



AS

Law

LAW01 Unit 1 Law Making and the Legal System
Final Mark scheme

June 2017

Version/Stage: v1.0

Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts. Alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Assessment Writer.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

Further copies of this mark scheme are available from aqa.org.uk

LAW01

Assessment Objectives One and Two

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of students, mainly 17 years old, who have completed some part of the advanced subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive Marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as students penalise themselves in terms of the time they have spent.

Mark Range

You should use the whole mark range available in the mark scheme. Where the student's response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the student's answer does not deserve credit, then no marks should be given.

Citation of Authority

Students will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.

Assessment Objective Three

QUALITY OF WRITTEN COMMUNICATION (QoWC)

2 marks	The work is characterised by some or all of the following: <ul style="list-style-type: none">• clear expression of ideas• a good range of specialist terms• few errors in grammar, punctuation and spelling• errors do not detract from the clarity of the material.
1 mark	The work is characterised by: <ul style="list-style-type: none">• reasonable expression of ideas• the use of some specialist terms• errors of grammar, punctuation and spelling• errors detract from the clarity of the material.
0 marks	The work is characterised by: <ul style="list-style-type: none">• poor expression of ideas• limited use of specialist terms• errors and poor grammar, punctuation and spelling• errors obscure the clarity of the material.

The level of understanding in AS Law – LAW01

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year-old, so the level of understanding required by these criteria will be that of the notional 17-year-old.

<p>Sound</p>	<ul style="list-style-type: none"> • The material will be generally accurate and contain material relevant to the Potential Content. • The material will be supported by generally relevant authority and/or examples. • It will generally deal with the Potential Content in a manner required by the question. <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
<p>Clear</p>	<ul style="list-style-type: none"> • The material is broadly accurate and relevant to the Potential Content. • The material will be supported by some use of relevant authority and/or examples. • The material will broadly deal with the Potential Content in a manner required by the question. <p>As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being</p>
<p>Some</p>	<ul style="list-style-type: none"> • The material shows some accuracy and relevance to the Potential Content. • The material may occasionally be supported by some relevant authority and/or examples. • The material will deal with some of the Potential Content in a manner required by the question. <p>As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content.</p>
<p>Limited</p>	<ul style="list-style-type: none"> • The material is of limited accuracy and relevance to the Potential Content. • The material will be supported by minimal relevant authority and/or examples. • The material will deal superficially with the Potential Content in a manner required by the question. <p>As a consequence, the concepts of the Potential Content will barely be established, as there will be many errors, omissions and/or confusion which almost completely undermine the essential elements of the potential content.</p>

0 1 Briefly explain **both** of the following:

- what is meant by the doctrine of Parliamentary supremacy (sovereignty)
- the purpose and use of Green and White papers.

[10 marks]

Potential content

(A) Brief explanation of doctrine of Parliamentary supremacy (sovereignty)

- legal sovereignty (highest form of law, must be applied by judges),
- political sovereignty, Parliament not binding successors.

Note: for Sound (A) – both of the above points should be briefly explained

(B) Brief explanation of Green and White papers

- for Green papers – purpose, who consulted, need and result of consultation.
- for White papers – purpose, effect of issue.

Note for Sound (B) – both of the above points should be briefly explained and an example of at least one.

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

0 2 Explain the parliamentary process (in both the House of Commons **and** the House of Lords) in the making of an Act of Parliament.

[10 marks]

Potential content

(A) A sound answer will

- explain the legislative process in both Houses - the order of readings and including any differences between Commons and Lords e.g. no Report stage in Lords

and

any **two** of the following:

- the introduction of a bill by Minister (for a government bill) or promoter (for private members' bill),
- the different forms of bills (Private, Public and Private Members),
- the role of the House of Lords as a revising chamber,
- an explanation of the ping-pong procedure until final agreement has been reached on the wording of the bill,
- the effect of the Parliament Acts.

Note: for max 10 – distinctions must be made between the process in Commons and Lords.

