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Examiners' Report

Principal Examiner Feedback

Summer 2024

Pearson Edexcel International Advanced Level in
Law (YLA1)

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

Paper YLA1/01

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Introduction

This was the eleventh paper in this 2015 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 again extremely small, and very difficult to decipher.

It was pleasing to see that this year, virtually all candidates attempted all the questions, although some candidates presented briefer answers to question 5, the question with 20 marks, at the end of the paper, presumably because of timing issues.

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

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 a part (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: (2 Marks).

This question is a points-based one where the candidate needs to describe the burden of proof in a criminal case.

Two marks were available. One mark for an accurate explanatory point and one mark for an additional expansion/example up to a total of two marks. An example of expansion would be - the burden of proof is on the prosecution or proof of guilt would be demonstrated by a unanimous / majority verdict.

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

The first of the examples below was awarded full marks of 2, the second example only scored 1 mark, because there was no expansion for A02.

Answer ALL questions.

Write your answers in the spaces provided.

1 (a) Describe the burden of proof in a criminal case.

(2)

The burden of proof is beyond the reasonable doubt. The burden of proof is on the prosecution. Proof of guilt decide by unanimous or majority verdict.

1 (a) Describe the burden of proof in a criminal case.

(2)

The burden of proof is for the facts and evidence to prove guilt 'beyond reasonable doubt.'

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 'Explain these two criminal sanctions, and when they might be used- Conditional Discharge and Community Service Order'.

The command word in this question was 'Explain'.

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 explanation with relevant examples of when the sanctions might be used, as well as a brief explanation of the sanction itself.

Often in the case of conditional discharge, there was misunderstanding and confusion. Some answers were very simplistic.

Conditional discharge

conditional discharge is where the offender will be given ~~an amount of time to a prison~~ sentence of for example 2 years ~~to~~ but before it comes into play, the offender is given a condition or time period ~~before~~ where they must not reoffend during that time period. If for example the time period is two years and the offender doesn't reoffend in these two years, his sentence will be discharged but if he does ^{re-}offend he ~~will~~ ^{the} sentence given will be activated. ~~this can happen~~ ^{example of this is suspended sentence. this may be used in deterrence to deter the offender from ~~refer~~ reoffending.}

→ rehabilitation → to reform offender
Community service order ^{clean up, charity work etc}

A community service order is a sanction ^{where} ~~which is~~ given to the offender is expected to do work like environmental cleanups. This is used in reform and rehabilitation where it aims to reform the offender from ~~from~~ the crime he has done. for example if the offender littered the environment, a community service order to clean a particular place for given amount of days can hopefully reform the offender into not repeating his mistake again.

The example of 1b above was awarded a top of level 3 mark.

Question 1c: (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 descriptors. The question was 'Assess how the aims of sentencing can be achieved through criminal sanctions.'

The command word in this question was 'Assess', which was looking for an extended answer, weighing up how the aims of sentencing can be achieved through criminal sanctions, 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. Examples of this were candidates who simply described different sanctions with particular emphasis on the two mentioned in the previous part B of the question - conditional discharge and community service orders, without referring at all to the aims of sentencing and a wider selection of sanctions. Much old legislation was used in this answer too.

The question was one in which the answers distinguished stronger candidates, who provided balanced assessment of the aims of sentencing with illustrated examples of sanctions used to achieve these aims. 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 top end of the level 4 band.

(c) Assess how the aims of sentencing can be achieved through criminal sanctions.

(12)

Aims of sentencing in criminal sanctions mean the purpose and objectives behind different kind of criminal sanctions.

