



Pearson
Edexcel

Examiners' Report
Principal Examiner Feedback

Summer 2023

Pearson Edexcel International
Advanced Level In Law (YLA1/01)

Paper 1: Underlying Principles of Law
And the English Legal System

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Summer 2023

Publications Code YLA1_01_2306_ER

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Introduction

This was the tenth paper in this 2015 new specification for IAL Law.

The 2015 style Paper 1 contains 5 questions of 20 marks each. There is no question choice on the paper, candidates are required to answer all questions. The format of the paper is that the first four questions consist of short to medium multi-part questions and the last question on the paper is a problem-solving question worth 20 marks.

The paper is worth 50% of the total IAL raw marks. The subject content for the paper is selected from the nature, purpose of and liability in Law, and the sources of English law, its enforcement and administration.

Candidates are again strongly advised to ensure that their handwriting is legible and remains so for the entire paper. It is appreciated that candidates are rushing to complete the paper in a limited time, but legibility is important. The handwriting on a number of scripts was extremely small, and very difficult to decipher.

Most candidates attempted all questions, although some candidates omitted to answer questions 3b, 3c, 4b and 4c. This would appear to be because of lack of knowledge, rather than time issues, as most candidates managed to complete question 5, the question with 20 marks, at the end of the paper.

Candidates are advised to read the whole paper before starting, as there were instances of repetition of information, particularly in questions 2b and 2c and also in questions 4b and 4c.

The interpretation of questions and their command words still needs to be improved upon. Candidates must remember that each part of a question is marked in isolation, so if the correct information for part a of a question is put wrongly in the answer to part b of that question rather than in part a, no marks will be awarded for that information. That does not mean that candidates should put all they know on a topic down three times for sections a, b, and c of a question.

General issues

Questions carrying 2 or 4 marks are asking candidates for points- based answers which means they could receive a mark for every correct and accurate point made

in answering the question. Space provided for answers should inform candidates of the length of the required response. Command words such as 'State', 'Describe' or 'Explain', gain marks for providing knowledge, description or explanation and providing examples for exemplification of specific legal concepts.

Questions worth 6, 10,12,14 or 20 marks are asking candidates to provide an explanation, assessment, analysis or evaluation of a given legal concept or issue using a combination of appropriate legal knowledge together with an assessment of the issue. Candidates' answers are awarded a mark based on the level of response they display.

Questions asking for 'Analyse' require candidates to weigh up a legal issue with accurate knowledge supported by authorities or legal theories and to display developed reasoning and balance.

Questions asking for 'Evaluation' additionally require a balanced and justified conclusion based on this reasoning.

Question 1a: (4 Marks)

This question is a points-based one where the candidate needs to describe the first and the last stages of the parliamentary process that a bill must follow before becoming an Act of Parliament. Two marks were available for each stage selected. One for naming the stage and another for describing it, giving detail or an example.

The question worked well as an introduction to the paper with most candidates able to score the A01 marks. A02 provided the differentiation for better performing candidates.

The first of the examples below was awarded full marks of 4, the second example only scored 1mark.

Answer ALL questions.

Write your answers in the spaces provided.

- 1 (a) Describe both the first and last stage of the parliamentary process that a bill must follow before becoming an Act of Parliament. (4)

First Stage: A bill is made by Government which is sent to the House of Commons in the Parliament for the 'first reading' where it serves as a notification and the name of the bill maybe introduced in this stage.

Last Stage: The bill is sent to Royal Assent within the Parliament and needs to be approved by the Queen to become a statute the queen almost never not approve it as the House of Commons in reality has sovereignty in law making. The last Queen to reject a royal assent was Queen Anne (1705-1706). The bill does not however instantly become a statute, it take some time to become statute according to Royal Assent Act.



pen

1 (a) Describe both the first and last stage of the parliamentary process that a bill must follow before becoming an Act of Parliament. (4)

First Stage: the bill is taken to the house of commons, where they will discuss whether or not a law should be made and they will add any necessary changes

Last Stage: the bill must be approved by a monarch, the king or Queen of England, before it can officially become an act of parliament

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Question 1b: (6 Marks)

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 descriptors.

The question was 'Analyse how effective the Golden Rule is at helping judges to interpret statutes'.

The command word in this question was 'Analyse'. Candidates were required in their answer to analyse the effectiveness of the Golden Rule of interpretation.

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

As the part B of the question, this was a more challenging question for candidates. The question performed well in differentiating weaker candidates. Better responses were able to illustrate their analysis with case examples.

However, candidates' answers often just named the rules of interpretation. Others described or explained the Golden rule in varying degrees of detail. Very few answers used and applied case examples or actually analysed the rule. Some answers were very simplistic, but a few were detailed. Therefore, this question was not answered as well as anticipated.

The first example below was awarded a level 3 mark, and the second a level 2.

(b) Analyse how effective the Golden Rule is at helping judges to interpret statutes?

