



GCE AS MARKING SCHEME

SUMMER 2025

**AS (NEW)
LAW - UNIT 1
THE NATURE OF LAW AND THE WELSH AND
ENGLISH LEGAL SYSTEMS
2150U10-1**

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.

WJEC GCE AS LAW

UNIT 1: THE NATURE OF LAW AND THE WELSH AND ENGLISH LEGAL SYSTEMS

SUMMER 2025 MARK SCHEME

Marking guidance for examiners Summary of assessment objectives for Unit 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, concepts and issues.

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 the different types of delegated legislation. [10]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the main sources of delegated legislation, candidates are expected to demonstrate knowledge and understanding of legal rules and principles underlying the main types of delegated legislation. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question and not simply give a general answer on the role of secondary legislation.

The response might consider issues such as:

- Definition of delegated legislation/secondary legislation
- Purpose of the enabling Act
- Main types:
 - Statutory Instruments
 - Orders in Council
 - Bye Laws
 - Devolution
- Credit for any relevant citation

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	9 - 10	• Excellent, detailed knowledge and understanding of legal rules and principles relating to the main types of delegated legislation.
3	6 - 8	• Good knowledge and understanding of legal rules and principles relating to the main types of delegated legislation.
2	3 - 5	• Satisfactory knowledge and understanding of legal rules and principles relating to the main types of delegated legislation.
1	1 - 2	• Basic knowledge and understanding of legal rules and principles relating to the main types of delegated legislation.
	0	• Response not creditworthy or not attempted.

2. Explain the options available to a judge for avoiding an awkward precedent. [10]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the options available to judges for avoiding an awkward precedent, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying avoiding judicial precedents. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question and not simply give a general answer on judicial precedent

The response might consider issues such as:

Element of precedent: stare decisis; binding and persuasive precedent; ratio decidendi; obiter dicta

- Court hierarchy
- Explain how judicial precedent works:

Normally judges will follow an earlier precedent. The other options of overruling, reversing, distinguishing and departing are means of avoiding having to follow a difficult precedent.

- Following: if the facts are similar, the precedent set by the earlier court is followed.
- Overruling: higher courts can overrule lower courts.
- Distinguishing: where a lower court points to material differences that justify the application of different principles.
- Departing: where, in certain circumstances, a court can depart from its previous decision.
- Reverse: on appeal, a higher court may change the decision of a lower court
- House of Lords 1966 Practice Statement; Court of Appeal (Civil Division) *Young v Bristol Aeroplane Co* (1944) and *R (on the application of Kadhim) v Brent London Borough Housing Benefit Review Board* (2001) exceptions
- Credit for any relevant citation

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	9 - 10	• Excellent, detailed knowledge and understanding of legal rules and principles relating to judicial precedent
3	6 - 8	• Good knowledge and understanding of legal rules and principles relating to judicial precedent
2	3 - 5	• Satisfactory knowledge and understanding of legal rules and principles relating to judicial precedent
1	1 - 2	• Basic knowledge and understanding of legal rules and principles relating to judicial precedent
	0	• Response not creditworthy or not attempted.

3. *Read the scenario below, and answer the question that follows:*

Arwen, an A level student has been elected as the head of her school student council. The school council takes an active role in charity fundraising and also seeks to support students throughout all year groups in the school. Arwen has recently been approached by a group of year 13 students. They are very anxious and worried, as a number of their friends have said they will not be applying to university because of the cost of university tuition fees. They feel this is unfair and want everyone to have the chance to go to university regardless of whether they can afford to or not. They would like there to be a significant reduction in fees and they are asking her if they can organise a campaign to call for a reform of the law on university tuition fees.

Using your knowledge of the methods of law reform, advise Arwen as to the other ways, apart from the Law Commission, in which she could try to promote reform of the law on university tuition fees.. [28]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Arwen candidates are expected to demonstrate knowledge and understanding of the full range of legal rules and principles that affect the reform of the law. Candidates may apply legal rules and principles in relation to pressure groups, the media, MPs support, to the given scenario to present a legal argument using legal terminology.