There are a total 4 Aims of sentencing, which are ①

Retribution: Retribution consists of the aim to solely punish the accused through criminal sanctions. The idea of 'An eye for an eye' expressed by Kant. This idea warrants that sanctions and sentencing should exactly match the severity of the crime, for example harsh sentencing for murder, vandalism, assault, etc. ②

Deterrence: Deterrence is a aim which concludes sentencing which deter other individuals in the society. There are two types of deterrence, individual and collective, individual deters the accused, and collective deterrence deters and instills fear of recidivism in the minds of potential accused. This has been tried by youths, taking a pass from the jail to get feared by sentencing in the future, this may be used in young offenders, examples include heavy fines etc. ③

Rehabilitation: Rehabilitation concludes to explore the reason behind the crime, and treat those accused and re-integrate them back into the society as law abiding citizens, examples include drug offenders and substance abuse instilled in rehab to fight the addiction, this is a method of personalized sentence. ④

Prevention of crime: - This aims to prevent further crime by working on the restriction of movement of the offenders, examples include mauling



devices. Although these aims assess benefits from the society, it also faces criticism. ^① Retribution does not prevent future crime, and does not take into account ^② mitigating factors giving a harsher sentence. Deterrence does not take into account the crimes made under the influence of drugs and alcohol and also deterrence depends on the perceived punishment of offenders which vary among individuals. ^③ Rehabilitation results to increase inconsistencies in sentencing through an individualised approach but surveys show recidivism rates which do not back the rehabilitation aim. ^④ Prevention of crime like monitoring and restricting individuals may interfere in their personal liberty and freedom.

(Total for Question 1 = 20 marks)

Question 2a: (4 Marks)

This question is a points-based one where the candidate needs to describe the meaning of two terms - ratio decidendi and obiter dicta.

The command word is 'State' which requires for one mark the correct statement/description of the term 'ratio decidendi' and then another one mark for an additional example / explanation about it being binding precedent. Then the same for the term 'obiter dicta' - one mark for a correct statement/description of the term and an additional mark for expansion such as that it is persuasive precedent.

This question was well answered as expected and a lot of candidates gained full marks, although some omitted the expansion to each statement/description and then only scored two marks.

The first example below is an example of a good 4 mark response to this question, .
But the second example only scored 2 marks.

(a) State the meaning of 'ratio decidendi' and 'obiter dicta'.

(4)

Ratio decidendi means 'the reason for the decision'.
Simply it means the legal principles on which the decision was made. A Judge may arrive at this by 'reason by analogy'. The ratio decidendi is the part of the judgement that becomes binding on later Judges who hear similar cases in the lower courts or in some cases in the same court. The Judge will usually consider similar cases closest in principle to arrive at the ratio.

Obiter dicta Obiter dicta means 'things said by the way' it includes anything which is not used a part of the ratio decidendi, therefore it is not binding but has a persuasive effect.

For example, in R. V. Howe and Bennis, it was said in obiter by House of Lords a person charged with attempted murder cannot plead duress as a defence but and later in R. V. Gulle (Court of appeal) followed the statement made by House of Lords in obiter.

2 (a) State the meaning of 'ratio decidendi' and 'obiter dicta'.

(4)

Ratio decidendi or 'what has been decided' is the term used to describe the ruling of a case at its conclusion.

Obiter dicta or 'what has been said' is a term used to describe statements made during the judge's ruling that does not affect the outcome of the case and does not create judicial precedent.

Question 2b: (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 'Explain how judicial precedent operates in the court hierarchy.

The command word in this question was 'Explain'.

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 in some centres did very well on this question, while in others they did not, providing muddled answers and focussing on advantages and disadvantages of precedent rather than how it works or operates. Some candidates were mistakenly under the impression the question was about the literal and golden rules of interpretation. The two examples below are examples of good/better answers.

(b) Explain how judicial precedent operates in the court hierarchy.

(6)

The doctrine of judicial precedent details which courts are bound by which. The classic account of doctrine of binding precedent was given by Sir Rupert Cross, where he said, "All courts must consider relevant case laws. Secondly, judges of lower courts must follow the decisions of courts above them. Lastly, judges of appellate courts should follow previous case decisions made by them." This practice asks for like cases to be treated alike and binds lower courts to the decisions of higher courts.