(6)

The Interpretation Act sets out the rules judges can use to interpret statutes, including the Golden Rule. The Golden Rule is built upon the literal rule, whereby it respects the written words of a statute, but allows the judges to consider words having multiple meanings. The narrow approach allows judges to interpret words having more than one meaning. For example, in *R v Allen*, the defendant was accused of bigamy ~~but was~~ ^{and proven} guilty as despite his argument that you cannot legally marry if you are already married, the word 'marry' carried the meaning of 'carrying out a marital ceremony'. The wide approach allows judges to be more flexible in the meaning of words, and can even add words in to convey the correct meaning to avoid an unjust result. An example of this is in *Re Sigsworth* where the defendant was held not to inherit his mother's inheritance as he had murdered her. Although the law held that the mother's 'issue' (child) should inherit, the judge added words to the meaning of 'issue' to not include an 'issue' who had murdered their parent. Both approaches to the Golden Rule are more effective than the literal rule as they respect law that is written but allow meaning to be adapted to avoid injustice. However, some may argue that this rule only goes so far, and is used in limited circumstances subjective to the judge's preference. Lord Devlin describes the golden rule as a 'beebie parachute'. The rule also ignores the social context of the case, and by only considering the words and their meanings they may bypass the intention of the parliament when making the law.



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(b) Analyse how effective the Golden Rule is at helping judges to interpret statutes.

(6)

Golden rule is a rule of statutory interpretation. Statutory interpretation is how judges apply a statute to the case that has come before them. The ~~court~~ judge Golden rule is a rule of statutory interpretation, where the judge looks for the meaning of the words and phrases ~~else~~ and make his decision based on that other than just using the literal meaning of the words and phrases unlike the literal rule. Example of a case where this rule was used is the R v Allen case. A marriage act said that no ~~one~~ ^{person} is supposed to get married to another woman while his ~~wife~~ partner is alive. However, it is not possible to get married to two people. After the golden rule was used, the interpretation of the judge concerning that Act was that, no one is supposed to undergo or go through marriage ceremony when his partner is alive. Therefore, Allen was ~~to~~ guilty. The golden rule therefore removes absurdity. ~~It is imposs~~ In the case above, it is impossible to marry two people but ~~the~~ law says it is unlawful to marry two people. This made the law sound absurd but when the literal rule was used, it took away the absurdity and made ~~the~~ law clear.

[Faint handwritten notes and scribbles at the bottom of the page.]



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Question 1c: (10 Marks)

The command word in this question was 'Assess', which was looking for an extended answer, weighing up and balancing the advantages and disadvantages of the Parliamentary law making process, with some illustrations and cases. Often answers were just a brief numbered list and therefore contained no assessment. Some candidates did achieve high marks, but some failed to read the question properly and did not focus on what was required.

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 descriptors. The question was 'Assess the advantages and disadvantages of the Parliamentary law making process.'

This question was one in which the answers distinguished stronger candidates, who provided balanced assessment with examples. Candidates must answer the question set and not turn it into the question they want to see or have prepared for.

For **level 1** candidates gave isolated elements of knowledge.

For **level 2** candidates demonstrated some understanding and began to make connections.

For **level 3** candidates demonstrated accurate understanding and attempts application using examples.

For **level 4** candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application.

The answer shown below was awarded marks at the bottom of the level 4 band.

(c) Assess the advantages and disadvantages of the parliamentary law making process.

(10)

The Parliamentary law making process involves a bill going through 3 readings and 2 stages as well as approval from the House of Lords as well as the King. The process of parliamentary law making has numerous advantages as well as disadvantages. The advantages being flexibility, the following of a democratic process, the laws imposed being the will of the majority population, being a highly scrutinized process as well as the House of Lords acting as a checking mechanism of parliament with regards to flexibility. Parliamentary law comes in the form of private member bills, public bills and hybrid bills allowing for a multitude of forms of law to be made under certain areas. The following of a democratic process can be seen as ministers vote on the proposed legislation as well as debate its proposals in the three stages. When discussing the will of the majority of the population this can be seen by the fact that parliament is voted for by the majority population making the laws imposed by parliament the will of the majority. The three readings and two stages a bill goes through combined with the scrutiny of the House of Lords makes the parliamentary law making process a heavily scrutinized one leaving less room for error. The House of Lords also acts as a checking mechanism against political agendas and ensures just and fair laws are passed. Conversely it can be argued that the parliamentary law making process is undemocratic as the House of Lords and Queen are not elected. Parliament may also not be representative of the views of the maj.



erisy population and pass bills that suit their various political agendas and ambitions leading to the creation of unjust laws. The time in which an Act of Parliament is passed is considerably lengthy and doesn't allow for quick and necessary change to be implemented. The use of a dated and complex language may cause the public difficulties when it comes to understand the proposed laws.

(Total for Question 1 = 20 marks)

Examiner tip

Try and use case law to enhance your mark. This will mean your answers will be more concise and focused and it would have improved this answer and the mark given.

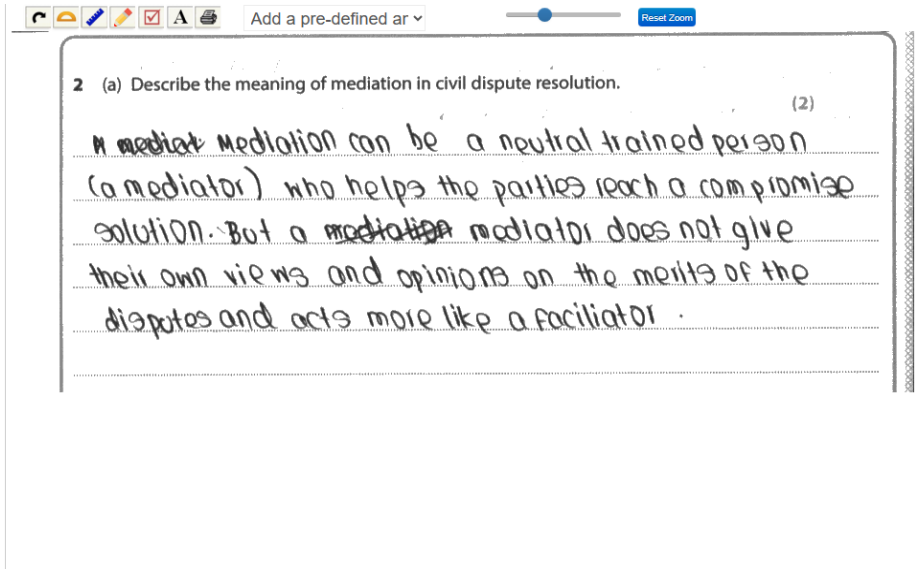
Question 2a: (2 Marks)

This question is a points-based one where the candidate needs to describe the meaning of mediation in civil dispute resolution.

