



Pearson

International Advanced Level Law YLA1

Paper 1

Underlying Principles of Law and the English Legal System

Question 2

Exemplar scripts with examiner commentaries

Introduction

This set of exemplar responses with examiner commentaries for IAL Law, Paper 1 Underlying Principles of Law and the English Legal System (Q2), has been produced to support teachers delivering and students studying the International Advanced Level Law qualification.

This pack includes exemplar scripts, examiner commentaries and mark scheme for ease as reference.

The scripts selected exemplify performances for this paper of the June 2017 examination series.

This document should be used alongside other IAL Law teaching and learning materials available on the [Pearson website](#).

Link to May/June 2017 IAL Law examination Mark scheme is [here](#) on the IAL Law webpage.

Exemplar scripts

Question: 2a Describe the meaning of conciliation in civil dispute resolution. (2)

Question number	Answer	Marks
2(a)	<p>One mark for accurate definition of the term (1 AO1), and one mark for further description of that term (1 AO2) (up to a maximum of 2 marks in total).</p> <p>Conciliation is a voluntary, confidential and informal dispute settlement process (1AO1) Where the parties try to reach an amicable settlement with the assistance of a conciliator who is a neutral third party. (1AO2). Who will suggest a non-binding proposal to settle the dispute. (1AO2).</p>	(2)

Scripts 7 and 8

2 (a) Describe the meaning of conciliation in civil dispute resolution.

(2)

Conciliation is a process to resolve the dispute outside the court. A conciliator act as a neutral body ~~who~~ to resolve the dispute between two parties. Conciliator can give advise to the parties but that would not be binding.

2 (a) Describe the meaning of conciliation in civil dispute resolution.

(2)

Conciliation is resolving an issue via a third party, who acts as a conciliator between two disputing parties.

Examiner Comment – 2a (scripts 7 & 8)

The mark scheme for question 2a awards 2 knowledge marks, one mark for describing the meaning of conciliation, or defining it and another for adding to that description by making a further point or example.

The command word is 'describe' which requires candidates to give a one step, short answer.

In the first example – **script 7**, 2 marks were awarded, as two distinct points are made.

In the second - **script 8**, only 1 mark was awarded as the candidate does not expand the description to make the point that it is not binding.

Question: 2b. Explain the role of tribunals in settling disputes. (4)

2(b)	<p>One mark for explaining what a tribunal is and one mark for its role in settling disputes, up to two marks (2 AO1), and one mark for each linked explanation up to a maximum of 2 marks(2 AO2).</p> <p>Responses are likely to include:</p> <ul style="list-style-type: none">• tribunals used as an alternative to courts for settlement of disputes• tribunal panel of 3 hear case comprising one lawyer and two laypeople, but who have relevant expertise• wide range of cases heard such as employment, asylum, mental health, eligibility for certain benefits• decision made by panel and witnesses can be called• no need for representation• tribunals can be statutory or disciplinary• 2 tier structure for first hearing and appeals• more formal nature of hearings where evidence may be given on oath and use of lawyers/representatives• outcome will be a legally enforceable award	(4)
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Script 9

Tribunals ^{are} ~~not~~ not a form of ADR or a ~~first~~ court in the court structure. It is a specialized institute in a certain area, e.g., Asylum and Immigration, or Lands. If a dispute arises in one of these areas and the amount of money involved does not exceed a certain sum (in some tribunals), it will normally be decided in tribunals. It can be seen as an informal court, with a ~~presider~~ legally qualified presider and two experts in the particular field forming the bench of adjudicators. Legal representative may or may not be present, but the procedure is more relaxed and informal. The adjudicators will then use their expertise to rule on the matter, which is binding on the parties. The parties may appeal the decision on limited grounds. Tribunals major function is to relieve the courts from the heavy workload ~~and~~ and offer a cheaper and more effective way of solving disputes.

Script 10

Role of tribunals is very important because
without tribunals settling disputes were incomplete.
It was necessary to separate the settling
disputes and without the role of
tribunals it was ~~not~~ incomplete. Tribunals has
played very important role in settling
disputes.

Examiner Comment – 2b (scripts 9 & 10)

The command word is 'explain' which requires candidates to show understanding of the law with linked exemplification, such as an example of where tribunals are used or their composition.

This question is a points-based one where the candidate needs explain what tribunals are and its role for 2 knowledge marks. For the application marks the candidate then needs to give examples, such as where tribunals are used or their composition.

Script 9 was awarded 4 marks. It explains what a tribunal is, the sort of cases dealt with by them and also explains the composition of the people hearing tribunal cases.

Script 10 was awarded 0 marks, as it just repeated the question and provided no further credit worthy information.

Question: 2c Evaluate the effectiveness of the different types of civil dispute resolution in solving disputes. (14)

Examiner Comment – 2c

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Evaluate', which was looking for an extended answer, identifying, analysing and concluding on the effectiveness of the different types of civil dispute resolution (CDR).

Answers were expected to include the advantages and disadvantages of all/ some of conciliation, negotiation, mediation, tribunals and the courts, plus ombudsmen.

Level 1 (1-3 marks) shows isolated elements of knowledge, of one / two civil dispute resolution methods

Level 2 (4-6marks) shows some understanding and began to make connections with advantages and disadvantages of perhaps 1 type of CDR with the court.

Level 3 (7-10 marks) shows accurate understanding and compared / contrasted 2 types of CDR with the courts and attempted to balance reasoning and evaluate with a conclusion.

