

CONFERENCE VERSION



GCE AS MARKING SCHEME

AUTUMN 2020

**AS
LAW – COMPONENT 1
B150U10-1**

INTRODUCTION

WJEC regrets that it cannot enter into any discussion or correspondence about this marking scheme.

GCE AS LAW

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

AUTUMN 2020 MARK SCHEME

Marking guidance for examiners

Summary of assessment objectives for Component 1

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

The structure of the mark scheme

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

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

Stage 1 - Deciding on the band

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

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

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

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

Stage 2 - Deciding on the mark

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

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

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

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

Section A

1. Explain the use of the Practice Statement in relation to judicial precedent. [6]

Indicative content

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

In explaining the use of the Practice Statement in relation to judicial precedent, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying judicial precedent. 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 precedent.

The response might consider issues such as:

- Operation of precedent within the hierarchy of the courts.
- Use of the Practice Statement only in the House of Lords/Supreme Court when overruling their own past decisions.
- History of precedent in the House of Lords/Supreme Court in relation to overruling their own decisions. **London Street Tramways, Herrington, Knulelr v DPP**
- Possible discussion of the Court of Appeal **Young v Bristol Aeroplane** exceptions.
- Case law demonstrating the use of the Practice Statement.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to use of the Practice Statement in relation to judicial precedent. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good knowledge and understanding of the English legal system and legal rules and principles relating to use of the Practice Statement in relation to judicial precedent. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the use of the Practice Statement in relation to judicial precedent. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

2. Explain the judicial controls on delegated legislation.

[6]

Indicative content

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

In explaining the judicial controls on delegated legislation, candidates are expected to demonstrate knowledge and understanding of secondary legislation and legal rules and principles underlying the controls on delegated legislation focusing on the judicial controls on 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 legislation.

The response might consider issues such as:

- Nature of delegated legislation and the need for control.
- Challenged under Judicial Review on the basis that it is ultra vires.
- Main challenges are:
 - Unreasonable ultra vires – **Associated Picture houses v Wednesbury Corporation**
 - Substantive ultra vires – **R v Home Secretary, ex parte Fire Brigades Union**
 - Procedural ultra vires – **Aylesbury Mushroom** case.

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the judicial controls on delegated legislation. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good knowledge and understanding of the English legal system and legal rules and principles relating the judicial controls on delegated legislation. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the the judicial controls on delegated legislation. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 3 (a)

Read the text below and answer part (a)

Lord Phillips in his judgment in the case of **AE Beckett & Sons (Lyndons) Ltd v Midland Electricity (2001)** said that reference to Hansard had 'immediately made clear what had previously been obscure'.

- (a) Explain the extrinsic aids available to a judge when interpreting a statute. [6]

Indicative content

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

In explaining the extrinsic aids available to a judge when interpreting a statute, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying statutory interpretation. In demonstrating this knowledge and understanding, candidates are required to focus on the specific nature of the question and not simply give a general answer on statutory interpretation. The response might consider issues such as:

- Nature of statutory interpretation and of intrinsic and extrinsic aids.
 - Extrinsic aids – 'outside' the statute.
 - Dictionaries
 - Textbooks
 - Reports
 - Human Rights Act 1998
 - Treaties
 - Law Commission Reports
 - Hansard – daily record of Parliamentary debate.
 - **Pepper v Hart**
 - **Wilson**
 - **Three Rivers**
 - Credit for any other relevant citation.

Assessment grid for Question 3 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent use of the source and detailed knowledge and understanding of the English legal system and legal rules and principles relating to the extrinsic aids available to a judge when interpreting a statute. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good use of the source and knowledge and understanding of the English legal system and legal rules and principles relating to the extrinsic aids available to a judge when interpreting a statute. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic use of the source and basic knowledge and understanding of the English legal system and legal rules and principles relating to the extrinsic aids available to a judge when interpreting a statute. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 3 (b)

Read the extract and scenario below and answer part (b).

The **Fishing in Controlled Waters Act 2017** was passed following a Law Commission report on the over-fishing of at risk fish stocks in UK waters. The report found that due to over-fishing of certain types of fish, there was a serious risk of extinction of certain types of fish from UK waters without the introduction of fishing quotas the regulation of fishing activities.

Fishing in Controlled Waters Act 2017

Section 1: It is an offence for the owner of a boat during the course of a business to use nets for fishing in controlled waters.

Section 2: 'Controlled waters' means waters between half a mile and three miles from the shore.

Malcolm owns a small pleasure boat and takes parties of holiday-makers for trips one mile from the shore. During one of the trips, Bob used a small net and caught a few small fish. Upon returning from the trip, Malcolm was arrested for fishing contrary to Section 1 of the Act.

