



# Examiners' Report Principal Examiner Feedback

January 2025

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

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

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## Introduction

This was the twelfth 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. An example of this is that on one script 23 words or more were squashed on each line across the page. Twelve or thirteen are the average for good legibility. Remember small or bad handwriting could cost a candidate marks.

It was pleasing to see that this year, virtually all candidates attempted all the questions, although some candidates presented briefer than usual 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, 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 type of delegated legislation known as a statutory instrument.

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.

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 example below was awarded 1 mark, the second example was awarded full marks of 2.

1 (a) Describe the type of delegated legislation known as a statutory instrument.

(2)

Statutory instruments are law made by Government Minister within the area of their responsibility. ~~While, by-laws are made~~ and are enforceable in courts. While, by-laws are made by local authorities or Public corporations which must be approved by the Government Ministers before they are enforceable in courts.

**Answer ALL questions.**

**Write your answers in the spaces provided.**

1 (a) Describe the type of delegated legislation known as a statutory instrument.

(2)

A Statutory Instrument is a type of delegated legislation where government ministers are given the ability to make law on their specialist area by an enabling ~~act~~ act.

### **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 the advantages of delegated legislation.'

The command word in this question was 'Analyse'.

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 the advantages given of delegated legislation with some analysis of the advantages given.

Some answers were very simplistic and did not even explain the other two types of delegated legislation - orders in council or by laws (neither of which are mentioned in part a, to add detail to the part b answer.

(b) Analyse the advantages of delegated legislation.

(6) Q01b

In assessing the advantages, delegated legislation is an flexible method of law making as it allows different rules to be applied in different places (by-laws) to meet the needs of public. eg: banning drinking in public places. Delegated legislation can be made quickly as it isn't required to pass through the house of commons & house of lords in parliament, this is beneficial to make laws in emergency situations such as a public health crisis. Parliament will not be required to make the law, which would free up parliamentary time that can be spend on more serious issues such as national security. Further, statutory instruments can be used as a framework of the act where more ~~super~~ technical laws can then be applied. Lastly, there is some democracy involved in delegated legislation as government ministers are elected by the public.

The example of 1b above was awarded a 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 'Evaluate the controls that exist for delegated legislation'.

The command word in this question was 'Evaluate', which was looking for an extended answer, explaining and weighing up the controls, showing an awareness

of competing arguments, with balanced comparisons and with some illustrations and justification for conclusion. This question was done quite well, and some candidates did achieve good marks, but there was often no evaluation given as required by the question, just correct knowledge provided, so these fell into level 3 mark band rather than level 4. Some candidates failed to read the question properly and did not focus on what was required. Examples of this were candidates who simply wrote about pressure groups or the Law Commission, or those who repeated information required for parts a and b - such as explanations of by-laws, or orders in council.

The question was one in which the answers distinguished stronger candidates, who provided evaluation. 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/ an incomplete attempt to address competing arguments.

For **level 2** candidates demonstrated some understanding and began to make connections/gauge the validity of competing arguments.

For **level 3** candidates demonstrated accurate understanding and attempts application using examples/ contrasts the validity and significance of competing arguments.

For **level 4** candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application/ awareness of the validity and significance of competing arguments leading to balanced comparisons.

The answers shown below were awarded marks in the top two bands.

**1 (c)** Delegated legislation (DL) is subject to several controls to prevent misuse and ensure accountability. These controls include parliamentary oversight, judicial review, and consultation processes.

Firstly, parliamentary controls play a crucial role in scrutinising DL. Affirmative and Negative resolution procedures are the main mechanisms. Under the affirmative procedure, some statutory instruments must be explicitly approved by both Houses of Parliament. This allows for debate but is time-consuming and limits Parliament's power to a simple approval or rejection. Conversely, the negative resolution procedure permits SIs to become law unless specifically annulled within (usually) 40 days. This is quicker but often leads to inadequate scrutiny as many SIs pass without debate.

