

GCSE

Law

41601/Unit 1 The English Legal System
Mark scheme

41601
June 2015

Version 1.0: Final

Mark schemes are prepared by the Lead Assessment Writer and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation events which all associates participate in and is the scheme which was used by them in this examination. The standardisation process ensures that the mark scheme covers the students' responses to questions and that every associate understands and applies it in the same correct way. As preparation for standardisation each associate analyses a number of students' scripts: alternative answers not already covered by the mark scheme are discussed and legislated for. If, after the standardisation process, associates encounter unusual answers which have not been raised they are required to refer these to the Lead Assessment Writer.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of students' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

Further copies of this Mark Scheme are available from aqa.org.uk

GCSE Law

Suggested answers are neither prescriptive nor exhaustive.

Within the exam paper as a whole, questions are set involving a varying number of marks. In general, marks can vary between a minimum of 3 marks up to a maximum of 12 marks. All of these questions, irrespective of the number of marks, are to be marked according to the following banded types of response. Marks are to be awarded for identifying the legal issue(s) involved, together with the quality of the explanation, showing the application of knowledge and understanding of the legal issues involved and/or the level of critical awareness displayed. All answers must be judged according to the standard one would expect from a notional 16 year old.

Banded Mark Scheme

Band 0	Inappropriate answer showing no understanding	The number of marks will reflect the marks appropriate to the individual question
Band 1	Basic awareness	
Band 2	Answer based on limited understanding	
Band 3	Appropriate answer showing sound understanding	

To assist in clarifying the banded Mark Scheme, many questions will have a note included within the mark scheme potential content stating that it is 'required content for max marks'. Such content will be clearly marked with an asterisk. This content has been identified as being central to the required answer. A student whose answer does not include **all** the asterisked content cannot be awarded maximum marks. The answer can still be seen as demonstrating sound understanding, but not at the top of the Band. It does not automatically follow that where all the required content is present in the answer, the student must be awarded maximum marks. The answer is very likely to be demonstrating sound understanding, but the overall quality may still fall short of that expected for maximum marks, even for a notional 16 year old under examination conditions. The examiner standardisation process will provide examples of such answers.

In addition to the above banded mark scheme, the mark scheme for some questions will include marks for specific points. Such questions will clearly be identified in the detailed Mark Scheme which follows.

While it is not expected that alternative answers to such questions will attract credit, students may, on occasions, interpret questions in an unexpected way and produce answers which, though not expected, should still be credited. Answers such as these will be discussed prior to marking and credited where appropriate.

Quality of Written Communication is to be assessed in certain questions within each paper. The relevant questions are clearly identified on the front cover of the question paper, and, within the body of the paper, they also carry the instruction 'Answer in continuous prose'. The mark bands for these questions indicate the criteria which examiners should use to decide which band to place a student in, looking at both legal content and QWC to arrive at a band of 'best fit'.

SECTION A

01 In the spaces provided, put a **tick** if the statement is **correct**, or put a **cross** if the statement is **incorrect**. You must correctly put a tick or a cross in **both** boxes before your answer will be credited.

[6 marks]

Potential Content

(a)	✓	✓
(b)	✓	x
(c)	x	x
(d)	✓	x
(e)	x	✓
(f)	x	✓

1 mark for each correct pair of answers

[AO1:6, AO2:0, AO3:0]

2 In criminal cases, duty solicitors have important work to do both in the police station and in the Magistrates Court.

- Outline the work of a duty solicitor **in the police station.**
- Outline the work of a duty solicitor **in the Magistrates Court.**

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

Police station

Operates as legal adviser to a client who has been arrested
 Advice can be given over the phone
 Generally present during interviews with the police
 Bail application/negotiating with the police
 Operates on a local rota/available 24/7/free to client

Magistrates Court

Advice and representation at Magistrates Court
 Bail applications
 Mitigation following a guilty plea
 Negotiating with the CPS
 Operates on first appearance only/must be a qualifying (imprisonable) offence

Possible reference to the Access to Justice Act 1999

Note – one aspect only – max 4 marks for a good answer

[AO1:6, AO2:0, AO3:0]

3 In **each** of the following situations, state whether the person should be released on **unconditional bail, conditional bail** or **remanded in custody**. Briefly explain **why** you have chosen that answer.