The command word is 'describe' which requires for one mark the correct description of mediation or a mediator and then another one mark for an additional example / explanation about mediation.

This question was not answered as well as expected and a lot of candidates only gained 1 mark as they either missed out that the mediator is neutral, or that mediation is done in private, and that the mediator is just a facilitator.

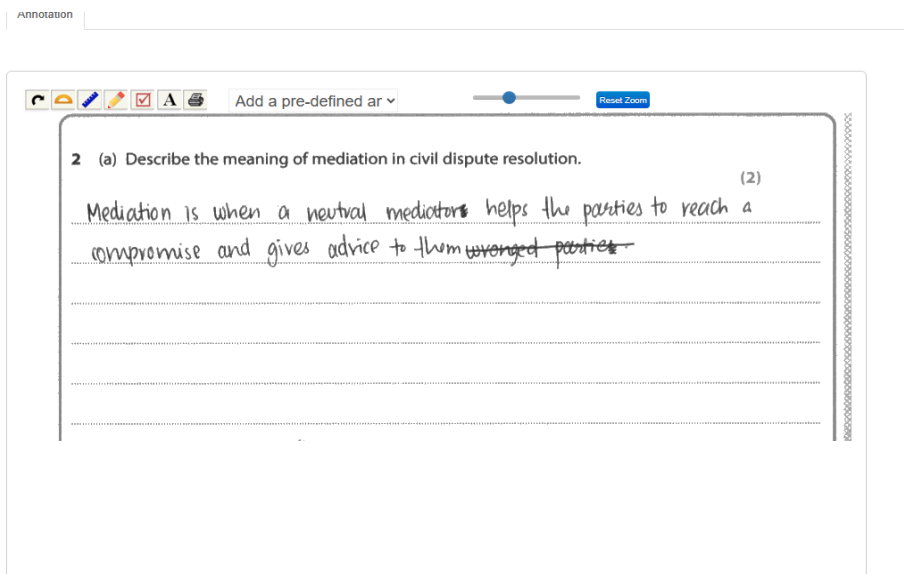
The first example below is an example of a good 2 mark response to this question, but the second example only scored 1 mark.



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

Mediation can be a neutral trained person (a mediator) who helps the parties reach a compromise solution. But a mediator does not give their own views and opinions on the merits of the disputes and acts more like a facilitator.

Annotation



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

Mediation is when a neutral mediator helps the parties to reach a compromise and gives advice to them ~~wronged parties~~

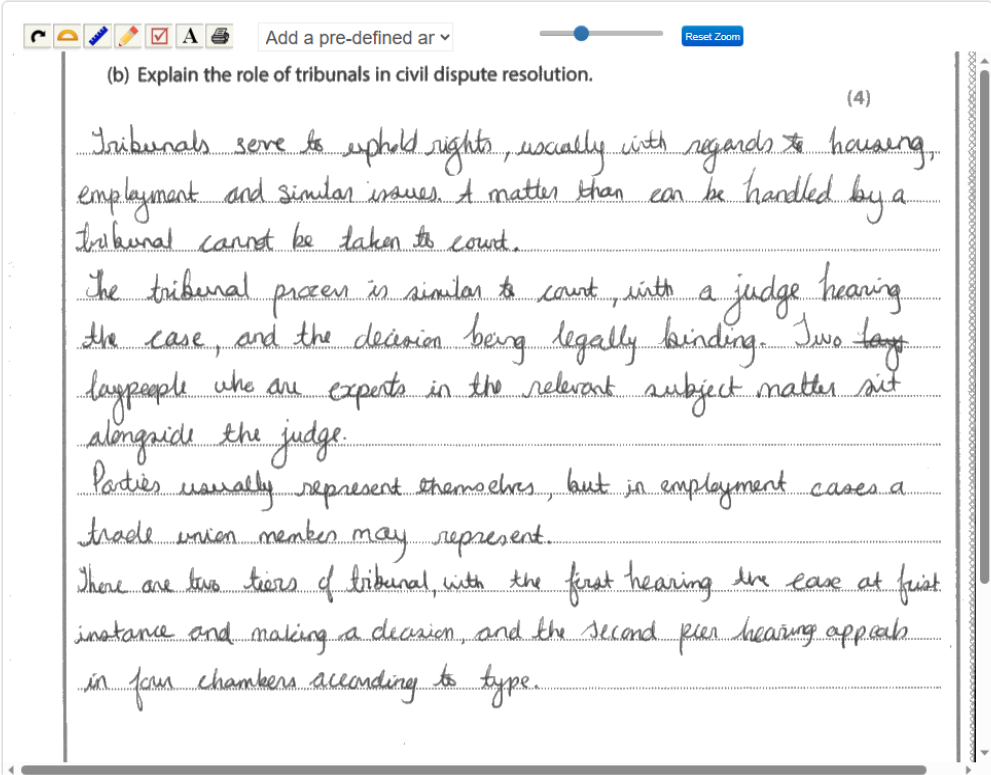
Question 2b: (4 Marks)

This question is a points-based one where the candidate needs to 'Explain the role of tribunals in civil dispute resolution'.