Further parliamentary control is provided by the Joint Committee on Statutory Instruments, which reviews SIs to ensure they are clear, within the powers of the enabling Act, and free from procedural errors. However, the committee can only draw attention to issues but cannot amend or reject SIs, limiting its effectiveness.

Secondly, judicial controls provide a powerful check on DL through judicial review. Courts can declare DL void if it is found to be ultra vires, meaning it exceeds the authority granted by the enabling Act. For instance, in *R v Home Secretary (Fire Brigades Union)*, the minister acted beyond the powers granted by the parent Act. Additionally, DL can be declared void for procedural ultra vires, where the minister failed to follow mandatory consultation requirements. Lastly, consultation and public inquiries are additional controls. Some enabling Acts mandate consultation with relevant individuals, ensuring that affected parties have a say in the law-making

(c) Evaluate the controls that exist for delegated legislation.

(12) Q010

It is important ~~that~~ <sup>control</sup> is maintained over delegated legislation as it is made by non-elected members. Courts and Parliament both maintain control over delegated legislation through means such as the judicial review & the enabling Act.

procedural ultra vires is a method of courts accepting to control delegated legislation ~~through~~ where although the authority granted by Parliament has been respected, the powers of the enabling Act have not. In Aylesbury Mushroom Ltd, claimant argued that the planning ~~be~~ committee had failed to consult them, as required by law, and therefore the planned developments were invalid. The courts agreed with claimant, maintaining control over the delegated legislation.

substantive ultra vires refers to when the delegated legislation itself goes beyond the authority of the Parliament granted by the enabling Act. In the case of General Attorney v Fulham LD, Fulham LD was granted the statutory rights to provide washrooms for the poor, but went beyond that ~~authority~~ authority by charging for a laundry services. The courts stated that the legal entity must respect the powers granted through the enabling Act.

Lastly, if the delegated legislation is manifestly unjust, unreasonable & made in bad faith the courts can make the legislation void, as seen in Stickland v Bordigh Council.

Statutory instruments go through <sup>the</sup> affirmative resolution procedure & negative resolution procedure ensures parliaments control as well. through the affirmative resolution procedure, the statutory instrument is <sup>presented</sup> ~~passed~~ to either one / both house of parliament and passed only if approved within 28-40 days. the negative resolution procedure is passed if not rejected by the parliament in 40 days.

the most effective method of parliaments control over delegated legislation is through the joint select committee. the committee is tasked with identifying areas within the statutory instruments which require further consideration of parliament and the committee lasts for the lifetime of the government.

Courts maintaining control over delegated legislation can ensure a wide assessment through judicial review -

procedural & substantive ultra vires etc. however, control by courts maybe limited as it could <sup>lose its effectiveness</sup> ~~become undemocratic~~ for judges to not follow the authority of ~~secretary~~ <sup>decide ultra vires eg Home</sup>

eg: R v Home Secretary ex parte Fire Brigade Union.

therefore further control must come from parliament.

however, ~~so~~ it can be argued that if control by courts is maintained too strictly it would affect the effectiveness of delegated legislation, which is a useful method in the English legal system.

Parliament maintains control mainly through the enabling act which grants the powers and holds the procedure of delegation.

The ~~joint select committee~~ delegated powers scrutiny committee <sup>one</sup> ensures that ~~the~~ powers granted are appropriately through the enabling Act, ~~never~~ and reports to the House of Lords before the committee stage. However, as the House of Lords has limited authority in the legislation process this may not be the most effective method of control by Parliament.