The Supreme Court is the highest appeal court in the judicial precedent hierarchy. All other courts are bound by its decisions. Traditionally, it was bound by its own decisions, but the introduction of the Practice Statement of 1966 allowed it to depart from previous case decisions if it appeared right to do so.

The court of appeal (CA) is divided into two divisions, the civil and criminal divisions. They do not bind each other, but they are both bound by the Supreme court. However, the civil court has been allowed to depart from some previous decisions, laid down in the case of Young v. Bristol Aeroplane Young v. Bristol Aeroplane which were; where its own two decisions conflict, it must choose which to follow and which to reject (Law v. Jones); where to follow a decision of its own when it is in conflict with the House of Lords (the Supreme Court); and when a previous case decision was given per incuriam (by recklessness or carelessness) (Robbery vs. Peak).

The court hierarchy is divided into two main divisions which are civil and criminal.

Starting off with the civil division, there is the lowest court which is the County Court, then the High Court then the 3 divisions which are Family division, Chancery division and King's Bench division, then the Court of Appeal and finally the Supreme Court. For the criminal it goes by the Magistrate's court, then the Crown Court then the Court of Appeal and finally the Supreme Court. All higher courts when creating a judicial precedent enforces the lower court to be bound by it. There is 3 types of precedent, the binding precedent which forces the courts below it to follow, the original precedent, when no such case has existed and it creates a first binding precedent and finally, the precedent which does not need to be followed.

The lower courts have the right under an Act to deal differently with a judicial precedent, they could either follow, repeal, or distinguish such as *Daljour v Daljour* distinguished *Marit v Marit*. In conclusion the judicial precedents aim to facilitate the decision making and enforce equity.

Examiner tip

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

Question 2c: (10 Marks)

This question is 'Assess the advantages and disadvantages of the doctrine of judicial precedent'.

This 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 'Assess', which was looking for an extended answer, weighing up the advantages and disadvantages of judicial precedent 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. This was particularly important on question 2 as a whole, as both parts b and c of the question were about Judicial Precedent, but candidates were required to select the relevant information on the topic for each answer, rather than everything they knew about the topic for both parts.

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 below was awarded marks in level 4.



Add a pre-defined ann v

The doctrine of the judicial precedent is based on the principle of 'stare decisis', which is a Latin term for 'standing by what is done', it acts as a foundation for judicial precedent. The advantages of this is ① detailed rules and regulations. ② Flexibility ③ Authoritative ④ Predictability ⑤ Impartiality. ① detailed rules and regulation can be provided through judicial precedents. The precedents acts as formal rules which dictate the behaviour of lower courts. For example, if the Appellate court has interpreted the meaning of a particular word in a contract, this sets a detailed rule for the lower courts to act accordingly. ② flexibility. As time passes, the precedents shape into case laws which makes the decision making more flexible for the courts. The judge has to decide a particular binding precedent from diverse range of precedents. ③ Precedents are authoritative because the landmark cases in the court of Appeal and the decisions made by high court and Supreme court are belonging to great authority of Supreme justices of Courts, legal experts, High court judges, the master of the rolls, this makes this more authoritative. ④ precedents in the case law helps predicts the solicitors to advise their clients on whether a case will be upheld by the court or not, also this predictability helps in deciding who qualifies for the legal aid, because state funding is not provided until it has a great chance of success. ⑤ Impartiality is achieved through precedents, because the

judges has no more avenues for personal bias and favouritism, the judge simply has to apply the precedent. There are several disadvantages of the precedent too, as

- ① Rigidity
- ② Parliamentary supremacy
- ③ Inconsistencies
- ④ Retrospective effect

① precedent sometimes feel rigid because the lower courts has to follow the binding precedent even if the judgement feels unjust. Due to lack of personalized judgement, precedent makes it more general. ② The courts as non-electoral judges have to be careful of not intervening in parliamentary - supremacy by not following principles of enabling acts, and setting precedents as rules for other courts leading to judicial overreach. ③ Due to lack of precedents for a certain legislation, creation of Ambiguities and Lack of clarity comes within the legal agents concluding towards inconsistencies in sentencing. ④ Retrospective effect, this means to look back to the past and issue a verdict which affects them. In the case of RvR, the precedent of marital rape was created it is unfair for the people which acted fairly according to their time of the law to sanction them after the act. The Husband acting on his wife was not legally incorrect before the precedent was created, this retro-spective effect concludes as a limitation for judicial precedents.