The command word here is 'explain' which requires candidates to explain the meaning of 'tribunal' and its role in resolving disputes. This could be a definition with examples to gain the full marks.

Candidates did not do well on this question, often providing muddled answers, or missing the question out altogether. The two examples below are examples of good/better answers.

Annotation



(b) Explain the role of tribunals in civil dispute resolution. (4)

Tribunals serve to uphold rights, usually with regards to housing, employment and similar issues. A matter that can be handled by a tribunal cannot be taken to court.

The tribunal process is similar to court, with a judge hearing the case, and the decision being legally binding. Two lay people who are experts in the relevant subject matter sit alongside the judge.

Parties usually represent themselves, but in employment cases a trade union member may represent.

There are two tiers of tribunal, with the first hearing the case at first instance and making a decision, and the second tier hearing appeals in four chambers according to type.

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The screenshot shows a digital handwriting practice window. At the top, there is a toolbar with various icons and a 'Reset Zoom' button. Below the toolbar, the question is displayed: '(b) Explain the role of tribunals in civil dispute resolution. (4)'. The answer is written in cursive handwriting on a lined background. The text of the answer is: 'Tribunals serve to uphold rights, usually with regards to housing, employment and similar issues. A matter that can be handled by a tribunal cannot be taken to court. The tribunal process is similar to court, with a judge hearing the case, and the decision being legally binding. Two laypeople who are experts in the relevant subject matter sit alongside the judge. Parties usually represent themselves, but in employment cases a trade union member may represent. There are two tiers of tribunal, with the first hearing the case at first instance and making a decision, and the second tier hearing appeals in four chambers according to type.'

At the bottom right of the interface, there are navigation buttons: 'Skip', 'Approved', 'Activity Log', and a window icon.

Question 2c: (14 Marks)

This question asked 'Evaluate the advantages and disadvantages of civil dispute resolution over going to court to settle disputes' and 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 descriptors. The command word in this question was 'Evaluate', which was looking for an extended answer, weighing up the advantages and disadvantages of the different methods of civil dispute resolution compared to using the courts, with some examples or cases as illustrations.

All too often it was obvious that Candidates had not read the question properly and did not focus on what the question was actually asking, merely writing what they thought it meant, and often just anything they knew about the topic. However, even weaker candidates were able to provide detail on some of the areas covered by the question, and gain some marks.

Candidates must answer the question set and not turn it into the question they want to see or have prepared for.

For **level 1** candidates gave isolated elements of knowledge.

For **level 2** candidates demonstrated some understanding and began to make connections.

binding on them. If the Scott v Avery clause is added, even if parties want to settle dispute in court but they cannot as court will send them back and make them to settle dispute through arbitration.

Now comes court which is experienced, reliable to citizen as they believe judges will come up with better decisions compare to ADR.

Moreover, court is specialized for disputes, which includes barristers, solicitors of their own who will fight in behalf of them and represent the case

in a more representative way. Court decisions are binding ^{on everyone.} and in new states can even appeal on higher courts matters if the judge may not when they several times when they are not happy with decisions or satisfied.

However, disadvantages includes that ^{court} court is expensive as money is needed in every set step. ~~Court~~ Different judges use different rules of language or to interpret the ~~the~~ act which creates uncertainty. ^{Appeal can be} only based on done only based on law related matters. Judges may be unfair to the cross section community and more.

The above explanation gives a basic knowledge the ADR is more efficient compare to court system in every way possible although every little thing have it own criticism.

(Total for Question 2 = 20 marks)



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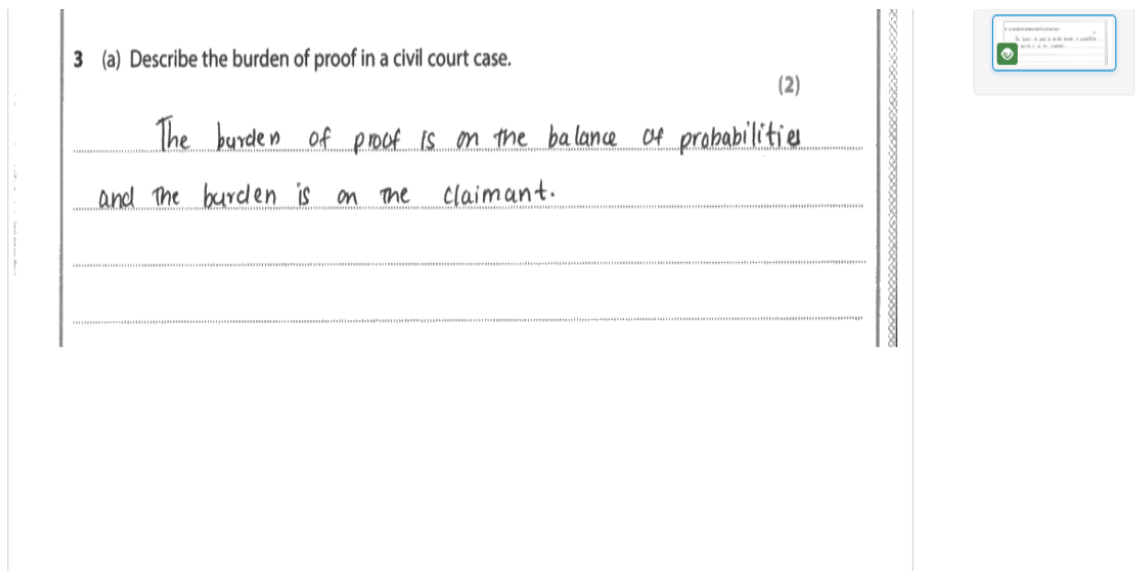
Question 3a: (2 Marks)

This question is a points-based question.