(Total for Question 1 = 20 marks) Q01

continued →

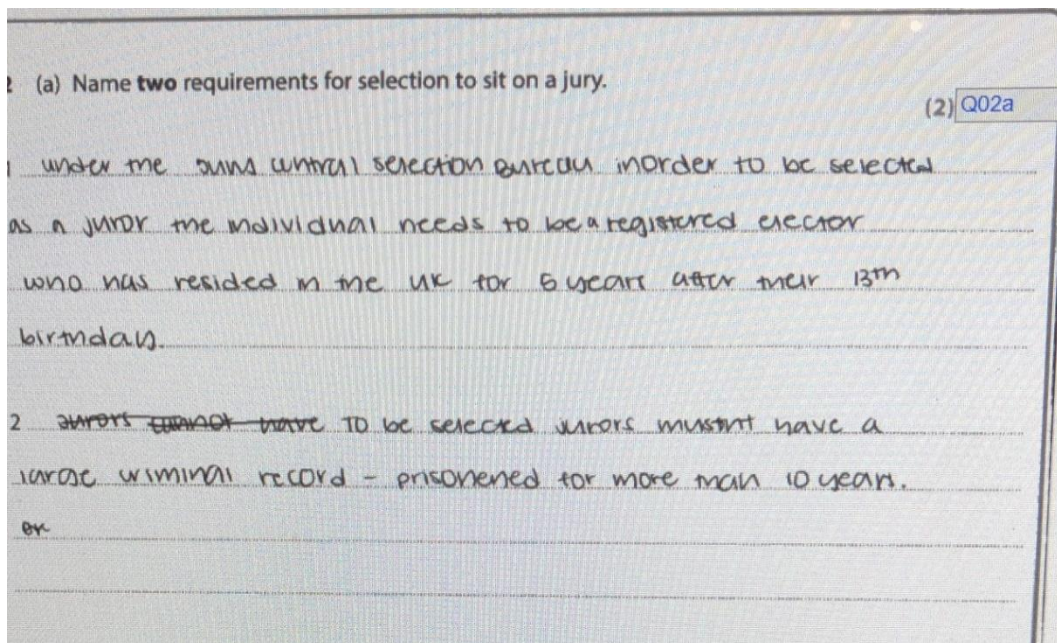
### Question 2a: (2 Marks)

This question is a points-based one where the candidate needs to name any two requirements for selection to sit on a jury.

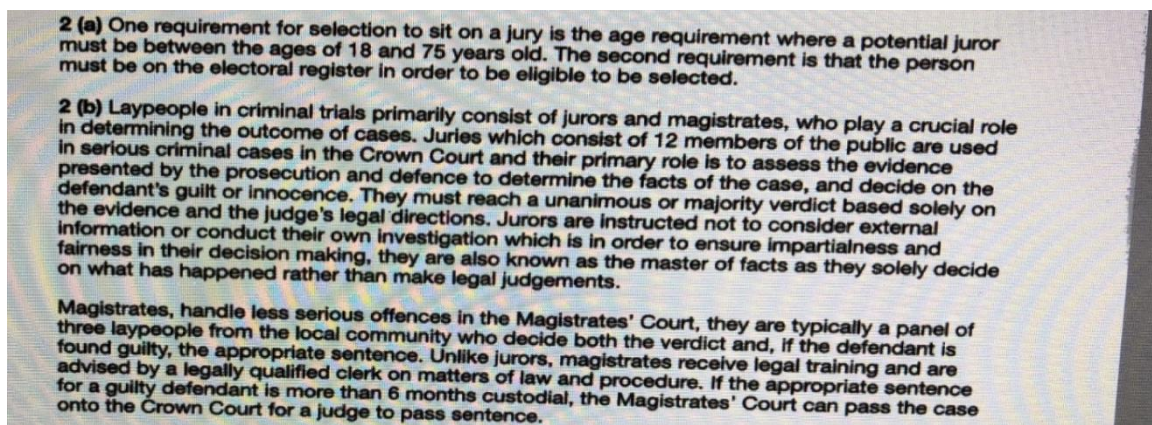
The command word is 'Name' which requires for each mark a correct requirement.

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 response to this question



Below this is another good response



### **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 the role laypeople play in deciding the outcome of a criminal trial.'

The command word in this question was 'Explain'.

