



Mark Scheme (Results)

Summer 2017

Pearson Edexcel GCE in
Government & Politics (6GP04)
Paper 4C: Governing the USA

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General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

Question Number	Question
1.	Why does the Cabinet have limited importance within the executive branch?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>The factors that suggest it lacks significance include:</p> <ul style="list-style-type: none"> • there is no recent tradition of collective decision making, it is likely to be a disparate collection of individuals appointed for a variety of reasons with little to bind them together • meets infrequently, e.g. Obama held just 19 Cabinet meetings in the four years of his first term • presidents are aware that cabinet members have divided loyalties between the administration and Congress • they may become preoccupied with running their own departments and, consequently, have little to contribute to overall administration strategy • they are likely to be in competition for influence with their departmental equivalent in the EOP. • they have no independent political base - all are appointed by the president who can fire them when he wants <p>A threshold Level 2 response will typically exhibit the following features:</p> <p>Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features:</p> <p>A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

LEVELS	DESCRIPTORS
<p>Level 3 (11-15 marks)</p>	<p>Good to excellent</p> <ul style="list-style-type: none"> • knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. • ability to analyse and explain political information, arguments and explanations. • ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.
<p>Level 2 (6-10 marks)</p>	<p>Limited to sound</p> <ul style="list-style-type: none"> • knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. • ability to analyse and explain political information, arguments and explanations. • ability to construct and communicate coherent arguments, making some use of appropriate vocabulary.
<p>Level 1 (0-5 marks)</p>	<p>Very poor to weak</p> <ul style="list-style-type: none"> • knowledge and understanding of relevant institutions, processes, political concepts, theories or debates. • ability to analyse and explain political information, arguments and explanations. • ability to construct and communicate coherent arguments, making little or no use of appropriate vocabulary.

Question Number	Question
2.	To what extent has the Roberts Court confirmed the decisions of its predecessors?

Indicative content (*this is not an exhaustive account of relevant points*)

Areas candidates might consider include:

- death penalty – the Roberts court has confirmed and expanded the decisions of previous courts, e.g. the *Atkins v. Virginia* decision of the Rehnquist court, and has steadily reduced the sort of offences for which the death penalty may be imposed, e.g. *Kennedy v Louisiana* held that the death penalty cannot be imposed for the rape of a child
- campaign finance - *Citizens United v FEC* struck down the BCRA, reversing the Rehnquist court's decisions, *Austin v. Michigan Chamber of Commerce* and *McConnell v. FEC*
- affirmative action – *Fisher v Texas* upheld the constitutionality of affirmative action, confirming the *Bakke* decision of the Burger court
- same sex rights – *Obergefell v Hodges* extended the Rehnquist court's decision in *Lawrence v Texas*, which had constitutionally protected same-sex sex, by striking down state bans on same-sex marriage

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A threshold Level 3 response will typically exhibit the following features:

A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.

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Question Number	Question
3.	How effectively does the Bill of Rights protect liberty in the USA in the 21st century?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>The Supreme Court is the body most responsible for upholding the Bill of Rights:</p> <ul style="list-style-type: none"> • Liberals would see liberty as protected by first amendment decisions such as <i>Snyder v Phelps</i> and <i>United States v Stevens</i>, fourth amendment decisions such as <i>US v Jones</i> and <i>Birchfield v. North Dakota</i>, fifth amendment decisions such as <i>US v Windsor</i> and eighth amendment decisions such as <i>Montgomery v Louisiana</i> • Conservatives would see liberty as protected by first amendment decisions such as <i>Citizens United v FEC</i>, second amendment decisions such as <i>Heller v DC</i> and <i>McDonald v Chicago</i> and tenth amendment decisions such as <i>Shelby v Holder</i> • Liberals would see liberty as being eroded by fourth amendment decisions such as <i>Utah v. Strieff</i>, and fifth amendment decisions such as <i>Salinas v Texas</i> • Conservatives would see liberty as being eroded by tenth amendment decisions such as <i>Obergefell v Hodges</i> <p>Additionally, liberals would see fourth amendment liberties being eroded by executive actions such as the Prism program revealed by Edward Snowden and congressional legislation such as the Patriot Act; conservatives would see tenth amendment liberties being eroded by congressional legislation such as the No Child Left Behind Act and the Affordable Care Act.</p> <p>A threshold Level 2 response will typically exhibit the following features:</p> <p>Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features:</p> <p>A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