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

0 3

Briefly discuss advantages **and** disadvantages of the parliamentary law-making procedure.

[10 marks + 2 for AO3]

Remember to award a mark for AO3

Potential Content

Brief discussion of advantages and disadvantages of parliamentary law-making procedure

(A) Advantages –

- democratic,
- open discussion/scrutiny/amendment of proposals at several stages – especially second reading and committee stage in Commons and throughout Lords stages,
- introduction of proposed law after detailed inquiry/ Law Commission report,
- giving effect to election manifesto commitments,
- the supremacy of Parliamentary law,
- flexibility e.g. speed where required or introduction in either House.

(B) Disadvantages –

- delay in dealing with issues – the whole process can take years,
- alternatively ‘knee jerk’ legislation may be rushed through to deal with perceived problems e.g. Dangerous Dogs Act,
- debates, especially in House of Commons, can take political approach rather than genuine consideration of new legislation’,
- House of Lords is non-democratic; MPs may represent only a small percentage of their constituency,
- complexity - legislation is often written in complex language; there is often piecemeal development of laws; no codification or consolidation of legislation requiring the need to refer to more than one document; the need for subsequent statutory interpretation,
- legislation may be a compromise between Commons and Lords, rather than making laws in the most workable format.

A sound answer of (A) or (B) should briefly discuss at least **two** bulleted points, supported where appropriate with examples

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some

3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

0 4

Statutory instruments are one form of delegated legislation. Describe how statutory instruments are made **and** used.

[10 marks]

Potential content

(A) Description of making and use of statutory instruments

- the existence of law made by government ministers with delegated powers under authority of primary legislation,
- the role of ministers when consulting,
- drafting and laying before Parliament,
- completing detail of framework of parent Act,
- use for updating laws,
- other uses e.g. commencement orders, implementation of EU directives,
- allowing experts to be involved,
- examples of use.

Note: for Sound A – at least four of the above points should be described

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

0 5 Explain the judicial controls on delegated legislation.

[10 marks]

Potential Content

(A) Explanation of judicial controls:

- meaning of judicial review – who can take action, where,
- judicial review on grounds of procedural *ultra vires*, e.g. **Agricultural Training Board v Aylesbury Mushrooms Ltd (1972)**,
- judicial review on grounds of substantive *ultra vires*, e.g. **Comissioners of Customs & Excise v Cure & Deely Ltd 1962**,
- unreasonableness, e.g. **R (on the application of Rogers) v Swindon NHS Primary Care Trust 2006**,
- conflict with EU law/ECHR, e.g. **Vinter and others v UK 2012**.

Note: for Sound (A) at least three of the bulleted points should be explained supported by a case example, where appropriate.

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

0 6 Discuss advantages of delegated legislation.

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Discussion of advantages of delegated legislation

- that it saves parliamentary time allowing parliament to focus on major issues;
- delegated legislation can be made quickly because it does not have to go through either/both houses and can be used in the case of emergency;
- often it is made for technical reasons to fill in the gaps in primary legislation; experts can be consulted for specific detail;
- flexibility – different rules can be introduced in different areas (by-laws) as required by local need, or to deal with specific issues;
- statutory instruments can complete the detail of a framework Act, or deal with regular amendments, e.g. changes in the annual amounts of the minimum wage;
- there is some form of control by either Parliament or the judiciary;
- some form of democracy is involved, as by-laws are made by local politicians and statutory instruments are made by, or in the name of, elected ministers.

*Note: for Sound (A) – at least **three** bulleted points should be discussed and*

3 points + 3 examples – max 10

3 points + 2 examples – max 9

3 points + 1 example – max 8

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

0 7

Briefly explain **each** of the following, including how **both** are used by judges:

- the purposive approach to statutory interpretation **and**
- **one** rule of language.