Question 3a: (2 Marks)

This question is a points-based question.

The command word is 'describe' which requires which requires for one mark for the meaning of the role of ombudsman in legal proceedings and then another one mark for further explanation.

This question was answered well and most candidates gained either full marks or 1 mark.

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 role of an ombudsman in legal proceedings.

(2)

Ombudsmen are individuals who ~~invest~~ investigate civil dispute and is an alternative method to traditional ^{court} litigation. They investigate complaints made ^{regarding} in both public and private organisations and make recommendations for change ^{provide} and ~~pro~~ solutions and may even ^{gain} provide compensation on behalf of those ~~who~~ wronged. They are different types of ombudsman in different sectors eg- Housing ombudsman, Financial ombudsman, Legal Services ombudsman etc. However, their decisions are not binding and may not be savoured by all

3 (a) Describe the role of an ombudsman in legal proceedings.

(2)

An Ombudsman is a ^{third party} government-appointed individual which resolves complaints ~~between~~ ~~an~~ against a company or organisation.

Question 3b: (4 Marks)

This question is a points-based one where the candidate needed to state four ways of funding legal advice and representation.

Four marks were available. One mark for each correct and accurate explanatory point.

Candidates' answers were expected to name and briefly describe four different types of funding available.

Some answers were very simplistic and gave only a one/two word answer for each type of funding, however better answers were more detailed. The exam paper provided a few lines for each response, and this should have been a guide to the length of the response expected.

Generally, this question was answered well.

However, candidates, who for example, gave self-financing, solicitors, barristers and crowd funding as their four examples were only awarded a total of one mark.

The first example below was given 2 marks, the second was given 4 marks.

(b) State **four** ways of funding legal advice and representation. ?

(4)

1. State funding - funding from the government

2. Sponsorship - Sponsor by other companies or organisations

3. Private funding - Individuals pay costs.

4.

(b) State **four** ways of funding legal advice and representation.

(4)

1. Insurance, Some lawyers takes the case and later with his money from insurance.
2. State funding funding, It is usually given by the local government to fight their cases for those wh. can't afford.
3. Pro bono, Is a free service provided by the lawyers in UK, They do this to engage themselves more with the citizens and to improve their relation, image.
4. Conditional Fee for solicitors as they provide "No win no fee" services.

Question 3c: (14 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 question asked - Assess the advantages and disadvantages of the different sources and funding available for advice and representation in court cases.

The command word in this question was 'Assess', which was looking for an extended answer with discussion, assessment, examples and a weighing up of their assessment on the advantages and disadvantages of both the different sources and funding for both advice and representation.

Candidates were expected to provide some detail and knowledge about both sources and funding before assessing both the advantages and disadvantages of advice and representation and then weighing these up or justifying their arguments.

It was obvious that a number of centres had not covered this topic in teaching, and their candidates did not answer the question at all. Where the question was answered, it was not done well overall. In many answers, knowledge was poor and answers were vague. Often either 'sources of advice' were omitted, and the answer focussed solely on 'representation', or the answer focussed on 'sources of advice' and omitted completely any aspect of 'representation'. Some candidates just repeated what they had written in part b of the question.

There was little assessment shown in a lot of the answers given, and as can be seen from the mark scheme, the marks for this part of the question are weighted towards AO4, so assessment is required to gain those marks. What is good or bad needs to be weighed up and a conclusion or justification for this provided to gain high marks.

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 top of band 3 answer. The candidate has given advantages and disadvantages as the different sources and funding are mentioned, but a conclusion would have added to this and drawn the assessment together. Additionally, a wider scope of sources and funding would also have taken this well into band 4.