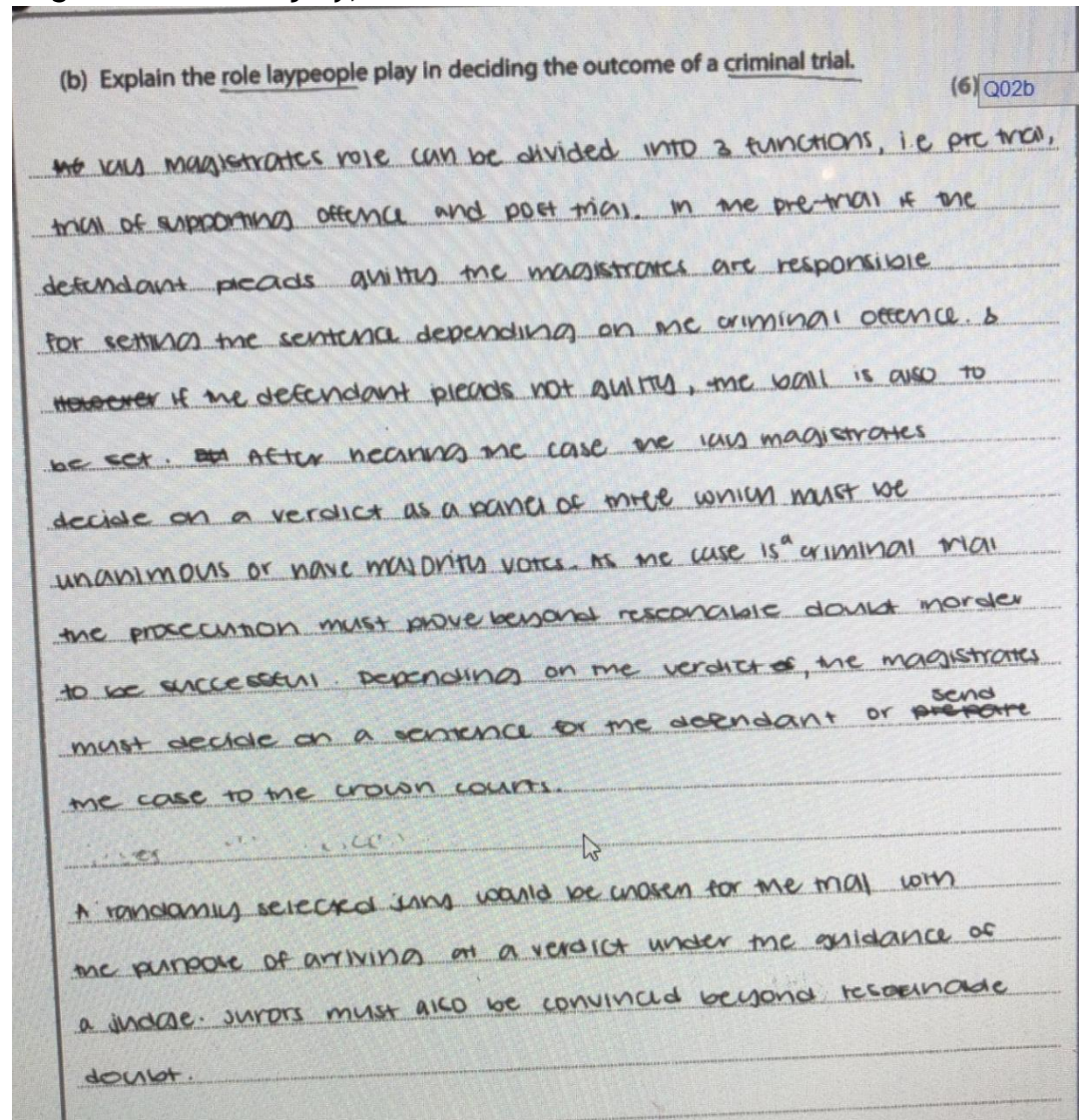
For **level 1** candidates were only able to provide isolated elements of knowledge.

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 such as discussing expert witnesses or conciliation. It was appropriate to either give a very good and detailed answer on either

Magistrates OR the jury, or a less detailed answer on both to achieve the marks.