[10 marks]

Potential Content

(A) Brief explanation of purposive approach and its use:

- Judges finding intention of parliament and the purpose of the Act; the EU approach to statutory interpretation and/or applying Human Rights Act to legislation. Its use as in a case such as **Jones v Tower Boot Co.** or **RCN v DHSS**

(B) Brief explanation of one rule of language and its use:

Either

- the *ejusdem generis* rule – general words following specific words, must be at least two examples to create a genus, case example such as **Powell v Kempton Park Racecourse (1897)**, or
- the *noscitur* rule – the meaning of a word is to be found from its context, case example such as **Inland Revenue v Frere (1964)**, or
- the *expressio* rule – the expression of one thing implies exclusion of another, case example such as **Inhabitants of Sedgely (1831)**.

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

0 8 Explain the literal rule and its use by judges.

[10 marks]

Potential content

(A) Explanation of literal rule and its use:

- the literal rule and when it is used - that a judge will give a word or words their ordinary, natural, dictionary meaning, even if it results in an absurdity; the meaning being given from the time the Act was passed; and once the meaning is found, that word is then given the same meaning throughout the Act.
- the facts from at least one case example to show how the literal rule was used by the judge. Case example could be ***Fisher v Bell (1961)***, ***Whiteley v Chappel (1868)***, ***LNER v Berriman (1946)***, ***DPP v Cheeseman (1990)*** or any other relevant case.

Note: for Sound (A) – both bullet points to be explained

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

0 9

Briefly discuss advantages **and** disadvantages of the literal rule.

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Advantages:

- that judges are applying the will of Parliament; it is democratic as unelected judges are not making law, merely applying law passed by Parliament,
- it is predictable - the same meaning is given every time a word is used in an Act,
- the result is certain - lawyers can advise their clients on the likely outcome,
- simplicity – only dictionary is required, speed.

(B) Disadvantages:

- rigidity – judges have no discretion, so if a bad precedent or absurd result is made, then judges cannot provide justice in individual cases, e.g. **Berriman, Cheeseman**,
- the rule cannot be used if words to be interpreted are not in an Act or if the words can have more than one meaning,
- the rule assumes that the Act is perfectly written e.g. **Fisher v Bell**,
- a possible need for Parliament to rectify error following case, e.g. **Fisher v Bell**,
- there is an assumption that Parliament meant the result which the rule achieves.

*Note - for sound A or B - at least **two** bulleted points to be briefly discussed, supported, where appropriate, by case examples.*

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

1 0 In the context of judicial precedent, outline **each** of the following:

- obiter dicta, **and**
- the hierarchy of civil courts

[10 marks]

Potential Content

(A) Outline of obiter dicta:

- meaning of obiter - other things said 'by the way',
- the non-binding part of the decision which does not have to be followed by other judges,
- may be persuasive.

Note: for Sound A – at least two points outlined, supported where appropriate with a case example.

(B) Outline of 'hierarchy of courts'

- outline of civil court structure
- which courts bind others
- which courts are bound
- need for hierarchy.

Note: for Sound B - at least three points outlined.

Mark Bands

8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

1 1

In the system of judicial precedent, explain the powers of the Court of Appeal when considering:

- an earlier precedent of the Supreme Court **and**
- an earlier precedent of the Court of Appeal itself.

[10 marks]

Potential Content

(A) Explanation of powers of Court of Appeal:

- Supreme Court at top of hierarchy; principle of *stare decisis* means all courts below Supreme Court, including Court of Appeal, have to follow their decisions; Court of Appeal should follow its own previous decisions,
- it can depart from a previous decision if exceptions in *Young v Bristol Aeroplane 1944* apply - when earlier decision conflicts with a Supreme Court decision, when previous decision was made *per incuriam* or when there are two conflicting previous Court of Appeal decisions e.g. *Parmenter and Spratt and Savage* - the court chose to follow the decision in *Spratt*,
- if Court of Appeal can find a distinguishing feature they do not have to follow the precedent e.g. *Brown and Wilson*, *Balfour and Merritt*,
- disapproving a previous decision,
- Criminal Division can depart in the interest of justice if the defendant requires it.