The command word is 'describe' which requires which requires for one mark the burden of proof and then another one mark for an additional example of the burden, i.e. who the burden is on.

This question was not answered as well as expected and a lot of candidates only gained 1 mark as they either misread 'civil' for 'criminal' or missed out 'the plaintiff' or 'on the balance of probabilities'.

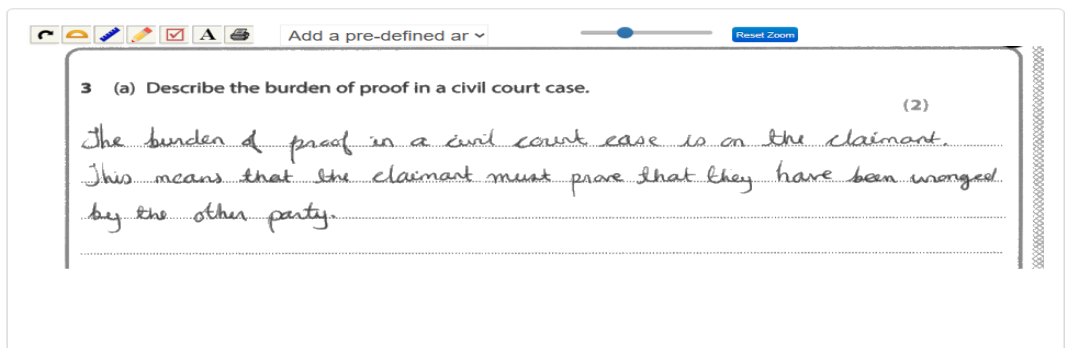
The first example below is an example of a good 2 mark response to this question, but the second example only scored 1 mark.



3 (a) Describe the burden of proof in a civil court case. (2)

The burden of proof is on the balance of probabilities and the burden is on the claimant.

This screenshot shows a question interface with a question box containing the text "3 (a) Describe the burden of proof in a civil court case." and a mark value of "(2)". Below the question is a text entry area with a handwritten answer: "The burden of proof is on the balance of probabilities and the burden is on the claimant." To the right of the question box is a small green icon with a white checkmark.



3 (a) Describe the burden of proof in a civil court case. (2)

The burden of proof in a civil court case is on the claimant. This means that the claimant must prove that they have been wronged by the other party.

This screenshot shows a question interface with a question box containing the text "3 (a) Describe the burden of proof in a civil court case." and a mark value of "(2)". Below the question is a text entry area with a handwritten answer: "The burden of proof in a civil court case is on the claimant. This means that the claimant must prove that they have been wronged by the other party." Above the text entry area is a toolbar with various icons and a "Reset Zoom" button.

Question 3b: (6 Marks)

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 descriptors.

The command word in this question was 'Explain'. Candidates were required in their answer to 'Explain the purpose of the different types of damages that can be awarded to settle civil disputes'.

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Candidates' answers were expected to name and explain general, special, nominal and exemplary damages and that damages are often unable to put the claimant back in the position they were in before civil action, especially if the injuries result in permanent disability. Some answers were very simplistic, but a few were detailed so this question was not answered as well as anticipated. Additionally, it was obvious that a number of centres had not covered this topic in teaching, and their candidates did not answer the question. Answers from centres where the topic had been taught were detailed and good.

The example below was level 3.

(b) Explain the purpose of the different types of damages that can be awarded to settle civil disputes.

(6)

Damages can be defined as a compensation to a party with the loss. It can be divided into 4. First are general damages, these are damages ^{are for cases which} cannot be precisely calculated such as pain or suffering and hospital related issues. Second are special damages. The purpose of this is to be used in cases ^{where} ~~that~~ damage can be calculated in situation such as ~~a damage~~ ^{damages} to a car from an accident. Third are exemplary damages, which are more of a punishment to the ^{wrongful party} ~~defendant~~ ^{offender}. ~~The sum is small as the winning party has not suffered financial loss.~~ This can be used in cases of tort ~~or trespass~~. The last type of damages are nominal damages where the winning party get a small fee of compensation as they have not suffered any financial loss. This can be used in cases of tort and trespass. The damages exist because there is ^{one} ~~no~~ specific.

Question 3c: (12 Marks)

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. Assess the advantages and disadvantages of the equitable remedies available to resolve civil disputes.

The command word in this question was 'Assess', which was looking for an extended answer with discussion, assessment, examples and a conclusion on the advantages and disadvantages of having two separate legal professions.

Candidates were expected to provide some detail and knowledge about equitable remedies before assessing both the advantages and disadvantages of these and then justifying their arguments in a conclusion.

Again, it was obvious that a number of centres had not covered this topic in teaching, and either their candidates did not answer the question at all, or the question was done badly. Knowledge was poor, answers were vague. There was little reference to Injunctions, specific performance, rectification and rescission or equitable estoppel, indeed many candidates wrote about damages again.