Level 4 (11-14 marks) shows thorough and accurate understanding and an awareness of competing arguments with balanced interpretations, reasoning and a sound conclusion.

Question number	Indicative content	Marks
2(c)	<p style="text-align: center;">(2 AO1), (2 AO2), (4 AO3), (6 AO4)</p> <p>Responses are likely to include:</p> <p>Advantages of Conciliation, Mediation and Negotiation:</p> <ul style="list-style-type: none"> • Held in private, aim is to compromise and avoid publicity • Qualified independent person • Informal <p>Disadvantages of Conciliation, Mediation and Negotiation:</p> <ul style="list-style-type: none"> • Even if compromise may lead to both parties being dissatisfied • Not binding, no appeals • No public airing of grievance <p>Advantages of Tribunals:</p> <ul style="list-style-type: none"> • experts on panel • hearings quicker and cost less than courts • allows dispute to be heard publically, so better than other types of ADR <p>Disadvantages of Tribunals:</p> <ul style="list-style-type: none"> • no state funding and although costs less than court one party may not be able to afford a solicitor • even though all panel experts, chair of panel may influence lay panel members • can only appeal on legal grounds • hearing could attract publicity. <p>Disadvantages of court:</p> <ul style="list-style-type: none"> • Taking a claim through the court system is costly and process takes time and is complicated for claimants to understand • Once a court case starts, the aim is to win (as it is adversarial), and not to compromise • Judge may not be an expert in the technical details of the claim, whereas there would be experts on the tribunal panel. <p>Advantages of Courts:</p> <ul style="list-style-type: none"> • Clear process, time limits and procedure • Funding opportunities and availability • Precedent available for lawyers to provide advice • Appeal structure and rules for courts. <p>Ombudsman services:</p> <ul style="list-style-type: none"> • Availability for types of dispute 	(14)

Script 11

Civil dispute resolution are the means through collective description of methods of resolving disputes rather than through the normal trial process. They include arbitration where the parties, arbitral tribunal ~~at~~ or judge work in a judicial ~~per~~ fashion ^{to} ~~to~~ make an award and finalise a dispute, negotiation where the parties without the intervention of a third party seeks a mutually accepted solution, conciliation and mediation where ~~the~~ it inserts an independent third party between the two conflicting parties to either mediate their ~~relations~~ dispute or reconcile their relationship.

Civil dispute resolution is vital ~~to~~ for resolving disputes because it allows the ^{early settlement of disputes} ~~the parties to settle their disputes~~ confidentially ~~so~~ parties can be ~~reassured~~ reassured about the costs because they are quite cheaper than the court actions and the parties can also maintain a positive relationship with the other party once the dispute is settled.

Negotiation maybe an effective way of resolving disputes because it keeps the dispute to be confidential and there will be no publicity and it ~~directs~~ ^{facilitates} communication between parties so they parties can quickly ^{find} ~~see~~ an acceptable solution for their problem and it is also much cheaper than court action. ~~The~~ Resolving disputes through arbitration maybe effective because the dispute is handled in a confidential way which protects the parties reputation and also ~~the decision made by the~~ ^{there's a freedom of choice} ~~choosing~~ for selecting the

arbitrator and also the place where the case can be heard ^{(not a room} ~~which may~~
or in ^{the} solicitor's office.) and the decision made by the arbitrator
can be enforced ^{and it is binding} so the parties can enforce the decisions made
in arbitration. Conciliation may ~~also~~ also be effective in settling
disputes because it's ~~a~~ cheap and confidential and allows
early settlement of disputes. Mediation may also be an effective
way of resolving disputes because it allows the parties ~~to~~ ^{to}
gain a better understanding of the problem and ~~the~~ each other's
sides and views by way of private forums and initial
joint meeting which will be held ~~&~~ during the process.

But however these alternative dispute
resolution methods may be ineffective because they ^{may not} provide ~~no~~
~~get~~ ^{get to ensure} ~~guarantee~~ that the dispute will be settled immediately. If the
dispute does not ^{get} settle through methods such as negotiation
~~th on~~ it becomes a waste of time and effort. And sometimes the weaknesses
^{of parties} ~~discussed~~ may be disclosed to the other party during negotiations
this will give the other parties an indirect advantage to go to court
and use that evidence against the other party. And arbitration
may contain certain problems such as if you disagree with the
arbitrator's decisions your right to appeal may be limited and
it ^{is} an expensive method than courts because you have to pay the
cost of the arbitrator. (In courts, you do not have to pay the fee of the
judge. Conciliation and mediation may also ^{for} ~~be~~ ^{take a long} ~~be~~ ^{prolong} time
to settle the dispute and the decisions made or settlements reached
cannot be enforced.

But however, despite these limitations these civil dispute
resolution methods provide so many benefits ^{to society} and the society
as discussed above. **(Total for Question 2 = 20 marks)**

Examiner Comment – 2c (Script 11)

Script 11 was awarded 12 marks in level 4 – The candidate has displayed an accurate and thorough understanding of the different types of CDR and evaluated them with comparisons to the courts together with a brief conclusion to sum up. It is a solid level 4 answer, but a stronger conclusion could have taken it up to full marks

For an evaluate question there needs to be a balance between displaying a thorough understanding and application of the question topic and the need to show analysis and evaluation skills to justify a conclusion.