There are many different sources of funding and representation in court cases, ~~these include~~ the most common of which is self-funding for a solicitor, who will then instruct a barrister to be your advocate in court. Advantages of this include being able to select a ~~highly~~ ~~trained~~ advocate of your choosing. Disadvantages ~~include~~ ~~not~~ and their close proximity/locality to you. Solicitors are typically found on most high streets.

Disadvantages are significant here as some would point to self-funding as an example of 'inequality before the law' - you can get excellent representation but only if you can afford the high lawyers fees - solicitors upwards of £50-100/hr and barristers fees which could be over £300/hr. Alternative business structures and other reforms have made sought to make self-funded representation ^{expanded} cheaper and easier ^{to access}.

// Conditional Fee Arrangements were ~~introduced~~ ^{expanded} in the ^{to access} Access to Justice Act 1998, which made it easier for people without funding to hire solicitors/barristers in certain areas (in particular negligence claims, PPI, mis-selling, accidents/tort etc) - these are commonly referred to as 'no-win-no-fee' arrangements. The lawyer ~~takes~~ undertakes the work if they believe that they have a chance of winning //

the ~~best~~ ~~suit~~ ~~law~~ ~~suit~~. There are various benefits to this as it does widen access to justice, however CFA's are known for their high-fees (on avg 25% of total damages but sometimes as high as 30-40%) which means less return for the victim.

Another example of advice and representation comes from legal aid which ~~was~~ was massively restricted and curtailed by government and parliament with the Access to Justice Act and subsequent statutory instruments. At one point the majority of the population was entitled to aid, now very few (less than 20%) have access to it. legal aid is where government ~~is~~ ^{paid} solicitors/barristers will argue your case for you, for free. You can generally only claim legal aid for specific reasons (human rights violations etc) and even then only if you either have disabilities, no income or no savings. legal aid is an excellent system for those who can get it - providing 'equality before the law', but it leaves large swathes of the population forced into CFAs or wholly unable to pursue legal actions. If you can also go to legal clinics and citizens advice for representation, though these are likely ~~to be~~ staffed by ~~prof~~ university students doing part-time for legal clinics or paralegals for citizens advice and are likely more apt at pursuing smaller ^{trivial} cases through tribunal. (Total for Question 3 = 20 marks)

Question 4a: (2 marks)

The command word is 'Describe' which requires candidates to show their knowledge and describe the role of the Law Commission and its influence.

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

The question was done well, with many answers scoring 2 marks, as in the example below.

4 (a) Describe briefly the role of the Law Commission.

(2)

The law commission was created by the Law Commission Act 1965. Their job is to reform the law, such as updating it when necessary. An example of this can be repealing (removing) outdated laws.

Question 4b: (4 marks)

This question is a points-based one where the candidate needed to explain briefly the influence of the media on Parliamentary law making.

Four marks were available. Candidates were expected to explain what is meant by the media and how it can influence Parliament, and then to give examples of influence and the effect of this influence.

Some answers were very simplistic, but others gave examples of recent influence. Generally, this question was answered well.

The first example below was given 4 marks as it explains the influence well and gives a specific example. The second was given 2 marks as the explanation is weaker, but a specific example is given.

(b) Explain briefly the influence of the media on parliamentary law making.

(4)

Media acts as a great influence on parliamentary law making, which includes

- ① Raising awareness with decision makers. Media gives a voice to the public which raise awareness and influence decision makers, like investigative journalism on environmental issues concerns decision makers to make the particular law.
- ② Amplification of the voices of marginalised groups, media gives a chance and platform to the minority public to speak up to the world, media amplify their voices for better legislation reforms, an example is ~~the~~ metoo movement which represented the acid-survivors, holding the government to make necessary legislative measures.

(b) Explain briefly the influence of the media on parliamentary law making.

(4)

The media influences parliamentary law making by creating a demand for particular laws. An example of this is the passing of Sarah's Law following the shared consensus on British media to allow for families to be informed of the sexual offenders they enquire about.