The second sample below was awarded full marks.

(b) Explain the role laypeople play in deciding the outcome of a criminal trial.

(6)

In criminal trials, the magistrates play a vital role. If the initiation of the case is in Magistrates Court, Magistrates sit in a panel of 3 magistrates and one judge. The magistrates have role in trial, sentencing and bail. The magistrates are trained by the MNTI2 (Magistrates National Training Initiative) which trains magistrates to deal with the perpetrators and work alongside the prosecution. The presence of magistrates involves democracy in court and reduces bias. 95% of criminal cases ~~The~~ are dealt in magistrates Court in presence of Magistrates. Magistrates do not have to have legal qualification.

The role of Jury is also essential but they mostly sit in the civil court, since jury's work during criminal trial is in the Crown Court but most criminal cases <sup>are dealt</sup> in the magistrates Court.

The jury gives verdict after the evidence provided before them, the jury is randomly selected ~~hence~~ through electoral registers to ensure that they are not biased. Jury ~~are~~ receives legal briefing from legal advisers to deal with cases fairly and ~~give~~ uphold natural justice and fairness. 12 jurors enhance the democratic involvement thus ensuring, principle of retribution, "Justice in punishment, requires punishment to be deserved", only criminalise those worthy of it.

Turn over ▶

### Question 2c: (12 Marks)

This question is 'Assess the advantages and disadvantages of the doctrine of using laypeople to decide guilt in the criminal courts'.

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 using laypeople 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 laypeople, 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 at the top of level 3, case examples would have lifted this to level 4.

The lay personnel in the English Legal system are seen in the lay magistrates (justices of peace), the jurors (jury members, under the Juries Act) and the "judges" in the tribunals. The use of lay personnel is considered the cornerstone of inclusion of public participation in the legal system. The jurors are allowed to partake and be involved in the legal system. The biggest advantage is the democratic inclusion in the process. The local representation of the jurors, being ordinary persons of society is said to be a fair and just manner of administering a verdict from peer to peer shows that public interest and representation has been upheld. This is seen as the other

Another great advantage of having jurors is that in criminal matters the points of law may be applied rigidly to find an outcome that does not take into account the facts without reliance on the black and white letter of the law. It is said that almost 95% of cases decided by a jury lead in acquittals.

This shows that public inclusion holds them accountable for the decision based on each unique situation. A big disadvantage of having jurors is the cost and additional expenses incurred by

the state in making arrangements of selecting, paying for accommodation and meals for the jurors. The jurors do not get paid as it is their civic duty to participate however the time and money used to set up the jury is a known disadvantage / limitation.

Another disadvantage is that the jury not having the technical experience / legal expertise can be questioned to have complete nuanced understanding of the proceedings and their ability to deliver a well reasoned and sound verdict. In a previously decided case it was found that the jury held a biased opinion that "police are always right" This would pose a great challenge in delivering fair and just outcomes. This further leads to lack of certainty in the law as each decision is based on those specific facts and deliberations by the jury.

(Total for Question 2 = 20 marks)

### Question 3a: (4 Marks)

This question is a points-based question.

The command word is 'state' which requires for one mark a correct stage to be given in the process of the bill in becoming a statute. To gain all four marks the four stages given must be in consecutive order.

This question was answered well and most candidates gained either full marks or 2 marks, as sometimes the committee and report stages were muddled up.

The first example below is an example of a 4 mark response to this question, but the second example only scored 1 mark.

3 (a) State, in the correct order, four stages in the process of a bill becoming a statute. (4)

1st reading: this is where the bill is first introduced to the parliament on a topic of issue it is here the issue is known and a date is set for discussion

Second reading: in the second reading this is the stage where the outline of the issue stated are read and made known

committee stage

'report stage': this is the stage where the bill is crosschecked for major errors and those that need to be compromised and where possible reform is made.

3 (a) State, in the correct order, four stages in the process of a bill becoming a statute.