Note: A sound answer of (A) should explain the first bullet point and at least two others

Mark Bands

8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

1 2 Discuss disadvantages of judicial precedent

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Discussion of disadvantages of precedent:

- It is undemocratic as the role of a judge can be said to be to apply the law passed by Parliament rather than create law,
- A case has to come to court to allow judges to create precedent; case has to reach higher courts in order to create valid precedent; this may be a lottery depending on funding issues and lawyer's advice,
- There can be more than one opinion in the appeal courts; it is possible that multiple reasons for decision can lead to confusion for future judges & lawyers,
- There may be difficulty in identifying ratio,
- The number of past precedents and the difficulty in finding authoritative law reports.
- retrospective decisions e.g. R v R,
- uncertainty of a result until a final decision has been made,
- rigidity – a precedent may be incorrect but needs a new precedent to be made or legislation before it can be corrected.

Note: for Sound A - at least three of the above points should be discussed, supported where appropriate, by case examples.

Mark bands

8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

1 3 In the context of Alternative Dispute Resolution (ADR), outline **each** of the following methods:

- Conciliation, **and**
- Negotiation

[10 marks]

Potential Content

(A) Conciliation

- who conducts the process - a qualified conciliator
- form of process - the conciliator passing messages between parties and actively advising parties on their respective positions
- type of cases dealt with - likely to be employment or commercial cases
- successful outcome is agreement which is enforceable if the parties formally agree; however no obligation on parties to reach agreement

*Note: for Sound (A) at least **three** bullet points to be outlined*

(B) Negotiation

- who carries out the negotiation – the parties, their lawyers, insurance companies or unqualified representatives
- possible forms of negotiation – face to face, using telephone, email or conference calls
- types of dispute dealt with using this method e.g. personal injury claims
- process – continued talking/contact until resolution made or fails
- successful outcome is agreement which is enforceable if the parties formally agree; however no obligation on the parties to reach an agreement

*Note: for Sound (B) at least **three** bullet points to be outlined*

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

1 4

Tribunals form part of the civil justice system alongside ordinary courts.
Describe how tribunals are used to resolve civil disputes.

[10 marks]

Potential Content

(A) Description of tribunals and their use:

- the composition of the panel – usually a legally qualified chair or judge and panel of lay persons (with some background in area of dispute),
- how tribunals can come about – statutory, administrative or disciplinary, with possible examples of cases heard by each form,
- the tier structure – First and Upper Tiers,
- nature of hearings – formal hearing, evidence may be given on oath, possible use of lawyers/representatives, reasons given for decision,
- potential outcome - a legally enforceable award,
- possibility of an appeal to the courts, based on legal reasons.

*Note: for Sound (A) - at least **four** bullet points should be described*

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

1 5

Briefly discuss advantages **and** disadvantages of dispute resolution by tribunals.

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Advantages:

- speed in comparison with court based resolution,
- informality in comparison with court based resolution,
- expertise of the panel – a qualified lawyer or judge will be in charge of the proceedings and other members of the panel are likely to have specialist knowledge of the area of the dispute,
- legal reasons for decisions have to be given and recorded,
- proceedings are at a lower cost compared with civil courts, perhaps because of greater informality of proceedings and lesser need for legal representation,
- they provide a public forum for airing a dispute, as compared with negotiation, mediation or conciliation.

(B) Disadvantages:

- possible influence of chair/judge over the other panel members,
- the cost of tribunal hearing due to initial fee (especially in employment tribunals); the need to pay for lawyers, if used; the lack of public/state funding; this may lead to an imbalance between parties where one party can afford a lawyer and the other cannot,
- oral hearings are formal compared with other methods of ADR,
- appeals are only available against legal reasons for decisions; there are high costs of taking an appeal as lawyers likely to be required,
- oral hearings and appeals may be reported, which may lead to adverse publicity,
- possible delay.

*Note: for Sound A or B at least **two** bulleted points should be briefly discussed*

Mark Bands

8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

1 6 Describe the work of lay magistrates.