Answers from centres where the topic had been taught were detailed and good.

For level 1 candidates demonstrated isolated elements of knowledge

For **level 2** candidates demonstrated some elements of understanding and began to apply their knowledge to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples or authorities and attempted to balance reasoning and provide an assessment.

For **level 4** candidates demonstrated thorough and accurate understanding and an awareness of competing arguments of the strengths and weaknesses with balanced interpretations, reasoning and a sound assessment.

The answer below is an example of a band 3 answer.

(c) Assess the advantages and disadvantages of the equitable remedies available to resolve civil disputes.

Argyll v Argyll
Mubrown v Thornton
Redgrave

Specific injunction
Anton Piller order

(12)

Equitable remedies were created as a means of dealing with the restriction of common law damages in cases where, for example, financial compensation would not stop trespassing. The law of equity was established by the Lord Chancellor who was appointed to apply the law with his own impartiality and good faith. Equity fills in the gaps of the common law "backbone" and is comprised of 4 remedies at the discretion of the judge, contrary to ~~the~~ damages. They are injunction, specific performance, rescission, and rectification. Injunctions are issued, ordering the losing party to stop an action. Such as in the Argyll v Argyll case, in which a duchess sued her ex husband Duke for wishing to publish a book detailing her various affairs, and she was successful. A disadvantage of this and all equitable remedies is that the judge may decide that damages are enough. Specific performance is in a way the opposite of an injunction, as the losing party is ordered to carry out their end of a contract. However, this cannot be used against minors or in cases of personal service. An example is the case of Mubrown v Thornton in which the defendant was the only supplier of a specialised product which the claimant business owner had agreed to buy, but the d. refused after the formation of the contract. Specific performance was successfully granted so the defendant had to carry out his contractual obligation and sell the product. Rescission is the positioning of both parties into their pre-contractual positions after damage or loss to a party. A disadvantage, a major one is that it can be difficult to achieve this if for example the exchange

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~~to conclude~~ ^{to conclude}
 involved perishables, their value decreased ^{eg sale of sugar} or if they have been destroyed and can no longer be used for intended purposes. An exemplar case to illustrate this concept is that of Redgrave, in which the seller of a medical practice misappropriated the value of his ^{business,} so the claimant only found out it was bankrupt after purchasing. A rescission was therefore granted, money was returned. Finally, rectification is the amending of a legal document with the agreement of both parties (this could be a disadvantage e.g. is misappropriation ^{or disfigurement} purposeful by one party against another). However ignorance of the law is no defence to any crime and all individuals except those circumstantially incapacitated are expected to know the law. A Mareva injunction is the freezing of someone's bank assets if they are expected of fraudulent activity and though not a remedy, a pre-hearing order is an Anton Piller order allows for the searching (legally) of individual's premises if crucial admissible evidence is expected to be found. All equitable remedies can and must be used in ~~the~~ the handling of civil, as well as criminal disputes, and though they pose some disadvantages, their use has undoubtedly provided much-needed relief to the victims and injured parties of countless cases. Their aim is to restore losses, reverse the wrongdoing to an extent, and set standards of behaviour.

(Total for Question 3 = 20 marks)

Question 4a: (4 marks)

The command word is 'Explain' which requires candidates to show their knowledge and explain what the difference is between a Regulation and a Directive in European Union Law.

This question is a points-based one where candidates were expected to provide an explanation of both terms and then for the extra mark to provide extra detail or an example.

The question was done well, with many answers scoring 4 marks, as in the example below.

4 (a) Describe the difference between a Regulation and a Directive in European Union law making. (4)

A regulation is an immediately applicable EU law that is binding on member states, such as ~~the~~ Regulation 156 relating to the use of tachographs in cars.

A directive is issued by the EU to direct member states to make legislation relating to a specific issue. The directive includes timescale for completion, and failure to comply is punishable by fines. An example of an EU directive that affected UK law is the Consumer Protection Act.

Question 4b: (6 marks)

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.

Candidates were required in their answer to 'Explain the role of the Commission in the European Union.'

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Candidates' answers were expected to name and explain the role, composition and importance of the Commission and illustrate this with examples of their work.

Some answers were very simplistic, but a few were detailed so this question was not answered as well as anticipated.

Although this is a straightforward question, some centres/ candidates obviously knew nothing about the topic. Some centres or candidates had banked on this topic not being on the paper after Brexit, and missed out the question completely, or their answers contained little of relevance. Although those who did know the topic, did well.

Responses were expected to include:-

Role and composition

- The European Commission is the senior executive branch of the EU. A commissioner is selected from each member country to form a cabinet. They swear allegiance to the European Union and act on behalf of the union as a whole rather than their own country. One commissioner is called to be the President.
- The role of the European Commission is to develop strategies for the whole of the EU and to draft legislation, make rules and regulations and to represent the EU in trade negotiations (Article 17 of the Treaty of the European Union).

Importance

- It is the only body within the EU framework that can create law. This is so that there is one voice in the creation of pan-European law. Most of its laws relate to trading relations between member countries and beyond. However, it is now beginning to develop criminal law. This was challenged in the ECJ but upheld.

Assessment of role, composition and importance

Below are two of the better answers, both were marked as top of band 2.