3 (a) Alan has been charged with a serious assault on a family member. Alan has previous convictions for violence for which he has received lengthy custodial sentences. He also has a history of committing offences whilst on bail.

[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Alan should be remanded in custody **(1 mark)** (*Note – required content for sound understanding*)

Reasons can include serious nature of the assault, history of violence + previous sentences, history of offences on bail, difficulty in imposing bail conditions which would protect victim/witnesses.

Note – right reasons, wrong application, eg to conditional bail, can still achieve 2 marks

[AO1:0, AO2:0, AO3:3]

3 (b) Bev, aged 55, has been charged with a minor offence of shoplifting. She has no previous convictions and is likely to plead guilty. Her solicitor has indicated that Bev has shown remorse for her offence, and that he is waiting for a medical report on Bev before she enters her plea. The next hearing will be in two weeks' time.

[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Bev should be released on unconditional bail (**1 mark**) (*Note – required content for sound understanding*)

Reasons can include minor nature of the offence, no previous convictions unlikely to re-offend), indication of remorse and likely guilty plea, possible medical reason for offence, no reason to impose bail conditions.

Note – right reasons, wrong application, eg to conditional bail, can still achieve 2 marks

[AO1:0, AO2:0, AO3:3]

3 (c) Chakir has been charged with a minor offence of criminal damage to his neighbour's property. Chakir has previous convictions for a number of offences against the same victim, for which he has received both custodial and non-custodial sentences. Chakir also has some history of committing offences whilst on bail.

[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Chakir should be granted conditional bail (**1 mark**) (*Note – required content for sound understanding*)

Reasons can include relatively minor nature of the offence, history of previous convictions against the same victim, history of some offences on bail, but bail conditions would protect victim (residence elsewhere, restraining order).

Note – right reasons, wrong application, eg to a remand in custody, can still achieve 2 marks

[AO1:0, AO2:0, AO3:3]

4 With reference to the aims of sentencing, briefly explain what is meant by the following terms, and give an example of a sentence which meets that particular aim.

- **Retribution**
- **Deterrence**
- **Rehabilitation**

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Potential Content

Retribution – definition (punishment for the offence/‘eye for an eye’...)
 relevant type of punishment (eg prison, fine, unpaid work)

1 mark
1 mark

Any sensible development, eg used for relatively minor or very serious offences when no community option is available/appropriate, more often used with repeat offenders where no community option is appropriate.

Deterrence – definition (punishment which sends a clear message to either defendant or wider community that crime does not pay)
 relevant type of punishment (eg heavy fine, long prison sentence)

1 mark
1 mark

Any sensible development, eg used when the court is anxious to discourage repeat behaviour.

Rehabilitation – definition (punishment which aims to stop/reduce offending behaviour by the defendant)
 relevant type of punishment (eg community order with targeted requirements)

1 mark
1 mark

Any sensible development, eg used when the court is dealing with a repeat offender to address the reasons for that type of offence.

Note – notional 2:2:2 mark split is likely to be appropriate

Note – only one aspect addressed – max 3 marks for an excellent answer

Note – only two aspects addressed – max 5 marks for two good answers

Note – credit any relevant statutory or case-law authority

[AO1:0, AO2:0, AO3:6]

- 5** This is a diagram for you to show the structure of the **criminal** courts. In the spaces marked **(a)** to **(d)**, write or complete the names of the first instance (trial) and appeal courts.

[4 marks]

Potential Content

- (a)** Magistrates Court
- (b)** Crown Court
- (c)** Court of Appeal
- (d)** Supreme Court

1 mark each

Note – award 1 mark for each of the above answers (not necessarily spelt correctly, but the answer must be recognisable). If in doubt, escalate the answer to a senior examiner.

[AO1:4, AO2:0, AO3:0]

6 In the passage below, fill in the gaps **(a)** to **(g)**, choosing the correct word or phrase from the box.

[7 marks]

Potential Content

- (a)** Green Paper
- (b)** White Paper
- (c)** First Reading
- (d)** amendments
- (e)** House of Lords
- (f)** Parliament Acts 1911 and 1949
- (g)** Royal Assent

1 mark each

Note – award 1 mark for each of the above answers (not necessarily spelt correctly, but the answer must be recognisable including abbreviations). If in doubt, escalate the answer to a senior examiner.