The response might consider issues such as:

- advising Arwen that she could set up a pressure group to bring about reform of the law; there may be a reference to the success of other groups that have specific interests or causes, such as the Law Society, Greenpeace, Fathers 4 Justice, Amnesty International
- advising Arwen of the role that Parliament and her MP can play in reforming the law on tuition fees: the majority of law reform is carried out by Parliament through repealing, creating, consolidating and codifying. This may be in pursuit of party-political agendas or may be the outcome of a Private Member's Bill on tuition fees.
- members of the public such as Arwen can sometimes bring about law reform by using the media as a vehicle. Notable examples include the Dangerous Dogs Act 1991. If a newspaper gets behind Arwen's campaign of law reform, this can be very successful to gain Parliament's attention; for example, the passing of 'Sarah's Law' which came about as a result of a campaign by the News of the World calling for the public to have access to the sex offender's register.
- Arwen could enlist the support of her local MP; organise marches; petitions.

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	4	Excellent, detailed knowledge and understanding of the methods of law reform
3	3	Good knowledge and understanding of the methods of law reform
2	2	Satisfactory knowledge and understanding of the methods of law reform
1	1	Basic knowledge and understanding of the methods of law reform
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	18 - 24	- Excellent, detailed application of legal rules and principles to Arwen's situation. - Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to the methods of law reform
3	12 - 17	- Good application of legal rules and principles to Arwen's situation. - Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the methods of law reform
2	7 - 11	- Satisfactory application of legal rules and principles to Arwen's situation. - Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to the methods of law reform
1	1 - 6	- Basic application of legal rules and principles to Arwen's situation. - Basic presentation of a legal argument, using minimal legal terminology relating to the methods of law reform
	0	Response not creditworthy or not attempted.

4. Read the fictitious statute and the scenario below and answer the question that follows:

Following concerns raised in Parliament about suffering caused to animals by neglectful owners, the government introduced the **Domestic Animals Preservation Act 2023** (fictitious).

Section 1 states that:

‘the owner of an animal will be guilty of a criminal offence if the animal is caused unnecessary suffering or is not kept in conditions that promote its health and well-being.’

Section 2 states that: ‘animal’ includes dogs, cats, rabbits, hamsters, guinea pigs, mice, horses, and other animals.

Section 3 states that: the owner of an animal is any person aged 18 or over who has purchased, been given or otherwise obtained an animal.

Harriet is a retired doctor who lives in a house in the countryside. Whilst out on a walk she comes across a fox that has been hit by a car and takes it home to treat its injuries. She makes a bed for it in her shed and plans to keep it there until its injuries are healed. Harriet takes it food and water every day. One night a homeless man breaks into the shed, looking for somewhere to sleep, and is bitten by the fox. When being treated at the hospital he tells the nurse how his injury was caused, and she calls the police. The police visit Harriet the next day and tell her that she is likely to be prosecuted under the Act for keeping the fox in unsuitable conditions.

Using the rules of statutory interpretation, advise Harriet as to whether any offences have been committed in this situation. [28]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In advising Harriet candidates are expected to demonstrate knowledge and understanding of statutory interpretation. Candidates are expected to apply the full range of legal rules and principles that affect the application of the rules of statutory interpretation to Harriet’s situation. In this case candidates may apply the literal, golden, mischief and purposive rules, plus other aids of interpretation, including both intrinsic and extrinsic aids, to the given scenario in order to present a legal argument, using appropriate legal terminology.

The response might consider issues such as:

- Applying the four rules of statutory interpretation to the scenario:
 - **Literal:** gives words the natural and grammatical meaning, even if the result is absurd – *Whitely v Chappel*, *Lees v Secretary of State*, *Fisher v Bell*, *London LNER v Berriman*. Application of the rule to the scenario: for instance, is a fox a domestic pet? The literal definition of ‘animal’ is ‘a mammal, as opposed to a bird, reptile, fish or insect’. Therefore, taking a literal approach, the fox is an animal for the purposes of the Act. Harriet’s liability then turns on whether the fox was caused avoidable suffering or kept in unsuitable conditions.
 - **Golden:** allows words in a statute to be modified in order to avoid an absurdity or repugnant result, narrow, broad approach – *Sweet v Parsley*,

Adler v George, Re Sigsworth, R v Allen. Application of the rule to the scenario: for instance, are there any absurdities or repugnancies when the statute is interpreted? Using the broad approach can words be modified in the statute?