Furthermore the media can scrutinise the bill during the legislative process as it is public knowledge. These scrutinises ~~sew~~ serves as feedback and helps avoid unfavourable laws.

Question 4c: (14 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 impact of external influences on Parliamentary law making.

Although this is a straightforward question, some candidates spent a lot of time just repeating the information on media that was required for part b of this question. External influences only were required. Many candidates included internal influences. Again, as this was a 14 mark question, there was emphasis in the mark allocation on A04 marks. Candidates were expected to assess the advantages and disadvantages of the impact in particular of the Law Commission, pressure groups and the media on Parliamentary law making. Some learners provided lists only, and therefore no assessment of the impact. Others wasted time writing about the stages of a bill, the literal rule, ultra vires and morality.

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 impact of external influences on parliamentary law making.

(14)

Parliamentary law-making is the judicial process of making the law by House of Commons and House of Lords. Passing through several stages of bills. This law-making is influenced by certain external influences which affect the law-making process. In this answer three influences will be considered. ① Media often influences the parliamentary law-making through raising concerns like investigative journalism, amplifying the voice of marginalized groups in the society, for example environmental movement. Or it also fosters support for legislative changes, for example, by extensive coverage of same-sex marriage, it contributed to legislative reform of same-sex marriage legalised in some parts of the country. However, Media often leads to hasty legislations in response to media panic and sensationalism to public outcry. For example, a fear-mongering crime covered by media leading to immediate response of government of harsher sentences. Media often carries editorial or ownership bias in media coverage, it could be possible that some political-party lobbying the parliament towards their own agendas through media. Also, media is not truly representative of the public, it often prioritizes some groups over other affecting the impartiality and independence of media. Second influencer is ② The law commission, The law commission which consists of advocates and experts and legal practitioners often influence in reforming the law, by their extensive research-based reports. For example 'The double jeopardy rule' which

prohibited the government/courts to try an offender twice for in the case of presence of new evidence. This law was repealed on the basis of law-commission report. However, its large and extensive scope of work, the breadth of multiple-areas of laws being scrutinized by the law commission, affects the depth of the research. It could also be possible that time ^{constraints} and limited resources affect the extensive research done by law commission despite of being independent and impartial in nature. Third influence is pressure groups, there are several types of groups which influence law-making, ① insider-groups, insider groups often directly influence the decision makers. it includes government-ministers, mps etc. They influence by consultation of the bill and different provisions. ② Sectional-groups often represent a demographic or section of society, they are not consulted directly by the decision makers but exert influence by strikes, campaigns etc. for example, British Medical Association (BMA) exert influence in terms of health-care provisions. ③ Issue groups represent a particular cause which reflects in law reforms, an example is ~~#~~ black lives matters etc. They exert influence through campaigns and lobby the parliament. The reputed campaigns include ① Father's rights which fought for the father's rights in family matters and child custody. ② Snow-drop campaign which influenced the government for tighter-gun controls in UK. (Total for Question 4 = 20 marks)

This is how external influences work in terms of parliamentary lawmaking.

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 use and effectiveness of lay people in the English Legal System.

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 candidates however tried to turn the question into one on alternative dispute resolution, rather than one based primarily on magistrates and juries.

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 top band answer, nearer the bottom of the band rather than full marks. It was a good balanced answer, with appropriate quotation and cases referred to.

Lay magistrates ~~sit in~~ are mostly found in Magistrate's court where they hear summary ~~and~~ and some triable-either-way offences. They sit as a bench of three to decide guilty or innocence of the defendant. If found guilty ~~or~~ ^{if} he pleads guilty then they decide on ^{the} sentence and may refer the defendant to the Crown Court if they feel their sentencing powers of maximum 6 months imprisonment or £5000 fine are insufficient. Sometimes, they also hear appeals in crown court with a qualified judge in the bench and specially trained magistrates are found in the Youth Court as well.