[AO1:0, AO2:0, AO3:7]

7 In relation to the doctrine of precedent, explain each of the following.

- **The hierarchy of the courts**
- **The meaning and importance of Law Reports**

[7 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-5 marks
Band 3	Appropriate answer showing sound understanding	6-7 marks

Potential Content

Hierarchy of the courts

- Understanding that English court structures have an order of precedence
- (Accurate) examples of that hierarchy from civil and/or criminal courts to illustrate the hierarchy
- Specific reference to the precedent position of different courts (in respect of both higher and lower courts and itself), eg Supreme Court (1966 Practice Statement), Court of Appeal (different position of Civil and Criminal Divisions), Court of Appeal outranks High Court, etc .

Note – (accurate) diagram only – max 2 marks

Law Reports

Understanding that Law Reports:

- are reports of cases decided in the higher (appeal) courts
- will contain legal principles which can/must be used in future cases
- provide a reference point for judges, ‘lawyers’ and students

Examples

Note – only one aspect addressed – max 4 marks for a good answer

Note – credit any relevant statutory or case-law or other authority

[AO1:7, AO2:0, AO3:0]

SECTION B

8 (a)(i) Explain to Samantha what she would need to do to become a solicitor.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Samantha would need to:

- complete her A-levels
- study for a law degree* (or degree in another subject + GDL)* (either answer creditworthy as required content for max marks)
- become a student member of the Solicitors' Regulation Authority
- undertake the Legal Practice Course*
- complete a two-year training contract*
- undertake the professional skills course
- go through the enrolment process (Roll of Solicitors)*.

*Note – stages marked with * are required content for max marks.*

[AO1:4, AO2:0, AO3:1]

8 (a)(ii) Explain to Samantha what she would need to do to become a barrister.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Samantha would need to:

- complete her A-levels
- study for a law degree* (or degree in another subject + GDL)* (either answer creditworthy as required content for max marks)
- join an Inn of Court
- undertake Bar Professional Training Course*
- residential training (dining)
- be called to the Bar*.
- pupillage*

*Note – stages marked with * are required content for max marks.*

[AO1:4, AO2:0, AO3:1]

8 (b)(i) Outline the role of a solicitor **and** the role of a barrister in the conduct of criminal cases. **[5 marks]**

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Solicitor

- Interview + advice to client
- Representation at Magistrates Court (plea, trial, bail, mitigation, etc)
- Instructing a barrister to give an opinion or represent at Crown Court
- Acting as instructing solicitor in Crown Court (or representation as solicitor advocate).

Barrister

- On instructions of a solicitor, giving an opinion or preparing for trial
- Representation in court (trial, closing speech, mitigation)
- Advising on possible appeals.

Note – minimum two bullet points from each role can achieve maximum marks

Note – only one aspect addressed, max 3 marks

[AO1:3, AO2:0, AO3:2]

8 (b)(ii) Briefly discuss the **advantages** of having a divided legal profession.

[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

May include

- specialist nature of division of work
- barristers can give independent advice (not directly in touch with the client)
- best barristers are potentially available to all/cab-rank rule
- value to the client in the ‘second opinion’.

Note – *minimum two points discussed for sound understanding*
 – *credit any other sensible points raised*

[AO1:0, AO2:0, AO3:3]

8 (c)(i) Outline how magistrates are **selected** and **appointed**.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Selection

- Application
- Role of Advisory Committee (checks for disqualification, balancing factors, age, gender, ethnicity, political affiliation, employment)
- Two-stage interview (key qualities, judicial skills)
- Recommendation for appointment.

Appointment

- Background checks
- Appointment by Lord Chancellor/Secretary of State for Justice
- Appointment on behalf of the Crown
- Initial training (role of mentor)
- Swearing-in.

Note – one aspect only – max 3 marks

[AO1:5, AO2:0, AO3:0]

8 (c)(ii) Outline the range of work undertaken by magistrates.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

- Criminal jurisdiction (summary, either-way, indictable only offences) – trial/sentencing/committal for sentence/sending for trial
- Warrants
- Bail
- Youth Court (brief explanation)
- Family jurisdiction/examples of work
- Licensing Appeals Panel
- Enforcement of local taxes
- Role in Crown Court appeals.