- (b) Using your knowledge of statutory interpretation, advise Malcolm as to whether he has committed an offence. [18]

Indicative content

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

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

In advising Carol, 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 Malcolm'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.
 - Golden: allows words in a statute to be modified in order to avoid an absurdity or repugnant result – *Sweet v Parsley*, *Adler v George*, *Re Sigsworth*, *R v Allen*. Application of the rule to the scenario.
 - 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.
 - 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.
- Applying other methods of interpretation:
 - Intrinsic aids (short title, long title, preamble interpretation sections, margin notes, Rules of Language)
 - Extrinsic aids (The Law Commission Report, *Hansard*, dictionaries, textbooks, Human Rights Act 1998, international conventions)
 - Presumptions
- the nature of law: the reform of the law

Assessment Grid for Question 3 (b)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	15-18	<ul style="list-style-type: none"> • Excellent application of legal rules and principles to Malcolm’s situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument is detailed, fully developed and persuasive.
3	10-14	<ul style="list-style-type: none"> • Good application of legal rules and principles to Malcolm’s situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument is generally detailed, developed and persuasive.
2	5-9	<ul style="list-style-type: none"> • Adequate application of legal rules and principles to Malcolm’s situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to statutory interpretation. The legal argument includes some detail which is developed in places.
1	1-4	<ul style="list-style-type: none"> • Basic application of legal rules and principles to Malcolm’s situation. • Basic presentation of a legal argument using minimal legal terminology relating to statutory interpretation. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 4 (a)

'Under the 'ten-minute' rule, any MP can make a speech of up to ten minutes in support of a legislative change'.

(a) Explain the different types of Bill that can be introduced by MPS in Parliament. [6]

Indicative content

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

In explaining the different types of Bill, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the Parliamentary process. 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 Parliament.

The response might consider issues such as:

- Nature of a Bill as a proposed change in the law. A draft law.
- Possible reference to Green and White papers.
- Private Members' Bills. Ballot and ten-minute rule. Examples to support.
- Public Bills. Example to support.
- Private Bills. Example to support.
- Possible reference to Hybrid Bills.

Assessment Grid for Question 4(a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent use of the source and detailed knowledge and understanding of the English legal system and legal rules and principles relating to the different types of Bill. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good use of the source and knowledge and understanding of the English legal system and legal rules and principles relating to the different types of Bill. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic use of the source and basic knowledge and understanding of the English legal system and legal rules and principles relating to the different types of Bill. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 4 (b)

Read the scenario below and answer part (b).

Jessica is a back bench MP who has won the right to introduce a Private Members' Bill which would change the law on engine emissions in the UK. The House of Lords has previously objected to such changes in the law and early commentary seems to indicate that Jessica would face similar opposition with this Bill.

- (b) Using your knowledge of the Parliamentary procedure, advise Jessica as to the stages her proposed law would take in Parliament along with any potential difficulties it could face. [18]

Indicative content

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

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

In advising Jessica, candidates are expected to apply the full range of legal rules and principles that affect the progress of a Bill in Parliament. In this case, candidates may apply legal rules and principles in relation to the difficulties relating to Private Members' Bills, the stages of a Bill (including the consultation stages), the role of the Parliament Acts 1911-1949 and application to the given scenario in order to present a legal argument using legal terminology. The response may consider issues such as:

- advising Jessica that she will face difficulties getting her Private Member's Bill time in Parliament. Reference to ballot and the ten-minute rule.
- Advising Jessica of the main stages her Bill will take.
- Role of House of Commons, House of Lords
- Green Paper, White Paper – possible consultation with interested groups. Advising Jessica this might be environmental groups, drivers, pressure groups, etc.
- Legislative process. Advising Jessica of the stages her Bill will take. Explanation of each stage with reference to the scenario.
 - First Reading
 - Second Reading
 - Committee Stage
 - Report Stage
 - Third Reading
 - House of Lords – advising Jessica that the Bill could face delay or amendments by the House of Lords and that the Commons would then need to accept these amendments. Reference to the Parliament Acts 1911, 1949. Example of where this has been used.
 - Royal Assent, commencement of Jessica's law.
- the nature of law: the reform of the law.