(b) Explain the role of the Commission in the European Union. (6)

The European Commission is the EU's administrative body, responsible for the budget. The commission consists of one commissioner from each member state, each overseeing a particular area of jurisdiction such as the environment. The Commission prepares laws drafts and proposes laws, which the European parliament debate and may reject. The Commission also ensures that EU laws are applied in member states, and can take member states to the European Court of Justice for failure to apply EU law, as shown. Commissioners are appointed by the Commission's president and leaders and serve for every 6 years in Commission v UK. Commissioners are appointed by the Commission's president and leaders every 6 years.

The screenshot shows a digital writing interface with a toolbar at the top containing icons for undo, redo, eraser, highlighter, pencil, checkmark, text color, and background color. Below the toolbar, the question text reads: "(b) Explain the role of the Commission in the European Union. (6)". The handwritten answer is written in black ink on a white background with horizontal lines. The first paragraph states: "The Commission in the European Union is the executive arm of the EU. It consisted of 28 ~~com~~ consists of 27 member commissioners from each member state but before 2020, it had 28 commissioners since the UK was part of the EU. The commissioners choose one commissioner, to become the president of the commission." The second paragraph states: "The Commission brings cases drafts and proposes law to the CJEU. The commission is the only institution, under who has the right to initiate or initiate law. This right was given to the commission under Article 17 of the Treaty of the European Union."

Question 4c: (10 marks)

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 'Assess', which was looking for an extended answer using examples. The question required a balanced assessment of the role of the European Court of Justice in settling disputes.

Not many candidates provided good answers to this question or made use of examples and cases. Again, although this is a straightforward question, some centres/ candidates obviously knew nothing about the topic. Some centres or candidates had banked on this topic not being on the paper after Brexit, and missed out the question completely, or their answers contained little of relevance. Although those who did know the topic, did well.

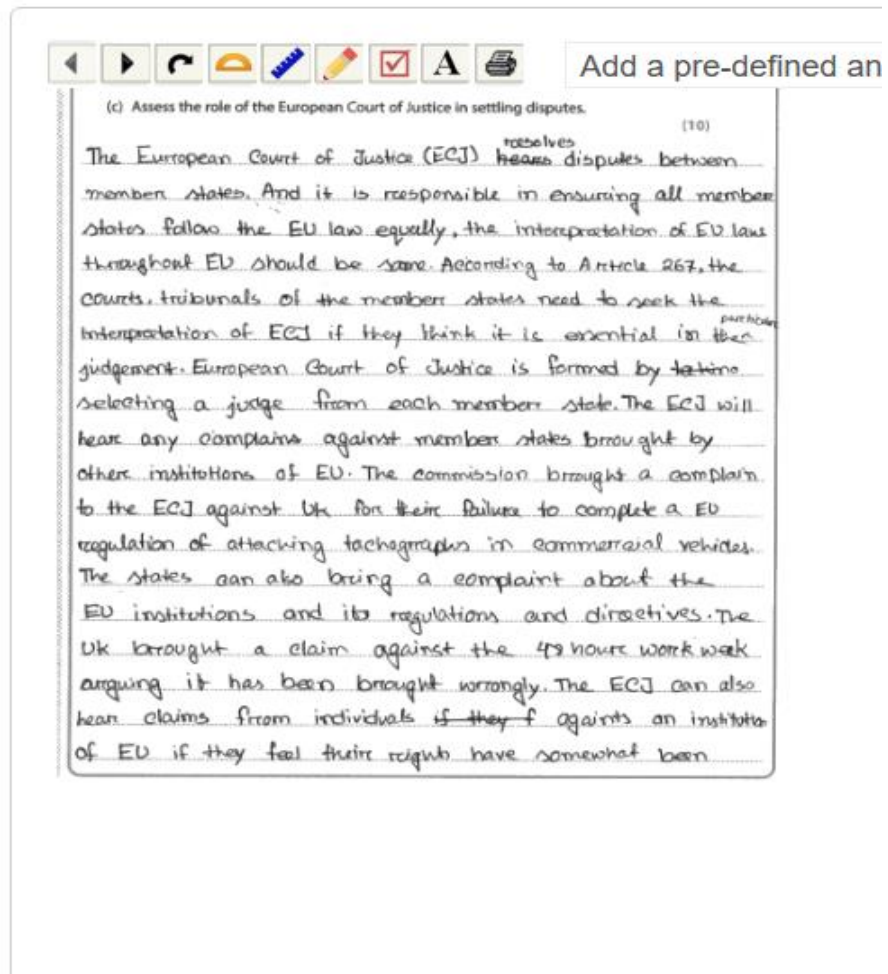
For **level 1** candidates demonstrated isolated elements of knowledge

For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.

For level 4 candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied authorities.

The example below scored in the top band.



(c) Assess the role of the European Court of Justice in settling disputes. (10)

The European Court of Justice (ECJ) ^{resolves} ~~hears~~ disputes between member states. And it is responsible in ensuring all member states follow the EU law equally, the interpretation of EU law throughout EU should be same. According to Article 267, the courts, tribunals of the member states need to seek the interpretation of ECJ if they think it is essential in their ^{particular} judgement. European Court of Justice is formed by ~~testing~~ selecting a judge from each member state. The ECJ will hear any complaints against member states brought by other institutions of EU. The commission brought a complaint to the ECJ against UK for their failure to complete a EU regulation of attaching tachographs in commercial vehicles. The states can also bring a complaint about the EU institutions and its regulations and directives. The UK brought a claim against the 49 hour work week arguing it has been brought wrongly. The ECJ can also hear claims from individuals if ~~they f~~ against an institution of EU if they feel their rights have somewhat been

infringed by that EU institution, although this happens rarely. The advantage of ECJ is it successfully can resolve disputes between member states and institutions. This is the court of last resort. If someone fails in the final court of their country then can appeal to ECJ. But the disadvantage of ECJ is it is too expensive. It takes huge time to resolve disputes.