- **Mischief:** 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*. Application of the rule to the scenario: for instance, how would the Act be interpreted if it was introduced with the purpose of filling a gap in the Common Law?
- **Purposive:** looks at the 'spirit of the law' and looks to see what Parliament intended, favoured approach of interpretation of EU Law – *Magor v St Mellons, Quinaville, Jones v Tower Boot Company*.
Application of the approach to the scenario: for instance, are there any indications as to the intention of Parliament? Here, the Act was introduced following concerns about suffering caused to animals by neglectful owners. There is nothing to suggest that Harriet has caused suffering; indeed, as a doctor who took an injured animal home to treat its injuries, it is likely that she has the specialist skills to alleviate suffering, not cause it. It is also likely that Harriet would know whether to seek advice or help from a vet, should she consider that she did not have the facilities or medication to treat the animal properly. A purposive interpretation may alleviate Harriet of liability.
- Applying other methods of interpretation:
 - Intrinsic aids (short title, long title, preamble interpretation sections, margin notes, Rules of Language)- The ejusdem generis rule means that if a word with general meaning follows a list of specific words, then the general word only applies to things of the same type as the specific words. In *Powell v. Kempton Park Racecourse*, a house, office, room or other place did not include an outdoor betting ring, since all the items in the list were indoors.
 - Here, the list defining 'animal' in section 2 provides that 'animal' includes dogs, cats, rabbits, hamsters, guinea pigs, mice, horses, and other pets. The general word 'pet' implies a domestic or tamed animal kept for companionship and treated with care and affection. All the other creatures in the preceding list can be said to fall into this category. Foxes are generally wild and untamed and are not commonly kept as domestic pets. It is therefore unlikely that a wild fox would be considered an 'animal' for the purposes of section 2
 - Extrinsic aids (Hansard, dictionaries, textbooks, Human Rights Act 1998, international conventions)
 - Presumptions

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
4	4	Excellent, detailed knowledge and understanding of statutory interpretation.
3	3	Good knowledge and understanding of statutory interpretation.
2	2	Satisfactory knowledge and understanding of statutory interpretation.
1	1	Basic knowledge and understanding of statutory interpretation.
	0	Response not creditworthy or not attempted.

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	18 - 24	- Excellent, detailed application of legal rules and principles to Harriet's situation. - Excellent presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation.
3	12 - 17	- Good application of legal rules and principles to Harriet's situation. - Good presentation of a legal argument, using appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation.
2	7 - 11	- Satisfactory application of legal rules and principles to Harriet's situation. - Satisfactory presentation of a legal argument, using some appropriate legal terminology, case law and other legal authorities relating to the rules of statutory interpretation.
1	1 - 6	- Basic application of legal rules and principles to Harriet's situation. - Basic presentation of a legal argument, using minimal legal terminology, relating to the rules of statutory interpretation.
	0	Response not creditworthy or not attempted.

Section B

5. (a) Explain the aims of sentencing where the defendant is an adult offender

[8]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the aims of sentencing where the defendant is an adult offender, candidates are expected to demonstrate knowledge and understanding of legal rules and principles underlying the sentencing process. In demonstrating this knowledge and understanding, candidates are required to be aware of the main aims of sentencing outlined in the Sentencing Act 2020.

The response might consider issues such as:

- S57 Sentencing Act 2020 outlines five main aims of sentencing:
- Retribution / Punishment
- Reduction / Deterrence, individual and general
- Protection of society
- Rehabilitation
- Reparation

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
3	6 – 8	• Excellent, detailed knowledge and understanding of the legal rules and principles relevant to the aims of sentencing where the defendant is an adult offender.
2	3 - 5	• Good knowledge and understanding of the legal rules and principles relevant to the aims of sentencing where the defendant is an adult offender.
1	1 - 2	• Basic knowledge and understanding of the legal rules and principles relevant to the aims of sentencing where the defendant is an adult offender.
	0	• Response not creditworthy or not attempted.