(4)

- 1) First hearing
- 2) Draft of the bill
- 3) First hearing
- 4) Second hearing
- 5) Committee stage

### 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 question was 'Explain the role and powers of the House of Lords in the process of a bill becoming a statute'.

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 by stating only that bills went to the Lords, and that they could stop the bill becoming law if they wanted to.

The example below was a level 3 response.

The House of Lords <sup>(HOL)</sup> receive the Bill after the readings, scrutiny & report stage in House of Commons (HOC). They review the Bill and go through the same process like in the HOC (first reading, second reading, scrutiny committee, report stage and third reading). If they accept the Bill, it's sent for Royal Assent. However, if it rejects the Bill, it goes back to the HOC. HOL must suggest why they're rejecting the Bill and send advice & reforms to HOC to add in their Bill. The HOC may accept or reject HOL's offer and send the Bill back to HOL. The process can only repeat for 3 times. This back and forth is also known as 'ping pong'. The Parliament's Act 1911 and 1949 limit HOL's powers to reject a Bill. The Bill can still become a statute after HOC decides to ignore HOL's suggestions and send it for Royal Assent. This is done because the members of the HOL are generally well reputed individuals who do not have concerns about the rest of the citizens as they come from a privilege background. On the other hand, the members of the HOC are democratically elected representatives who are there to solve the issues for the citizens of the country. Hence HOL's powers are reduced.

### Question 3c: (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 question asked - Assess the criticisms made of the legislative process.

The command word in this question was 'Assess', which was looking for an extended answer with discussion, examples of perceived problems or issues with the process and a weighing up of their criticisms.

Candidates were expected to provide some detail and knowledge about both advantages and disadvantages of the legislative process and then weighing these up or justifying their arguments.

In many answers, answers were vague. Some candidates just repeated what they had written in part a and b of the question and listing every stage of the process of a bill.

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 AO3 and AO4, so assessment is required to gain those marks. What is good or bad about the process needed 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.

(c) Assess the criticisms made of the legislative process.

Public bill only affect public policies & the public in general.  
Private member bills only affect certain individuals & can be introduced by a <sup>Private</sup> <sup>Parliament</sup> (10) member.  
This legislative process is considered to be very democratic as <sup>will be</sup> the laws made by government ministers who are elected - which may improve political stability in a country & will lead to a reduction in corruption. Secondly, this process goes through 3 readings & 2 other stages where the bill is checked meaning that scrutiny takes place, leading to a reduction in the mistakes made when making laws. Also, there tends to be government control in this legislative process. Since the government is democratically elected, the laws passed will satisfy the citizens of a country, leading to a fall in crime. This legislative process is also very flexible as the House of Lords & MP's both decide on what law gets implemented & what not gets implemented.

However, this process can be very undemocratic as the monarch & House of Lords isn't appointed democratically whom may pass laws that will only benefit them. Secondly, this process has government control being a benefit, it can also be a drawback as the government may have too much power & may be able to bypass the House of Lords, leading to laws being passed not benefiting society. Moreover,

this process can be very slow as it goes through so many readings & other stages. So when law is actually implemented, it can be outdated which can lead to more crimes being committed in an economy. Finally, wordings can be hard to understand as so many complicated wordings may be used. Due to so many processes, it may even lead to a changing in wording when the Bill is finally proposed.

° In conclusion, this parliamentary law making legislative process can be both beneficial & not. It will be beneficial due to the flexibility, democracy, scrutiny & government control available when passing new laws. However, it will NOT be beneficial as well because it can be a very slow process, undemocratic, interpretation of the bill being changed & the government control due to the government being too powerful where then, they may bypass the process of House of Lords & implement laws that will benefit them.

#### Question 4a: (4 marks)

The command word is 'Describe' which requires candidates to show their knowledge and describe the roles of the two branches of the legal profession.

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

The question was done well, with many answers scoring 4 marks, as in the example below. However, some answers failed to give sufficient detail or an example to gain the extra two marks.

4 (a) Describe the roles of the two branches of the legal profession.