Examiner tip

Try to focus on the question with your answer and identify the key issues required to enhance your mark. This will mean your answers will be more concise and focused.

Question 5: (20 marks)

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. This is the question candidates need to spend some time on, due to the fact that there are no subsections to the question and therefore the total question marks of 20 are based around a single answer.

The command word in this question was 'Evaluate', which was looking for an extended answer. Candidates were expected to evaluate using examples the importance and impact that the Hart/Devlin debate has had on the relationship between law and morality.

Candidates were expected to illustrate their answers and use relevant case examples and justify an argument and their conclusion.

Most candidates managed their time well to complete this last question on the paper, and candidates found it a topic that they knew at least something about. So, although the really good answers were few and far between, most candidates managed to get marks in at least band 2 or band 3. Some learners wasted time on a detailed description of the difference between law and morality, while some spent most of their answer talking just about the case law, rather than focussing on the question asked.

For **level 1** candidates demonstrated isolated elements of knowledge relating to law and morality

For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.

For **level 4** candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied examples to reach a justified conclusion on the topic.

The example below was a very good top band answer.

5 Evaluate the importance and impact that the Hart/Devlin debate has had on the relationship between law and morality.

(20)

The connections between law and morality gave rise to a major difference of opinion between two opposing schools of thought resulting in what is called the Hart/Devlin debate. The Libertarian viewpoint asks if an act generally regarded as immoral should be punished if pursued in private and does no harm to anyone? John Stuart Mill in his essay "on liberty" argued that society should not interfere with individual liberty unless it was necessary to prevent harm to others. This view was supported by the Wolfenden committee in their 1957 report which recommended the legislation of homosexual acts between consenting adults if done in private and have no one. The committee endorsed Mill's statement stating that "There must remain a realm of private morality and immorality which is, in brief and crude terms, not the laws business". Yet Mill's harm to other principle is not without criticism. What amounts to harm? Physical harm, Yes, but are mental, moral, emotional and spiritual harm included? harm may also be inflicted indirectly. For example a drug user may affect his dependents if he falls ill or spends all his money on drugs, the state may suffer having to rehabilitate him. He may be in a position to influence others. Thus the victimless crime does not exist. Who counts as others? Human beings are a given but would that mean animals maybe mistreated. There is also the factor that a foetus is not a human being, How much harm is necessary for legal intervention? Prof. Hart who supported Mill's view added that by interfering with the law would be interfering in the individual's right of free choice. Hart developed Mill's principle to physical harm to oneself; the paternalistic approach.

Yet Hart's version has also been criticized. People do not want to be constantly looked after and Hart too never defined harm. Yet the involvement of law depends upon this. Contrary to Hart's view *R v Brown* a group of Sodomosexuals were convicted of S. 47 OAPA 1861 not due to the harm done to the individual but to the society. Similarly in *Shaw v DPP* where a directory of prostitutes and the service they offered were published. Here the law was being used to preserve morality. Yet a contradiction of the law can be seen in *R v Wilson* where a man was not convicted for branding his initials onto his wife's buttocks as the court felt it was an entirely a private matter in which the law should not intervene.

In the Authoritarian

viewpoint Lord Devlin's theory is that a recognized morality is essential to society's existence so certain activities should be suppressed just because they are immoral. Devlin says society may use the law to preserve morality in the same way it uses to safeguard anything else essential to its existence. The theory is based on the existence of objective morality or a shared morality. Judge Stephens expressed that "There are acts of wickedness of gross and outrageous that, self protection apart, must be prevented as far as possible at any cost of the offender and punished if they occur with exemplary severity" This is based on natural law which said legal rules should reflect moral rules. This viewpoint is too criticized. The argument that morality is the cement is a broad and unqualified. Devlin has not proved that every act of immorality

threatens the survival of society, an objective standard of morality is difficult to ascertain. Sometimes morality of the masses may not exceptionally be sound; for example, Nazism. Further, as the sociologist Durkheim said in a developed society like the UK, it is difficult to establish a set of moral rules shared by all. Philosopher Warnock too points out that morals change over time. Sometimes a change in moral attitudes predates a change in law, as seen with recent laws on homosexual marriages.

In R v R, the House of Lords changed the long-established rule that a husband cannot be guilty of the rape of his wife due to the modern attitude to marriage being an equal partnership. A change in law could also result in a change in moral attitudes. In 1914 when certain drugs were made illegal in the USA, the trend became to consider use of these drugs immoral as well. If society were to punish such acts simply because they are distasteful to other people, many things that do no real harm would be prohibited and soon everything will be illegal. Morals also have very much to do with culture, traditions, and religions. Acceptance of these acts as moral leads to acceptance of people, resulting in less conflict.

Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- Read the questions and pay careful attention to what the command words are asking you to do. This will mean your answers will be more focused.
- Look at the marks allocated to the question and spend only the appropriate amount of time on the question based on the marks.
- In a question with several parts, read all the parts and decide what information to put in each part before starting part a.
- Use examples to illustrate definitions or points made in the short answer questions and additionally relevant case law and legislation to illustrate longer answers.
- Provide balanced answers when asked to provide advantages and disadvantages.
- Provide a conclusion for 'evaluate' questions.
- Make sure your writing is legible and not too small.