Note – adult crime only ie first bullet point – max 2 marks
 – adult crime + minimum of three other areas of work required for max marks

[AO1:3, AO2:0, AO3:2]

8 (c)(iii) Comment on the **advantages** of using magistrates in the English legal system.
(Answer in continuous prose.)

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16 year old under exam conditions – 1 mark
- Better than average – 2 marks
- Significantly below average – 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages can include:

- lay perspective (ordinary people from the community)
- local knowledge (magistrates tend to sit in courts local to their home town)
- cheaper than the professional judiciary (only paid expenses + loss of earnings)
- positive aspect of shared decision-making (three heads are better than one)

Conclusion not required but can be credited where appropriate.

Note – credit any other sensible points made

[AO1:0, AO2:0, AO3:6]

8 (c)(iv) Comment on the **disadvantages** of using magistrates in the English legal system.
(Answer in continuous prose.)

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- Average performance for a notional 16 year old under exam conditions – 1 mark
- Better than average – 2 marks
- Significantly below average – 0 marks

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
Band 2	Answer based on limited understanding. The student spells, punctuates and uses the rules of grammar with reasonable accuracy: he/she uses a good range of specialist terms with facility.	3-4 marks
Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Disadvantages can include:

- magistrates are not legally qualified (more likely to misapply the law)
- over-reliance on the legal adviser (decisions effectively made by the adviser, not the Bench)
- inconsistency (both bail + sentencing decisions criticised)
- local bias (especially with repeat offenders + ‘headline’ offences)
- ‘middle-aged, middle-class, middle-minded’ (issues to do with the background of magistrates)

Conclusion not required but can be credited where appropriate.

Note – credit any other sensible points made

[AO1:0, AO2:0, AO3:6]

8 (d)(i) Identify **two** of the duties that the judge has to perform during a Crown Court trial. **[2 marks]**

Potential Content

Any two from:

- in charge of the courtroom/keeping order, etc
- legal rulings during the trial
- summing up for the jury
- sentencing.

1 mark each

*Note – credit any other correct duties identified
– ‘shopping list’ rule applies – if the student identifies more than two duties, all must be correct for max marks to be awarded. If not, the maximum is 1 mark for any correct answer(s).*

[AO1:1, AO2:0, AO3:1]

8 (d)(ii) Assuming a person qualifies for jury service, outline how they would be selected, both before they come to court and when in court. **[3 marks]**

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

- Panel of names (from Electoral Register)/Central Summoning Bureau – random selection, summons sent
- Vetting
- Ballot
- Challenging
- Swearing-in.

Note – minimum three of the above stages to be outlined for max marks

[AO1:3, AO2:0, AO3:0]

9 (a)(i)	Outline the process that Zak would need to follow to bring a civil action in the County Court.	[4 marks]
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

- Pre-court protocol (legal advice, letters, time limits, copies, etc)
- Complete Claim Form (amount claimed?)*
- Pay fee
- Allocation Questionnaire (Court + Tracks)*
- Preparation for trial (correspondence, photos, witnesses, etc)
- Trial (District or Circuit Judge)

*Note – stages marked with * are required content for max marks*

[AO1:4, AO2:0, AO3:0]

9 (a)(ii) Outline to Zak the key features of the Small Claims Track **and** the key features of the Fast Track.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Small Claims Track may include:

- under £10 000* (£1000 personal injury)
- heard in the County Court*
- heard by a District Judge*
- only issue costs can be claimed
- encourages DIY
- limited rights of appeal.

Fast Track may include:

- £10 000 to £25 000*
- heard in the County Court*
- heard by a Circuit Judge*
- costs are strictly controlled
- representation is normal
- case heard within 30 weeks of issue
- trial limited to one day
- only one expert witness normally allowed
- wider rights of appeal.

Note – students are not required to make comparisons between the two tracks

– only one track explained – max 3 marks

*– stages marked with * are required content for max marks*

[AO1:3, AO2:0, AO3:2]

9 (a)(iii) Comment on the advantages **and** disadvantages of using the Small Claims Track.
(Answer in continuous prose.)

