. • Response includes minimal detail.
	0	Response not creditworthy or not attempted.

- 6.(b) **Analyse and evaluate the extent to which the training of solicitors and barristers produces a diverse legal profession.** [18]

Indicative Content

NOTE: The content is not prescriptive, and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

This is an extended response question where candidates are expected to draw together different areas of knowledge, skills and/or understanding from across the relevant specification content. In order to achieve the highest marks, candidates must construct and develop a sustained line of reasoning which is coherent, relevant, substantiated and logically structured. They must also demonstrate their ability to draw together details from areas including the diversity of the legal profession and how the training of solicitors and barristers contributes to this.

Candidates will offer an analysis and evaluation of the diversity of the legal profession and how the training of solicitors and barristers contributes to diversity. In order to analyse and evaluate these aspects, candidates may make reference to the training process and recent diversity statistics.

In order to fully analyse and evaluate the issue, the response might consider issues such as:

- 'Traditional' training process for **solicitors**: Law Degree – LPC – Training Contract. Alternatives to this route have also been recently introduced, including Solicitor apprenticeships. This route can be explored by candidates and the requirement to complete the Solicitors' Qualifying Examination (SQE) is more attractive to those candidates who may not be able to afford university and would prefer a route through which they can 'earn as they learn'.

Diversity Statistics:

- 53% of solicitors are female; this is up from 48% in 2015 and is growing 3 times faster than the number of men joining the profession.
- 19% of solicitors are from a BAME background, which is up from 14% in 2015.
- 6% of solicitors are disabled, which is up from 3% in 2015.
- The proportion of solicitors from a professional socio-economic background has decreased from 60% in 2019 to 57% in 2023. Solicitors from an intermediate socio-economic background has increased from 5% in 2019 to 13% in 2023.

Candidates can use these statistics to demonstrate how the solicitors' profession has become more diverse and inclusive in recent years and this in part could be down to the offering of the solicitors' apprenticeship and also the wider range of firms taking on candidates for the Legal Practice Course.

The Law Society has also developed a **Diversity and Inclusion Framework**: [Diversity and inclusion framework | The Law Society](#) which aims to create a more diverse and inclusive legal profession.

- 'Traditional' training process for **barristers**: Law Degree – BPC – Inns of Court – Pupillage. The training process for barristers is very expensive; the BPC can cost upwards of £15,000 and there are currently only 9 universities approved to deliver this, which could make the course inaccessible to people out of these areas or from rural areas. Despite some discussions, there is no apprenticeship route available to become a barrister.

Diversity Statistics:

- 58% of barristers are male, 39% are female.
- 16% of barristers come from a BAME background, compared to 78% who are White.
- The majority of barristers are aged 35-44 with only 53 barristers out of the 17,782 being under 25.

Credit will be given for any logical analysis and evaluation that links back to the diversity of the legal profession and any proposed reforms.

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts.
4	15-18	• Excellent analysis of legal rules, principles and concepts relevant to the training of solicitors and barristers. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the training of solicitors and barristers, including a valid and substantiated judgement about the diversity of the legal profession. • Excellent citation of supporting case law and legal authorities.
3	10-14	• Good analysis of legal rules, principles and concepts relevant to the training of solicitors and barristers. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the training of solicitors and barristers, including a valid judgement about the diversity of the legal profession. • Good citation of supporting case law and legal authorities.
2	5-9	• Adequate analysis of legal rules, principles and concepts relevant to the training of solicitors and barristers. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the training of solicitors and barristers, including reference to a judgement about the diversity of the legal profession. • Adequate citation of supporting case law and legal authorities.
1	1-4	• Basic analysis of legal rules, principles and concepts relevant to the training of solicitors and barristers. Analysis includes minimal detail. • Basic evaluation of the training of solicitors and barristers. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.