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Question Number	Question
4.	Why did Presidents George W. Bush and Obama use their power of veto so sparingly?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>The reasons why 21st century presidents used their power of veto so sparingly include:</p> <ul style="list-style-type: none"> • compared with previous eras, particularly pre-20th century, control of the legislative agenda has passed to the president and Congress is unused and unfitted to promoting its own • presidents have been able to use signing statements to effectively part or wholly veto bills without the political costs of a formal veto • GW Bush issued a large number of veto threats, which may have had the same effect as a formal veto; he wanted to appear as a 'uniter not a divider'; he wanted to project a powerful image when the use of the veto may seem weak and defensive • when Congress has been controlled by the same party as the president, e.g. 2002-06 and 2008-10 partisan polarisation has meant that it has produced legislation largely supportive of the president's agenda • when one house of Congress has been controlled by the opposing party, e.g. 2010-14 deadlock between the two chambers has meant that little significant legislation was produced • when both houses of Congress have been controlled by the party opposing the president, e.g. 2015-17, lack of coordination between the two chambers meant that Congress was unable to produce much legislation. <p>A threshold Level 2 response will typically exhibit the following features:</p> <p>Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features:</p> <p>A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

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Question Number	Question
5.	To what extent are the 'folks back home' the most significant influence on the votes of members of Congress?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>The views of the 'folks back home' are invariably a highly significant influence on the votes of members of Congress especially in the House with its two yearly election cycle, as they hold the power of re-election – this means they will be very conscious of how any vote be received by their constituents, especially as it may be widely publicised by hostile pressure groups however other factors operate as well:</p> <ul style="list-style-type: none"> • pressure groups and think tanks – the dependence of members of Congress on pressure groups for campaign finance means they are highly receptive to their wishes; some groups such as the NRA and Americans for Tax Reform seem to exercise very strong influence over some members' votes • lobbyists – will frequently be acting on behalf of donors or potential donors, and may be able to offer lucrative employment after a career in Congress is over • party loyalty – increasingly important as Congress has become more polarised, especially if linked to the threat of a primary challenge • presidential persuasion – the president and their staff have a variety of means, such as evenings at the White House, fund-raising visits, tweets etc, by which to exert pressure • presidential ambition – members of Congress will consider how any vote might be depicted by opponents in any potential presidential campaign <p>A threshold Level 2 response will typically exhibit the following features:</p> <p>Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features:</p> <p>A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

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Question Number	Question
6.	To what extent has Congress become the weakest of the three branches of government?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>Evidence that Congress has become the weakest of the three branches of government includes:</p> <ul style="list-style-type: none"> • ability of the president to set the domestic agenda and circumvent Congress through executive orders and recess appointments • ability of the president to set the tone and direction of foreign policy, and to deploy armed forces without congressional approval • ability of the Supreme Court to strike down congressional legislation • complicated legislative process means far more laws are rejected than passed • parochialism makes Congress often incapable of acting in a coordinated way • Congress has the lowest public approval ratings of the three branches of government. <p>Evidence that Congress remains a powerful body includes:</p> <ul style="list-style-type: none"> • continued dependence of the president on Congress for all legislation and money • continued dependence of the president on Congress for all appointment confirmation and treaty ratification • continued ability of Congress to override presidential vetoes • sometime willingness of Congress to set the policy agenda, e.g. the 'Contract with America'. • power of Congress to confirm or reject SC nominations, and vary the size of the court <p>A threshold Level 2 response will typically exhibit the following features:</p> <p>Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features:</p> <p>A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

AO1	Knowledge and understanding
Level 3 (9-12 marks)	Good to excellent knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.
Level 2 (5-8 marks)	Limited to sound knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.
Level 1 (0-4 marks)	Very poor to weak knowledge and understanding of relevant institutions, processes, political concepts, theories or debates.
AO2	Intellectual skills
Level 3 (9-12 marks)	Good to excellent ability to analyse and evaluate political information, arguments and explanations.
Level 2 (5-8 marks)	Limited to sound ability to analyse and evaluate political information, arguments and explanations.
Level 1 (0-4 marks)	Very poor to weak ability to analyse and evaluate political information, arguments and explanations.
AO2	Synoptic skills
Level 3 (9-12 marks)	Good to excellent ability to identify competing viewpoints or perspectives, and clear insight into how they affect the interpretation of political events or issues and shape conclusions.
Level 2 (5-8 marks)	Limited to sound ability to identify competing viewpoints or perspectives, and a reliable awareness of how they affect the interpretation of political events or issues and shape conclusions .
Level 1 (0-4 marks)	Very poor to weak ability to identify competing viewpoints or perspectives, and a little awareness of how they affect the interpretation of political events or issues and shape conclusions.