5. (b) Analyse and evaluate whether jury trial in Wales and England is an unfair and outdated system that leads to unpredictable decisions and should be abolished. [24]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues in order to analyse and evaluate whether jury trial in Wales and England is an unfair and outdated system that leads to unpredictable decisions and should be abolished. In order to analyse and evaluate these aspects, candidates must understand that trial by jury is a feature of the Welsh and English legal system but is not without criticism. Overall candidates will offer a debate and come to a substantiated judgment regarding whether jury trial in Wales and England is an unfair and outdated system that leads to random decisions and should be abolished

The response might consider aspects such as:

Arguments against the jury being unfair and outdated:

- Ancient institution. Lord Devlin – “lamp that shows freedom lives.”
- Ordinary people participating in the justice system. Magna Carta – right to be tried by one’s peers.
- Representatives of society – should include members of the defendant’s class and race.
- Jury equity - Fair verdict rather than legally correct – R v Owen (1992); R v Kronlid & Others (1997)
- Common sense decisions, impartial and based on fact.
- 12 opinions are better than 1 single judge.
- Discussions within the jury room are secret, so protected from outside influence. Contempt of Court Act 1981
- Jury not case hardened.
- Less prosecution minded.
- Concept of jury equity means that juries cannot be influenced by the judge – R v Wang (2005), R v Ponting (1985), Bushell’s Case (1670)
- Criminal Justice and Courts Act 2015 – new offences may be more of a deterrent for contemptuous behaviour.

Arguments for the jury being unfair and outdated:

- Jurors may not understand the case presented to them – research by Middlesex University – 43% of jurors understood everything. e.g. R v Pryce (2013)
- Dominance by strong individuals. R v Alexander and Steen – “amorous juror case”
- May be taken in by experts and the appearance of legal personnel.
- Dr Penny Derbyshire – age, gender, socio economic status will affect jury verdict.
- Members of the jury can be very distressed at the evidence and in some cases may need counselling – R v West (1996)
- Difficult to research because of Contempt of Court 1981 – R v Mirza

- (2004).
- Contempt – R v Banks (2011), R v Fraill (2011), A-G v Davey & Beard (2013). Influence of media/internet. Criminal Justice and Courts Act 2015 – new offences
 - Risk of bias where police officers or legal professionals are serving on a jury – R v Abdroikov (2007), R v Khan (2008)
 - We don't know how jurors reach their verdicts – R v Young
 - Media Influence is a strong disadvantage – R v Taylor & Taylor (1993); R v Fraill; R v Davey & Beard
 - Danger of Jury Tampering – R v Twomey and others – more reliable to have a judge only trial?
 - Reforms / Alternatives to the jury system

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
4	18 - 24	• Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Excellent evaluation of whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Excellent use of supporting case law and legal authorities.
3	12 - 17	• Good analysis of legal rules, principles, concepts and issues relevant to whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Good evaluation whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Good use of supporting case law and legal authorities.
2	7 - 11	• Satisfactory analysis of legal rules, principles, concepts and issues relevant to whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Satisfactory evaluation of whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Satisfactory use of supporting case law and legal authorities.
1	1 - 6	• Basic analysis of legal rules, principles, concepts and issues relevant to whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Basic evaluation whether jury trial in Wales and England is an unfair and outdated system that should be abolished. • Basic use of supporting case law and legal authorities.
	0	• Response not creditworthy or not attempted.

6. (a) Explain the role of barristers in Wales and England

[8]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

In explaining the role of barristers' candidates are expected to demonstrate knowledge and understanding of legal rules and principles underlying the work undertaken by barristers. In demonstrating this knowledge and understanding, candidates are required to be aware of the role and work of barristers in Wales and England

The response might consider issues such as:

- Collectively referred to as 'the Bar'
- They must all belong to one of the 4 Inns of Court: Lincolns Inn, Inner Temple, Middle Temple and Grays Inn
- Governing body- 'General Council of the Bar'
- Usually self- employed - Link up to form chambers (a set of offices), each chamber is run by a non-qualified clerk
- A barrister will remain a 'junior' until they become a KC.
- Represent clients in all courts, usually the higher courts
- Giving advice on points of law to solicitors
- Preparing cases, pre-trial paperwork, interviewing witnesses and practicing examination/cross-examination of witnesses in court
- Draft complex legal documents (e.g. contracts)