Assessment Grid for Question 4 (b)

Band	Marks	AO2: Apply legal rules and principles to given scenarios in order to present a legal argument using appropriate legal terminology
4	15-18	<ul style="list-style-type: none"> • Excellent application of legal rules and principles to Jessica's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to the Parliamentary procedure. The legal argument is detailed, fully developed and persuasive.
3	10-14	<ul style="list-style-type: none"> • Good application of legal rules and principles to Jessica's situation. • Good presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to law reform. The legal argument is generally detailed, developed and persuasive.
2	5-9	<ul style="list-style-type: none"> • Adequate application of legal rules and principles to Nia's situation. • Adequate presentation of a legal argument using some appropriate legal terminology, case law and other legal authorities relating to Parliamentary procedure. The legal argument includes some detail which is developed in places.
1	1-4	<ul style="list-style-type: none"> • Basic application of legal rules and principles to Jessica's situation. • Basic presentation of a legal argument using minimal legal terminology relating to Parliamentary procedure. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

Section B

Question 5 (a)

- (a) Explain the eligibility criteria required to become a judge. [6]

Indicative content

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

In explaining the eligibility criteria required to become a judge, candidates are expected to demonstrate knowledge and understanding of legal rules and principles underlying the judiciary. In demonstrating this knowledge and understanding candidates are required to give an answer which is focused on the eligibility criteria required to become a judge at each level and not issues such as selection, independence, role, etc.

The response might consider issues such as:

- Judicial appointment eligibility criteria must be met – relevant legal qualification and gained experience in law.
- Criteria widened by Courts and Legal Services Act 1990
- Tribunals Courts and Enforcement Act 2007 widened pool of applicants (solicitor, barristers, CILEX, Registered Patent Attorneys, Trade Mark Attorneys).
- TCEAct 2007 – allowed other methods of ‘gaining experience in law’. E.g. teaching law, working in arbitration/mediation. Act also reduced the time a person must work in the law before they can apply to become a judge – 5 and 7 years depending on level of judge.
- Individual judicial qualifications:
 - Justice of Supreme Court – appointed from those who have held high judicial office or qualified to practice in senior courts for at least 15 years or have been a barrister or solicitor for at least 15 years.
 - Lords/Ladies Justice of Appeal – gained experience in law for at least 7 years or have been a barrister or solicitor for at least 7 years. Or be an existing High Court judge.
 - High Court Judge – gained experience in law / qualified as a barrister or solicitor for at least 7 years or have been a barrister or solicitor for at least 7 years. Or be a Circuit judge for 2 years.
 - Circuit Judge – gained experience in law/qualified as a barrister or solicitor for at least 7 years or have been a recorder.
 - Recorder – Part time. Gained experience in law / qualified as a barrister or solicitor for at least 7 years.
 - District Judge – Qualified as a barrister or solicitor / gained experience in law for at least 5 years.
 - Tribunal Judge – Qualified as a barrister or solicitor / gained experience in law for at least 5 year.

Assessment Grid for Question 5 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the eligibility criteria required to become a judge. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good knowledge and understanding of the English legal system and legal rules and principles relating to the eligibility criteria required to become a judge. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the eligibility criteria required to become a judge. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

Question 5 (b)

(b) Analyse and evaluate the independence of the judiciary.

[18]

Indicative content

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

Candidates will offer an analysis of the legal rules, principles, concepts and issues in order to evaluate the independence of the judiciary. In order to reach a substantiated judgement about this issue, candidates may argue that judges must be independent from the executive and legislature. Candidates might consider challenging this judgment by arguing judges may be biased and are not necessarily representative of society. Overall candidates will offer a debate and come to a substantiated judgement regarding the independence of the judiciary.

The response might consider aspects such as:

- Importance of independence of the judiciary.
- Principles of natural justice – e.g. Pinochet case
- Role of the judiciary in the separation of powers:
 - Independence from the legislature – creation of Supreme Court – CRA 2005.
 - Independence from the executive – security of tenure. CRA 2005. Reformed role of the Lord Chancellor.
- Freedom from pressure:
 - Financial independence – salary.
 - Immunity from being sued – *Sirros v Moore* (1975)
 - Security of tenure
- Independence from political bias. Arguments of e.g. Griffith regarding potential bias pro-establishment and right wing bias.
- Examples of pro-government decisions – e.g. GCHQ case. Credit for any relevant citation.
- Examples of anti-government decisions – e.g. Greenham common protest. Credit for any relevant citation.
- Role in judicial review and protection of independence.
- Role in human rights – e.g. *A V Others* (2004). Credit for any relevant citation.
- Reform of the role of the Lord Chancellor to promote independence

Assessment Grid for Question 5 (b)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	15-18	<ul style="list-style-type: none"> • Excellent analysis of legal rules, principles and concepts relevant to the independence of the judiciary. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the success of the independence of the judiciary, including a valid and substantiated judgement. • Excellent citation of supporting case law and legal authorities.
3	10-14	<ul style="list-style-type: none"> • Good analysis of legal rules, principles and concepts relevant to the success of the independence of the judiciary. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the success of the independence of the judiciary, including a valid judgement. • Good citation of supporting case law and legal authorities.
2	5-9	<ul style="list-style-type: none"> • Adequate analysis of legal rules, principles and concepts relevant to the success of the independence of the judiciary. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the success of the independence of the judiciary, including reference to a judgement. • Adequate citation of supporting case law and legal authorities.
1	1-4	<ul style="list-style-type: none"> • Basic analysis of legal rules, principles and concepts relevant to the success of the independence of the judiciary. Analysis includes minimal detail. • Basic evaluation of the success of the independence of the judiciary. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

Question 6 (a)

(a) Explain the role of tribunals in the English Legal System.