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- **Average performance for a notional 16 year old under exam conditions – 1 mark**
- **Better than average – 2 marks**
- **Significantly below average – 0 marks**

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
Band 1	Basic awareness. The student spells, punctuates and uses the rules of grammar with some accuracy: he/she uses a limited range of specialist terms appropriately.	1-2 marks
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Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages may include:

- cost
- informality
- relatively quick
- assistance provided to lay people by court/District Judge
- online claims
- local.

Disadvantages may include:

- problems with self-representation
- what if other side is represented?
- settlements are often a compromise
- limited rights of appeal.

Note – only one aspect dealt with – max 4 marks (2 law, 2 QWC)

[AO1:0, AO2:0, AO3:6]

9 (b)(i) Outline what is meant by negotiation. **[4 marks]**

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3-4 marks

Potential Content

May include:

- pre-litigation form of ADR
- settlement 'out of court'*
- role of solicitors/insurance companies*
- implications of settlement re future action
- 95+% of civil (damages) claims settled by negotiation.
- Example of where negotiation could be used, .e.g. personal injury

*Note – credit any other sensible points made
 – points marked with * are required content for max marks*

[AO1:3, AO2:0, AO3:1]

9 (b)(ii) Comment on the following:

- the **advantages** of negotiated settlements **and**
- the **disadvantages** of bringing civil actions through the courts.

(Answer in continuous prose.)

[6 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1-2 marks
Band 2	Answer based on limited understanding	3-4 marks
Band 3	Appropriate answer showing sound understanding	5-6 marks

Note: Quality of Written Communication is to be assessed in this part-question. Assess the law content first (up to max of 4 marks), then assess the QWC on the following basis.

- **Average performance for a notional 16 year old under exam conditions – 1 mark**
- **Better than average – 2 marks**
- **Significantly below average – 0 marks**

Add the two marks (for law and QWC) together. Then place the response in the band which provides the ‘best fit’ in the light of both the legal content and the QWC.

Band 0	Inappropriate answer showing no understanding. The student spells, punctuates and uses the rules of grammar poorly: he/she uses a very limited range of specialist terms, perhaps inaccurately.	0 marks
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Band 3	Appropriate answer showing sound understanding. The student spells, punctuates and uses the rules of grammar with considerable accuracy: he/she uses a wide range of specialist terms adeptly.	5-6 marks

Potential Content

Advantages of negotiation may include:

- agreed solution (preserves the relationship of the parties)
- no court or representation costs
- solution quicker than going to court
- flexible solutions (not just court remedies)
- less likely to have problems with ‘enforcement’
- private.

Disadvantages of civil action through the courts may include:

- formal process (not always user-friendly)
- increased costs

- can take months/years to get judgment
- inflexible remedies
- problems with 'enforcement'
- public hearing/bad publicity.

Note – only one aspect dealt with – max 4 marks (2 law, 2 QWC)

Note – credit any other sensible points raised

Note – students are not required to compare the two forms of dispute resolution, but answers may well be stronger where they do

Note – minimum two bullet points required from each aspect of the question for sound understanding. Minimum five bullet points addressed for maximum marks.

[AO1:0, AO2:0, AO3:6]

9 (c)	Outline the meaning of the following.	
9 (c)(i)	Citizens Advice Bureau	[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

- Organisation offering legal advice*
- Free advice (voluntary contributions)*
- Government/local authority/charity funded
- National network (most towns and cities covered)
- Staffed mainly by volunteers
- Some 'professional' advice may be available by appointment
- Tend to specialise in social welfare, debt, employment and housing matters.

*Note – credit any other sensible points made
 – points marked with * are required content for max marks*

[AO1:2, AO2:0, AO3:1]

9 (c)(ii)	Civil Legal Representation	[3 marks]
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

- Government-funded scheme offering free/contributory legal representation in court*
- Legal services provided by professionals
- Means test to qualify financially (based on income and capital)*
- Funding Code criteria to qualify, depending on case
- Excluded areas.

*Note – credit any other sensible points made
 – points marked with * are required content for max marks*

[AO1:2, AO2:0, AO3:1]

9 (c)(iii) Conditional Fee Arrangements.