(4)

The two branches of legal professions ~~are~~ in the English legal system are solicitors and barristers. Solicitors are usually the first point of legal advice and contact. They usually hold high street offices or are found online, and they practice in lower courts. They can provide one with general legal advice and they are usually under the Solicitors Regulation Authority (SRA) in terms of the educational pathway. In many cases, they give referrals to barristers.

Barristers are often self-employed and hold as their location groups called "chambers". They are legal specialists and are usually found in higher courts. With the Bar Standards Board (BSB) as their educational alma mater, they show greater advocacy skills, and have elevated and refined <sup>legal</sup> advice given their expertise. They receive referrals for from ~~solicitors~~ solicitors.

#### **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 descriptors.

The question was 'Explain the selection and appointment process for judges'.

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 with good detail on the Judicial Appointments Commission. The example below was top of level 2.

(b) Explain the selection and appointment process for judges.

(6)

Judges are selected and appointed pursuant to the Constitutional Reform Act. Previously the judges would be selected from political referrals and the pool was not inclusive to other legal professionals.

Inferior judges are recommended by the Lord Chancellor and appointed by the Lord Chief Justice.

Judges selection is done through an advertisement on X (Twitter) and newspaper advertisements. The criteria for appointment for judges is that they must possess at least six attributes; be of sound mind, hold high <sup>good</sup> personal attributes, be able to reason <sup>critically</sup> and employ good <sup>judicial</sup> skills etc (think have good character and standing in society amongst others). Judges are Superior judges are recommended by the Lord Chief Justice and appointed by the Judicial Appointment Committee (JAC).

The judges for high court ought to have at least 5 years in the legal profession. The Justices of Appeal (of the Court of Appeal) ought to have at least 7 years in the legal profession and held a high office in the <sup>judiciary</sup> ~~fact~~. The judges of the Supreme Court ought to have been in the legal industry for more than 15 years.

The appointment of the judges is an inclusive process now and the public feels involved. The appointment/selection pool has also been widened to include ~~other~~ legal professionals.

#### 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 having two separate legal professions.

Although this is a straightforward question, some candidates spent a lot of time just repeating the information from part a and b of this question. Again, as this was a 10 mark question, there was emphasis in the mark allocation on AO3 and

A04 marks. Candidates were expected to assess the advantages and disadvantages of both professions, discussing the relevant committees, reviews and legislation. Some learners provided lists only, and this is not an assessment of the impact of two separate professions. Others wasted time writing just about the details of the way they both qualify and their work but did not provide any assessment. Some based their answers on the difference between judges and magistrates.

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 level 3.

(c) Assess the advantages and disadvantages of having two separate legal professions.

(10)

In England and Wales, there are two types of lawyers, barristers and solicitors jointly referred to as the legal profession.

There are about 16500 barristers in England and Wales from which around 3000 are employed by organisations such as the 'Crown Prosecution Service', independent business, local government and the civil service collectively. Barristers are referred to as the 'Bar' and are regulated by their own professional body 'the General Council of the Bar' they must be a member of at least one of the four Inns, Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn.

On the other hand, there are about 147000 solicitors in England and Wales from which around 75% are in private practice and the rest are employed by organisations such as the 'Crown Prosecution Service', independent business, local government and civil service and they are regulated by their own professional body 'The Law Society'.

~~The Advantages~~

The Advantages of having two separate legal professions is that the skills of advocacy can be preserved. This means that if there are two professions then the barrister can use his skills to present cases in court, where they can present anywhere in England and Wales.

Moreover, they can ~~separately~~ look into it separately where the solicitor has to do all the paperwork and give it to the barrister for advocacy, <sup>in</sup> ~~when~~ this case they can focus more on their part and ideas of the two legal professions would be reflected for a better outcome of the case.

Also, this will increase the popularity of lawyers in England and Wales, because different people will qualify for becoming a barrister and others might want to choose solicitors, widening the pool of judges in UK and cause a greater demand in the world.