Band	Marks	AO1: Demonstrate knowledge and understanding of legal rules and principles
3	6 - 8	• Excellent, detailed knowledge and understanding of legal rules and principles relating to the role of barristers
2	3 - 5	• Good knowledge and understanding of legal rules and principles relating to the role of barristers.
1	1 - 2	• Basic knowledge and understanding of legal rules and principles relating to the role of barristers.
	0	• Response not creditworthy or not attempted.

6. (b) Analyse and evaluate the significance of the independence of the judiciary in Wales and England [24]

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 the indicative content. Examiners should seek to credit any further admissible evidence offered by candidates.

Candidates will offer an analysis and evaluation of the legal rules, principles, concepts and issues in order to evaluate the independence of the judiciary. In order to analyse and evaluate these issues, candidates should discuss the various issues that impact on the independence of the judiciary. Overall candidates will offer a debate and come to a substantiated judgement regarding the independence of the judiciary

The response might consider issues such as:

- s3 Constitutional Reform Act 2005 guarantees judicial independence and states that this must be upheld at all times.
- Judges are free from influence from the legislature – judges are not allowed to be MPs
- Judges are free from influence from the government – they can make decisions which may displease the government without the threat of dismissal- R (on the application of Miller) (Appellant) v The Prime Minister (Respondent) Cherry and others (Respondents) v Advocate General for Scotland (Appellant) (Scotland)
- Judges should be free from political bias, but there are cases which show that judges have supported the government. GCHQ case (1984), the ‘Spycatcher’ case (1987))
- Judges can declare UK legislation incompatible with the European Convention on Human Rights which can force the government to change the law: A and another v Secretary of State for the Home Department (2004)]
- Security of tenure for superior judges (inferior judges/ superior may be mentioned) – Senior Courts Act 1981, Constitutional Reform Act 2005 (power to remove in the hands of the monarch on petition by both Houses of Parliament). However, no Tenure of inferior judges: Inferior judges can be dismissed by the Lord Chancellor with the consent of the Lord Chief Justice. There has to be a good reason for the dismissals e.g. criminal conviction. Starts with a complaint to the Judicial Conduct Investigations Office.
- Immunity from suit – criminal and civil actions in relation to acts carried out in performance of judicial function, including immunity from actions in defamation; Sirros v Moore.
- Freedom from interference by the executive and separation from legislative law-making - Constitutional Reform Act 2005 s3.
- Prohibition on participation in cases where a judge may have a personal or other special interest – In Re Pinochet.
- Why is independence important? - Protects the liberty of the individual from abuse and power of the government. If there was no independence this could lead to people being imprisoned for political reasons (political

prisoners) Judges can make impartial decisions that are not politically motivated. Business, media or other entities have no impact on an independent judiciary. Gives the public confidence in the system and the law.

- Credit any other relevant point(s).

Band	Marks	AO3: Analyse and evaluate legal rules, principles, concepts and issues
4	18 - 24	• Excellent, detailed analysis of legal rules, principles, concepts and issues relevant to the independence of the judiciary. • Excellent evaluation of the independence of the judiciary, including a valid and substantiated judgement. • Excellent use of supporting case law and legal authorities.
3	12 - 17	• Good analysis of legal rules, principles, concepts and issues relevant to the independence of the judiciary. • Good evaluation of the independence of the judiciary, including reference to a judgement. • Good use of supporting case law and legal authorities.
2	7 - 11	• Satisfactory analysis of legal rules, principles, concepts and issues relevant to the independence of the judiciary. • Satisfactory evaluation of the independence of the judiciary, including reference to a judgement. • Satisfactory use of supporting case law and legal authorities.
1	1 - 6	• Basic analysis of legal rules, principles, concepts and issues relevant to the independence of the judiciary. • Basic evaluation of the independence of the judiciary. • Basic use of supporting case law and legal authorities.
	0	• Response not creditworthy or not attempted.