



GCE AS MARKING SCHEME

SUMMER 2019

**AS
LAW - COMPONENT 1
THE NATURE OF LAW AND THE ENGLISH LEGAL
SYSTEM
B150U10-1**

INTRODUCTION

This marking scheme was used by WJEC for the 2019 examination. It was finalised after detailed discussion at examiners' conferences by all the examiners involved in the assessment. The conference was held shortly after the paper was taken so that reference could be made to the full range of candidates' responses, with photocopied scripts forming the basis of discussion. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners.

It is hoped that this information will be of assistance to centres but it is recognised at the same time that, without the benefit of participation in the examiners' conference, teachers may have different views on certain matters of detail or interpretation.

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

EDUQAS GCE AS LAW

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

SUMMER 2019 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

Question 1

Explain the mischief and purposive rules of statutory interpretation.

[6]

Indicative content

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

In explaining what is meant by the mischief and purposive rules of interpretation, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying rule of 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:

- Role of the judge in interpreting statutes
- Mischief rule – Heydon’s case. Judge considers 3 questions: what was the law before, what was the mischief or problem Parliament was trying to remedy, what was the remedy Parliament was trying to provide. Legal authority – *Smith v Hughes*, *Elliot v Grey*, *Credit for other citation*.
- Purposive approach – looks for the ‘purpose’ of the Act and goes beyond the mischief rule as does not just look at the gap in the old law. Judges are deciding what they believe Parliament meant to achieve. Legal authority – *R (on the application of Quintavalle) v HFEA*. Used with EU law.

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 mischief and purposive rules of interpretation. 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 mischief and purposive rules of interpretation. 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 mischief and purposive rules of interpretation. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 2

Explain the separation of powers.

[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 stages a Bill must go through in order to become an Act of Parliament separation of powers candidates are expected to demonstrate knowledge and understanding of the separation of powers and legal rules and principles underlying the UK unwritten constitution focusing on the separation of powers. In demonstrating this knowledge and understanding candidates are required to focus on the specific nature of the question and not simply give a general answer on the constitution.

The response might consider issues such as:

- UK unwritten constitution – separation of powers, parliamentary sovereignty and rule of law.
- Separation of powers – Montesquieu.
 - Executive – Government of the day
 - Legislature – Parliament
 - Judiciary – Judges
- Theory that these 3 powers should be separate and no one person a member of all 3 'arms' of the state.
- Example – Lord Chancellor, Constitutional Reform Act 2005.

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 separation of powers. 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 separation of powers. 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 separation of powers. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 3(a)

Read the text below and answer part (a).

'In addition to the main rules of interpretation there are a number of secondary aids to the construction of statutes available to a Judge and these are often neglected.'

Explain the rules of language 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 rules of language 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.
- Rule of language -
 - Eiusdem generis – general words that follow specific ones are taken to mean things of the same kind. Possible example – Powell v Kempton Park (1897)
 - Expressio unius est exclusio alterius - the express mention of one thing excludes all others. Possible example – R v Inhabitants of Sedgely (1831)
 - Noscitur a sociis – words draw meaning from the others around them. Possible example – Inland Revenue v Frere (1964)

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 rules of language. 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 rules of language. 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 rules of language. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 3(b)

Read the scenario below and answer part (b).

Police Powers (fictitious) Social Media Surveillance Act 2017 reads as follows:

Section 1 “If the police suspect an individual to be, about to be or have been involved in the commission of a crime, they can use surveillance techniques to monitor all social media accounts of the suspect.”

Section 2 “If the police uncover incriminating evidence against the individual on their social media accounts, they may be granted a warrant to arrest that person and/or search their property.”

Carol was convicted of theft of a designer bag 10 years ago. She paid a fine for the offence and carried out community service. She has been searching online for a new designer bag to buy and has contacted Jenny, a fashion blogger, via social media, asking her advice on which bag to 'snatch before its gone'. The police have arrested Carol on suspicion of planning another theft and have applied for a warrant to search her property.

Using your knowledge of statutory interpretation, advise Carol as to whether the actions of the police are lawful. [18]

Indicative content

NOTE: The content is not prescriptive and candidates are not expected to mention all the material mentioned below. Each answer will be assessed on its merits according to the assessment grid and 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 Carol'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*, *Quinatown*, *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 (Hansard, dictionaries, textbooks, Human Rights Act 1998, international conventions)
 - Presumptions

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 Carol'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 Carol'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 Carol'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 Carol'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)

Read the text below and answer part (a).