On the other hand, it will be expensive for the parties to use <sup>legal</sup> professional, as they have to pay for the solicitor for doing the paper work and for the barrister for advocacy.

Further ~~moreover~~, there will be more duplication of work as the barrister and solicitor have to do their job separately, which could cause confusion for the barrister and therefore he has to communicate to the solicitors to clear these.

Also, if one person does the case from start to end, there will be more continuity because he will know when he did the paperwork a solicitor does.

Overall, Having two separate legal professionals is not great up to a certain extent therefore they can fuse the legal professions which will reduce the cost and enable more parties resolving case through them <sup>over</sup> if not they will solve cases through ADR, ombudsman, ACAS, tribunals and ~~then~~ <sup>moreover</sup> the popularity of lawyers will fall in England and Wales.

#### 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

effectiveness of the theories of punishment, and their related sanctions in criminal law.

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.

Most candidates were able to list and provide basic information on the theories of punishment however often the aims were missing as well as the related sanctions. Additionally lack of examples, legislation, case law, evaluation and conclusion affected the marking.

For **level 1** candidates demonstrated an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.

For **level 2** candidates demonstrated an attempt to raise possible outcomes and conclusions based on interpretations of the law.

For **level 3** candidates' evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.

For **level 4** evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.

The example below was a mid-level 3 answer. It was a reasonable/good answer. It dealt with the theories and there was some linkage to sanctions, but it was lacking in some areas and a conclusion.

- 5 Evaluate the effectiveness of the theories of punishment, and their related sanctions, in criminal law.

(20)

The theories of punishment lay the foundation of all the methods of punishment available and considered to be applicable.

First off, there is the deterrent theory of punishment. This punishment aims to deter future and potential criminals from committing such a crime. It serves as an example to the rest and further elaborates that for the punishment to be effective, it must be certain, severe and swift. A related criminal law sanction could be an unconditional imprisonment sentence. However, there are some issues with the theory as it is observed that the effect of the punishment fades once it is carried out. Another issue is that the severity of the punishment may evoke sympathy in the general public for the offender and this may lead to criticism of criminal sanctions.

The next theory is the retributive theory which operates on 'An eye for an eye' mechanism. This theory aims to inflict the same amount of pain on the defendant, as they did on the victim. A relevant criminal sanction may be unconditional imprisonment or death penalty, however there may not be a criminal law sanction beyond this to satisfy the victim. It is also very difficult to measure the amount of pain and therefore makes hard to determine what is sufficient. The theory also defeats the purpose of national justice as everyone takes revenge based off

of their hatred.

Following that, there is the preventive theory of law. This theory aims to prevent the repetition of criminal behaviour and therefore advocates for the elimination of offenders from society. The relevant criminal law sanction would be a life sentence. This theory is not favourable as it does not take out disproportionate sentences and does not have much regard for individual rights. It is also illogical as expulsion of all offenders from society will lead to overcrowded prisons. It also takes away the chance to reform criminals.

Next is the reparation theory of punishment. This theory aims to have the offender make amends and return the victim to a state before the crime. The relevant criminal law sanction could be damages but these are mostly insufficient in criminal cases. This theory will only be functional if the offender actually hopes to make amends and has the financial ability to offer damages. The theory also asks that in case the offender loses financial stability, the state should take over. This increases the government's expenditure.

After that is the rehabilitation theory. This theory does not aim to punish but rather help the criminals reform into law-abiding citizens. The relevant criminal sanction could be a monitoring sentence, community service or relocation to correction homes and rehabilitation. However this may only be suitable for first time offenders and not hardened

criminals. The victim may also express displeasure if they had hoped to see their offender receive a strict punishment.

Lastly, there is the restoration theory of punishment. This theory aims for nothing but restoring a victim back to the position they were in before the criminal conduct. The relevant criminal law sanctions would be damages. However, if the loss is not monetary that it is difficult to sanction an offender to restore a victim. This theory also results in redivivism as no appropriate punishment has been carried out.

## 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.