[10 marks]

Potential Content

(A) Description of the work of lay magistrates

- deciding initial bail and custody issues,
- trial of summary or either way cases – hearing evidence, deciding guilt or innocence, deciding sentence, using advice of legal adviser,
- sending cases to Crown Court for trial (indictable and either way offences) or committal for sentence in either way guilty pleas,
- sitting on appeals at Crown Court, specialist panel in Youth Court,
- sitting in Family Court cases, sitting in Licensing appeal cases, mentoring, Magistrates in the Community, any other relevant work,
- issuing search and/or arrest warrants, extensions of custody.

Note: for Sound (A) at least 3 bulleted points to be described

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

1 7 Describe the work of a jury in a Crown Court trial.

[10 marks]

Potential Content

(A) Description of work of a jury in a Crown Court trial:

- their general role – the decider of facts and the verdict,
- listening to evidence, cross examination and summing up by prosecution and defence,
- listening to judge’s summing up of evidence and legal directions,
- appointment of spokesman, secret discussion in jury room, unanimous & majority verdicts,
- announcement of verdict in open court; no role in sentencing.

Note: for Sound A - at least four of the above points to be described.

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

1 8

Briefly discuss advantages **and** disadvantages of lay persons deciding criminal cases.

[10 marks + 2 for AO3]

Remember to award a mark for AO3

Potential Content

(A) Advantages:

- public confidence in trial by peers, long established, reduction of professional involvement,
- fairness of open trial/justice, jury equity, independence of jury,
- limited number of appeals,
- cost,
- representative e.g. gender, ethnicity, elimination of bias.

(B) Disadvantages:

- perverse verdicts (juries e.g. **Ponting, Kronlid**) or inconsistent sentencing (lay magistrates), feelings of possible bias towards police/prosecution, (magistrates e.g. **R v Bingham Justices, ex parte Jowitt**),
- make up of panel / selection issues,
- influence - (lay magistrates - legal adviser, other panel members) (jury - judge, other members of jury),
- media pressure,
- complexity of issues,
- secrecy of decision making,
- cost.

Note: for Sound (A) or (B) at least two points briefly discussed supported where appropriate with cases and/or examples

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

1 9 Explain how barristers are trained and qualify in order to practice.

[10 marks]

Potential Content

(A) Description of training and qualifying process for barristers:

- academic – degree entry, CPE/GDL for non-law degree,
- vocational – enrolling with Bar Council and Inns of Court, BVC/BPTC, residential training weekends, (alternative to dining), pupillage, call to Bar, finding place in chambers.

Note: for Sound (A) both bullet points to be explained.

Mark bands

8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

2 0 Helen intends to make a claim for negligence. Outline the following:

- Where she could obtain legal advice **and**
- How Helen's claim could be paid for.

[10 marks]

Potential Content

(A) Outline of possible sources of advice:

- solicitor/barrister,
- Community Legal Service/law centres,
- CAB or other charity,
- claims company,
- internet,
- trade union/insurance company/ motoring organisation.

Note – credit can be given for other credible sources of advice

Note: For Sound A - at least two of the above points should be outlined.

(B) Outline how claim could be paid for (or financed):

- private funding
- no win no fee conditional fees
- via insurance policy, via union membership
- pro bono.

Note – credit can be given for other credible sources of funding and that Legal Help is not available for negligence claims.

Note: For Sound B - at least two of the above points should be outlined.

Mark Bands

8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

2 1 Compare and contrast the roles of defence solicitors and defence barristers in a Crown Court criminal case.

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Comparison and contrast of roles

Pre-trial

- initial advice and instruction of barrister by solicitor, initial researching and obtaining evidence by solicitor rather than barrister; liaising with CPS over charges, witnesses, evidence to be used at trial, date and procedure at trial – by either solicitor or barrister,
- initial magistrates court and preliminary pre-trial hearings for consideration of bail/custody, legal representation and referral to Crown Court – usually covered by solicitor though could be covered by barrister.