[3 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

- Also known as ‘no win – no fee’*
- Arrangement applies to solicitor’s fee only
- Solicitor’s fee dependent on winning the case*
- ‘Success’ fee + methods of calculation
- Insurance required by client to cover other side’s costs if case lost
- Success fee + insurance premium recoverable from the other side if case won.

Note – credit any other sensible points made

*Note – points marked with * are required content for max marks*

[AO1:2, AO2:0, AO3:1]

9 (d) State what is meant by damages **and** by an injunction, **and** outline the circumstances in which the judge is likely to grant each of these remedies.

[5 marks]

Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2-3 marks
Band 3	Appropriate answer showing sound understanding	4-5 marks

Potential Content

Damages

- Compensation/payment of money from the defendant*
- Where the claimant has suffered loss, damage or injury*
- Aims to put the claimant back to the position prior to the wrong being committed
- Remedy available as of right
- Case/example in support

Injunction

- An order which stops the defendant from continuing with a certain action* (possible reference to injunctions which compel actions)
- Where damages would be an inadequate remedy, eg where the claimant is likely to be suffering from a future/further loss*
- Only appropriate to prevent a breach of contract or for certain torts (eg nuisance, trespass)
- Remedy at the discretion of the court
- Case/example in support

Note – credit any other sensible points made

Note – only one aspect dealt with – max 3 marks

*Note – points marked with * are required content for max marks*

[AO1:4, AO2:0, AO3:1]

9 (e)(i) At the end of a trial in a civil case, if either party is unhappy with the outcome, they can appeal to a higher court.

Identify the reasons why a party may appeal in a civil case.

[3 marks]

Potential Content

Reasons for an appeal are as follows:

- Against liability on a question of fact, ie outcome/decision on liability (or equivalent wording)
- Against liability on a point of law (or equivalent wording)
- Against the remedy awarded/amount of damages (or equivalent wording)

1 mark each

*Note – answers must reflect **civil** appeals, not criminal.*

[AO1:3, AO2:0, AO3:0]

9 (e)(ii)	Outline the advantages of having an appeals system in civil and/or criminal cases.	[3 marks]
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Band 0	Inappropriate answer showing no understanding	0 marks
Band 1	Basic awareness	1 mark
Band 2	Answer based on limited understanding	2 marks
Band 3	Appropriate answer showing sound understanding	3 marks

Potential Content

Advantages can include:

- The range of appeal routes available, depending on the venue/judge at trial
- The range of grounds available on which an appeal can be based
- The range of powers available to the appellate court
- The fact that an incorrect decision at trial can be put right/interests of justice are served, etc
- The expertise of the appellate judiciary.

Note – credit any other sensible points made, eg fairness in terms of outcome/development in terms of punishment/remedy. Development of precedent.

Note – all of the above points can be applied to both civil and/or criminal appeals. Therefore, any one point, applied to both civil and criminal appeals, can achieve 2 marks. The third mark can be achieved with any different point outlined, applied to either civil or criminal appeals.

Note – minimum of two separate advantages outlined for sound understanding

Note – students can achieve sound understanding with an answer which addresses the advantages of appeal systems generally (without distinguishing between civil and criminal), provided the answer demonstrates both the range of advantages (minimum 2) and some depth of understanding by being able to develop at least one of the advantages raised

[AO1:0, AO2:0, AO3:3]

ASSESSMENT GRID UNIT 1

	Maximum Mark	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3
Question 1	6	6	0	0
Question 2	6	6	0	0
Question 3	9	0	0	9
Question 4	6	0	0	6
Question 5	4	4	0	0
Question 6	7	0	0	7
Question 7	7	7	0	0
Question 8	45	a) 10 8 b) 8 3 c) 22 8 d) 5 4	0 0 0 0	2 5 14 1
Question 9	45	a)15 7 b)10 3 c) 9 6 d) 5 4 e) 6 3	0 0 0 0 0	8 7 3 1 3
SUB-TOTAL	90	46	0	44

ASSESSMENT GRID OVERALL

AO1 Target 30-40% Achieved 36.6%

AO2 Target 20-30% Achieved 27.8%

AO3 Target 35-40% Achieved 35.6%

Note – Achieved targets take into account that Paper 2 matches same assessment pattern as the Specimen Paper and previous examinations.