Section 3 of the Law Commission Act 1965 says that the Law Commission should ‘keep under review all of the law...’

Explain the role of the Law Commission.

[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 the Law Commission in promoting law reform, candidates are expected to demonstrate knowledge and understanding of the English legal system and legal rules and principles underlying the establishment and role of the Law Commission. 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 law reform.

The response might consider issues such as:

- the establishment of the Law Commission under the Law Commission Act 1965, which created the Law Commission as an independent body with the purpose to revise and codify the law but the prime purpose is law reform
- Role of the Law Commission as per s.3 Law Commission Act 1965 to 'keep under review all of the law'. Specific reference to their role in codifying the law into statutory form, to remove anomalies in the law, to repeal obsolete laws, to consolidate the law so that it can be found in one place, to simplify and modernise the law. An example of recent work which shows its purpose is the Criminal Justice and Courts Act 2015
- The nature of law; the reform of criminal and civil law.

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 role of the Law Commission. 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 role of the Law Commission. 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 role of the Law Commission. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 4(b)

Read the scenario below and answer part (b).

Nia has recently returned from a trip to the Great Barrier Reef. Whilst there, she spent time with environmentalists who are campaigning for changes to the disposal of plastics which are having a disastrous effect on marine wildlife in oceans across the world. Nia returned home feeling very passionate about the subject and would like to see tougher laws introduced on the disposal and use of plastics. Nia has asked your advice on the ways in which she could influence this change in the law.

Using your knowledge of the influences on Parliament, advise Nia as to the methods she could use to try to influence Parliament to change the law. [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 Nia, candidates are expected to apply the full range of legal rules and principles that affect the reform of the law. In this case, candidates may apply legal rules and principles in relation to pressure groups, the media, judges and Royal Commissions to the given scenario in order to present a legal argument using legal terminology. The response may consider issues such as:

- advising Nia that she could set up a pressure group to bring about reform of the law;
- advising Nia of the role that Parliament and her MP can play in reforming the law of plastic reduction: the majority of law reform is carried out by Parliament through repealing, creating, consolidating and codifying. This may be in pursuit of party political agendas or may be the outcome of a Private Member's Bill on plastic reduction
- advising Nia that, with regard to judicial change, judges can reform the law through the creation of original precedent and Nia may wish to begin a legal action. This is not common as judges need to be mindful of their constitutional position. Notable examples include the cases of Diane Pretty, Debbie Purdy and Daniel James
- members of the public such as Nia can sometimes bring about law reform by using the media as a vehicle. Notable examples include the Dangerous Dogs Act 1991
- if a newspaper gets behind Nia's campaign of law reform, this can be very successful to gain Parliament's attention; for example, the passing of 'Sarah's Law' which came about as a result of a campaign by the News of the World calling for the public to have access to the sex offender's register
- a successful campaign by Nia may help to establish the setting up of a Royal Commission on euthanasia
- the nature of law: the reform of criminal and civil 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 Nia's situation. • Excellent presentation of a legal argument using appropriate legal terminology, case law and other legal authorities relating to law reform. 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 Nia'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 law reform. 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 Nia's situation. • Basic presentation of a legal argument using minimal legal terminology relating to law reform. The legal argument includes minimal detail.
	0	Response not creditworthy or not attempted.

SECTION B

Question 5(a)

Explain the role of the jury in a criminal trial.

[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 the jury in trials in Wales and England, candidates are expected to demonstrate knowledge and understanding of legal rules and principles underlying the role of the jury. In demonstrating this knowledge and understanding candidates are required to give an answer which is focused on the role of the jury and not issues such as selection, qualifications or the reliability of the jury. The response might consider issues such as:

- Jury independence – Bushell’s case, R v Wang, Magna Carta
- Deciders of fact • Role in criminal trials – present in the Crown Court. Decide guilt or innocence ‘beyond reasonable doubt’.
- Usually 12 jurors present who must all be in agreement on the verdict (unanimous). Judge can instruct them to reach a majority verdict of 10:2 or 11:1 after a ‘reasonable’ period of time. Criminal Justice Act 2003 allows trial by judge alone where evidence of jury tampering exists – R v Twomey.