A03	Communication and coherence
Level 3 (7-9 marks)	Good to excellent ability to construct and communicate coherent arguments, making good use of appropriate vocabulary.
Level 2 (4-6 marks)	Limited to sound ability to construct and communicate coherent arguments, making some use of appropriate vocabulary.
Level 1 (0-3 marks)	Very poor to weak ability to construct and communicate coherent arguments, making little or no use of appropriate vocabulary.

Question Number	Question
7.	'The USA no longer operates within a constitutional framework of federalism.' Discuss.

Indicative content (*this is not an exhaustive account of relevant points*)

Factors that suggest the USA still operates within a federal framework include:

- the constitution is unchanged – the federal government is restricted to the 'enumerated powers' of Article One
- the states retain control over a wide range of issues affecting the daily lives of their citizens, such as the driving age and the death penalty
- the states have continued to introduce innovative policies, e.g. 'Megan's Law' and the 'three strikes' policy in law enforcement, and act in areas, e.g. immigration recently, where the federal government is either unable or unwilling to
- recent Supreme Court decisions have reasserted states' rights, e.g. *US v Lopez* striking down Gun-Free School Zones Act, *US v Windsor* striking down the Defense of Marriage Act, *National Federation v Sebelius* removing the requirement of the Affordable Care Act that the states expand Medicaid.

Factors that suggest the USA no longer has a federal system include:

- despite the provisions of the constitution there has been a steady transfer of power from the states to the federal government since 1787
- increased dependence of the states on federal revenue since the second half of the 19th century
- growth of the federal role in managing the economy since the New Deal, e.g. Obama stimulus package 2009
- growth of the federal role in education and healthcare since the 'Great Society' program of the 1960s, e.g. the Affordable Care Act and the Obama 'Race to the Top'
- from the 1950s onwards the Supreme Court's decisions have reduced the ability of the states to set their own laws with regard to a wide range of social issues such as civil rights, abortion, homosexuality etc., most recently in *Obergefell*

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Question Number	Question
8.	To what extent is the Supreme Court a political rather than a judicial institution?
Indicative content (<i>this is not an exhaustive account of relevant points</i>)	
<p>Arguments that the court is a political institution include:</p> <ul style="list-style-type: none"> • appointment – justices are nominated and approved by politicians: candidates will come to the process with a reputation, and possibly track record of judgements/writings as conservative/liberal • power of SC justices, through judicial review, to declare laws and actions of elected political branches inevitably brings Supreme Court into conflict with them and gives their role a political element • any decision taken by justices - even endorsing the status quo - will be seen as choosing between competing liberal or conservative values, and creates a political response in the political system • courts are used for political ends – interest groups sponsor test cases, amicus curiae briefs are then submitted by interest groups (& administration) • there is a political element in justices’ decisions over which cases to take, reflecting a judgement as to which cases are important and may promote justices’ own agenda • in process of reaching a decision, justices will act politically to try and ensure their view prevails – they will form alliances against opponents, strike bargains, offer compromises • judgements are not arrived at in a judicial vacuum; judges are aware of public opinion and the likely impact of their decisions, which will involve calculation of consequences of decisions and the probable/actual reaction. <p>Arguments that the court is not a political institution include:</p> <ul style="list-style-type: none"> • justices are unelected; they can ignore public opinion and make unpopular decisions, which politicians are highly unlikely to • justices will seek to stay out of areas that are overtly political (aka ‘the political thicket’ - in <i>Colegrove v Green</i> 1946 Justice Frankfurter said of electoral reapportionment "Courts ought not to enter this political thicket.") • justices may explicitly defer to the elected branches • justices are constrained by precedent, and are very reluctant to overturn as it gives an impression of instability and uncertainty • justices may rule against their own stated preferences, e.g. Thomas in <i>Lawrence</i> dissent, Kennedy in <i>Texas v Johnson</i>. <p>A threshold Level 2 response will typically exhibit the following features: Some limited knowledge and understanding, some attempt to make a relevant response to the question, but superficial, and only limited development.</p> <p>A threshold Level 3 response will typically exhibit the following features: A range of clear knowledge and understanding, explicitly addressing the question, with supporting detail or evidence.</p>	

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