In conduct of trial

- advocacy in court including reference to opening and closing speeches, examination and cross examination of witnesses - usually performed by barrister (and/or QC) though could be covered by solicitors with extended rights of audience,
- solicitor advocate role with extended rights of audience,
- advice and conduct of possible appeal by either/both solicitor and barrister.

Note: For Sound A – at least three of the above points should be addressed with explicit comparisons and contrasts

Mark bands

8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

2 2 Describe the work of a judge in a criminal case in the Crown Court.

[10 marks]

Potential Content

(A) Description of the work of a judge in a criminal case in the Crown Court

- dealing with pre-trial hearings such as plea, directions, venue, questions of bail/custody,
- running the trial – overseeing the swearing in of the jury, keeping order in the hearing, ruling on questions of law and admissibility of evidence, keeping notes of evidence, decision on whether there is case to answer,
- jury matters – directing jury on the law and evidence, directing jury on burden and standard of proof, answering questions from jury during their deliberations, deciding whether to accept unanimous/majority verdict,
- passing sentence following guilty verdict or guilty plea, dismissing the jury, granting leave to appeal.

Note – for Sound A - at least three points to be described

Mark Bands	
8 – 10	The student demonstrates a sound understanding of (A).
5 – 7	The student demonstrates a clear understanding of (A).
3 – 4	The student demonstrates some understanding of (A).
1 – 2	The student demonstrates limited understanding of (A).
0	The answer contains no relevant information.

2 3 Explain how judges are selected and appointed for office.

[10 marks]

Potential Content

(A) Explanation of selection of judges

- eligibility of candidates,
- advertisements for posts/application by candidates,
- testing,
- reference to Judicial Appointments Commission (JAC) and consideration of application, statutory consultation,
- possible promotion of some candidates to fill vacancies in higher courts.

Note: for Sound (A) – at least three bullet points to be explained

(B) Explanation of Appointment

- for inferior judges, appointment by Minister of Justice and Lord Chancellor after recommendation by JAC, swearing in,
- for superior judges, appointment by Queen, after recommendation by JAC; swearing in.

Note: for Sound (B) – both bullet points to be explained

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

2 4

Briefly discuss advantages **and** disadvantages of the selection and appointment procedure for judges.

[10 marks + 2 for AO3]

REMEMBER TO AWARD A MARK FOR AO3

Potential Content

(A) Advantages:

- Knowledge - legal knowledge of appointees who have knowledge of court rules and procedure,
- Selection – methods now provide choice of best applicants compared to previous methods of selection,
- Independence – JAC is independent of government, Parliament and lawyer's organisations.

(B) Disadvantages:

- Applications - the best lawyers may not apply; there is a predominance of barristers applying, especially at higher levels,
- Representation – the judiciary is not representative of gender/racial/educational mix of country,
- Knowledge - judges may not be experienced/knowledgeable in area of law they are required to deal with in court,
- Training - limited training given for appointees.

*Note: for Sound (A) or (B) at least **two** of the above points should be briefly discussed.*

Mark Bands	
8 – 10	The student deals with (A) and (B) as follows: max 10: two sound max 9: one sound, one clear max 8: one sound, one some or two clear
5 – 7	The student deals with (A) and (B) as follows: max 7: one sound or one clear, one some max 5: one clear or two some
3 – 4	The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).
1 – 2	The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
0	The answer contains no relevant information.

ASSESSMENT GRID A Level Law (LAW01)

(To show the allocation of marks to Assessment Objectives)

Topic	Question	AO1	AO2	AO3
Parliamentary Law Making	01	10		
	02	10		
	03		10	2
Delegated Legislation	04	10		
	05	10		
	06		10	2
Statutory Interpretation	07	10		
	08	10		
	09		10	2
Judicial Precedent	10	10		
	11	10		
	12		10	2
The Civil Courts and other forms of dispute resolution	13	10		
	14	10		
	15		10	2
The Criminal Courts and Lay People	16	10		
	17	10		
	18		10	2
The Legal Profession and other sources of advice, and funding	19	10		
	20	10		
	21		10	2
The Judiciary	22	10		
	23	10		
	24		10	2