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 role of the jury in a criminal trial. 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 role of the jury in a criminal trial. 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 role of the jury in a criminal trial. Response includes minimal detail.
	0	Response not credit worthy or not attempted.

Question 5(b)

Analyse and evaluate whether juries are representative of society.

[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 jury, the criminal process and the English legal system.

Candidates will offer an analysis and evaluation of the legal rules, principles concepts and issues in order to analyse and evaluate whether trial by jury is representative. In order to analyse and evaluate these aspects, candidates must understand that trial by jury is a feature of the English legal system but is not without criticism regarding its representativeness. Overall candidates will offer a debate and come to a substantiated judgement regarding the representativeness of jury trial in the justice system of Wales and England. The response might consider aspects such as:

- Trial by jury mentioned in Magna Carta.
- History of jury eligibility Juries Act 1974, Auld Review, etc.
- Jury representativeness strengthened by increasing those eligible – Criminal Justice Act 2003. However, cases such as R v Abdroikof and R v Khan question whether this increased eligibility (police officers, CPS, judges) is appropriate.
- Possible consideration of some of the advantages and disadvantages of trial by jury.

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 representativeness of the jury. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the success of the representativeness of the jury, 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 representativeness of the jury. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the success of the representativeness of the jury, 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 representativeness of the jury. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the success of the representativeness of the jury, 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 representativeness of the jury. Analysis includes minimal detail. • Basic evaluation of the success of the representativeness of the jury. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.

Question 6(a)

Explain the role of tribunals

[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 role of tribunals. In demonstrating this knowledge and understanding, candidates are required to be aware of the role of tribunals. The response might consider issues such as:

- Role of tribunals as a 'specialist' court running parallel to the court system. Less formal than courts but are adjudicative.
- Part of HMCTS.
- Administrative and domestic tribunals – definition.
- First tier and upper tier tribunals.
- E.g. Employment tribunal, Mental Health Tribunal.
- Tribunals often sit as a panel, incorporating a legally qualified tribunal judge, as well as panel members with specific areas of expertise

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 role of tribunals. 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 role of tribunals. 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 role of tribunals. Response includes minimal detail.
	0	Response not creditworthy or not attempted.

Question 6(b)

Analyse and evaluate the advantages and disadvantages of tribunals.

[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 ADR, judiciary, legal personnel and the English legal system.

Candidates will offer an analysis and evaluation of the advantages and disadvantages of tribunals. In order to reach a substantiated judgement about this issue, candidates may argue that tribunals play a central role in providing claimants in dispute with the state an avenue for redress. Candidates might consider challenging this by arguing that employment tribunals, which have introduced fees, have seen a drop in claims which leads to the conclusion that some are being denied access to justice. Overall, candidates will offer a debate and come to a substantiated judgement regarding the advantages and disadvantages of tribunals. The response might consider issues such as:

- Advantages:
 - Cost– parties encouraged to represent themselves
 - Speed – Tribunal Judges take on case management duties
 - Expertise – at least one member of the tribunal will be an expert
 - Informality – much less formal than court. Less intimidating
 - Independence – Judicial Appointments Commission (JAC) appoint Tribunal Judges. Tribunal Service now unified
- Disadvantages:
 - Lack of funding – some cannot afford to take case to a tribunal
 - Delay – particularly if the case is complex
 - Intimidated parties – may want to hire legal representation which in turn increases costs
 - Lack of precedent – can lead to inconsistencies and unpredictability
- 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 tribunals. Analysis is detailed with appropriate range of supporting evidence which draws together knowledge, skills and understanding. • Excellent evaluation of the advantages and disadvantages of tribunals, 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 tribunals. Analysis is generally detailed with appropriate range of supporting evidence. • Good evaluation of the advantages and disadvantages of tribunals, 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 tribunals. Analysis includes some detail with some supporting evidence. • Adequate evaluation of the advantages and disadvantages of tribunals, 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 tribunals. Analysis includes minimal detail. • Basic evaluation of the advantages and disadvantages of tribunals. • Basic citation of supporting case law and legal authorities.
	0	Response not creditworthy or not attempted.