The local magisterial Committee places adverts for magistrates and then interviews applicants. The magistrate must possess some favourable traits like being of good character, having ^{good} sound judgement, sound temperament, etc. He may also be residing in the local area where he may be appointed and must be aged 18-65. Serious criminal convictions or close relatives being in the local justice system disqualify a candidate. The local magisterial committee then recommends a candidate to ^{the} senior presiding judge who appoints ^{him} ~~them~~ to ^{his} ~~the~~ position.

^{Use 2}
Lay magistrates have a variety of benefits. These include lower costs as the magistrate is doing voluntary work & is not paid, ~~therefore~~ this reduces legal costs. Furthermore, unlike judges, magistrates are not case-hardened so will not impose unnecessarily harsh

sentences on the guilty. The magistrate also resides in the local area so their awareness about local problems will be better, allowing them to give more satisfactory judgements. Also, lay magistrates volunteer themselves which means they are willing and to do the work themselves (ie not forced to do so). Additionally, presence of lay magistrates have minimum sentencing powers so most guilt of those found guilty do not appeal as there is a risk of harsher sentence if found guilty in higher courts, ~~therefore~~ so ~~chances~~ appeals are reduced. Therefore, it can be concluded that the presence of lay magistrates reduces burden on judiciary as they don't ~~have~~ have to hear as many appeals.

However, lay magistrates are not legal experts themselves so may find it hard to understand ^{the} legalities involved, especially if case is complex. This could increase time taken for case and could also make the lay magistrate rely too much on his legal clerk to understand the case. This could result in the legal clerk having influence over lay magistrates, allowing the impartiality of the ~~case~~ magistrate. Furthermore, lay magistrates are known to sometimes show bias towards the prosecution/police. This will ~~not~~ harm the defendant's right to a free trial and the principles of 'fairness & impartiality that must be guaranteed.

The Jury are other lay people that sit in the Crown Court to hear triable-either-way and indictable offences. The Jury are selected and summoned at random by the JCSB. ~~Altho~~ It is compulsory

for those selected to attend and absence can result in fines. ~~However~~ Jurors having a valid reason like being ill can get an excusal. Members of Armed forces are also excused. 15 Jurors are selected of which 12 are sworn in to start and sit the case to decide if the defendant is guilty. Previous criminal convictions and lack of capacity disqualify a juror. ^{The Jury Act 1974 lays out their} ~~majority~~ ~~minimum~~ qualifications which include them being aged 18-70 & being electors.

The main advantages of the Jury system include it being democratic. This is because it represents 'the common man' in the legal system, ensuring ^{justice system is} ~~judges are~~ not isolated from the public. This ~~was~~ idea was emphasized by Lord Devlin who further stated that this was their 'best lesson in citizenship'. He also expressed the view that presence of jury prevent 'tyranny of the expert', where judges exploit the system by technical knowledge.

Furthermore, the presence of vetting and challenges ensures both parties are satisfied with the composition and members of jury as seen in R v Fraser. The majority verdict concept ensures the judgement is satisfactory, while also mitigating the effect of bribery or ~~by~~ jury 'nobbling'. The Jury are also not as case hardened. However, there are a range of drawbacks, which include the jury being uninterested and bored as they don't choose to be there. For example, once jurors were found playing Qujboard during hearing.

The Jurors may also find it difficult to understand legal technicalities, resulting in time inefficient and even perverse verdicts as seen in the Parkings case where the jury acquitted a clearly guilty defendant. Furthermore, as seen in R v Taylor & Taylor, jurors may be influenced by external factors, having business and right to free trial of the defendant.

^{presence of} Overall, lay people reduces burden on judiciary and connect it with the public, however there are some drawbacks involved but **TOTAL FOR PAPER = 100 MARKS** they do not significantly outweigh the advantages or greatly harm efficiency of legal system.

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.
- Use the space provided for each answer on the paper as a guide to the length of response expected.
- Provide a conclusion for 'evaluate' questions.
- Make sure your writing is legible and not too small.