[6]

Indicative content

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

In explaining the role of tribunals, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the main penal theories used when sentencing for a criminal offence. In demonstrating this knowledge and understanding, candidates are required to be aware of the role of judges and magistrates in using the theories to determine an appropriate sentence for an offence. The response might consider issues such as:

- Purposes of sentencing – section 142 Criminal Justice Act 2003. Courts must have regard to the following aims. Explanation of:
 - The punishment of offenders
 - The reduction of crime (including reduction by deterrence).
 - The reform and rehabilitation of offenders.
 - The protection of the public.
 - The making of reparation by offenders to persons affected by their offences.
- Possible reference to sentences that support each aim.

Assessment Grid for Question 6 (a)

Band	Marks	AO1: Demonstrate knowledge and understanding of the English legal system and legal rules and principles
3	5-6	<ul style="list-style-type: none">• Excellent knowledge and understanding of the English legal system and legal rules and principles relating to the main penal theories used when sentencing for a criminal offence. Response is clear, detailed and fully developed.
2	3-4	<ul style="list-style-type: none">• Good knowledge and understanding of the English legal system and legal rules and principles relating to the main penal theories used when sentencing for a criminal offence. Response is generally clear, detailed and developed.
1	1-2	<ul style="list-style-type: none">• Basic knowledge and understanding of the English legal system and legal rules and principles relating to the main penal theories used when sentencing for a criminal offence. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 6 (b)

- (b) Analyse and evaluate the advantages and disadvantages of lay magistrates. [18]

Indicative content

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

This is an extended response question where candidates are expected to draw together different areas of knowledge, skills and/or understanding from across the relevant specification content. In order to achieve the highest marks candidates must construct and develop a sustained line of reasoning, which is coherent, relevant, substantiated and logically structured; they must also demonstrate their ability to draw together details from areas including the role of lay magistrates, juries, judiciary, legal personnel and the English legal system.

Candidates will offer an analysis and evaluation of the advantages and disadvantages of lay magistrates. In order to reach a substantiated judgement about this issue, candidates may argue that lay magistrates play a central role in dealing with low level crime and that all offences at first instance have the involvement of lay personnel. Candidates might consider challenging this by arguing that the fact that they are unqualified leads to inconsistencies in sentencing and they may argue for their replacement with District Judges. Overall, candidates will offer a debate and come to a substantiated judgement regarding the advantages and disadvantages of lay magistrates. The response might consider issues such as:

- Role of lay magistrates – lay, local justice. Role in summary, triable either way and indictable offences.
- Unpaid volunteers. Six key qualities.
- Role of Local Advisory Committees.
- Role of the legal advisor.
- Advantages:
 - Magistrate represent a cross section of society.
 - Local knowledge
 - Cost
 - There are few appeals from the decisions of magistrates
 - Training is available
 - Assisted by legal advisor
 - Balanced composition in terms of gender
- Disadvantages:
 - Not representative – middle class, middle aged, middle minded
 - Inconsistencies in sentencing
 - Reliance on the legal advisor
 - Bias towards prosecution.
- Discussion of possible alternatives to lay magistrates.
- The nature of law: role of tribunals as a method of resolving disputes outside of the court.

Assessment Grid for Question 6 (b)

Band	Marks	AO3: Analyse and evaluate legal rules, principles and concepts
4	15-18	<ul style="list-style-type: none"> Excellent analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of lay magistrates. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. Excellent evaluation of the advantages and disadvantages of lay magistrates, including a valid and substantiated judgement. Excellent citation of supporting case law and legal authorities.
3	10-14	<ul style="list-style-type: none"> Good analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of lay magistrates. Analysis is generally detailed with appropriate range of supporting evidence. Good evaluation of the advantages and disadvantages of lay magistrates, including a valid judgement. Good citation of supporting case law and legal authorities.
2	5-9	<ul style="list-style-type: none"> Adequate analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of lay magistrates. Analysis includes some detail with some supporting evidence. Adequate evaluation of the advantages and disadvantages of lay magistrates, including a valid judgement. Adequate citation of supporting case law and legal authorities.
1	1-4	<ul style="list-style-type: none"> Basic analysis of legal rules, principles and concepts relevant to the advantages and disadvantages of lay magistrates. Analysis includes minimal detail. Basic evaluation of the advantages and disadvantages of lay magistrates. Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.