

Politics

Answers and commentaries A-level (7152)

Paper 1: Government and politics of the UK

Marked answers from students for questions from the June 2022 exams. Supporting commentary is provided to help you understand how marks are awarded and how students can improve performance.

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Answers and commentaries

This resource is to be used alongside the A-level Politics Paper 1 Government and politics of the UK June 2022 question paper and inserts.

Section A

Question 1

Explain and analyse three ways in which the media can have an influence upon the outcome of elections.

[9 marks]

Mark scheme

Target AO1: 6 marks, AO2: 3 marks

Level	Marks	Descriptors
3	7–9	<ul style="list-style-type: none"> detailed knowledge of relevant political concepts, institutions and processes is demonstrated and appropriate political vocabulary is used (AO1) thorough explanations and appropriate selection of accurate supporting examples demonstrate detailed understanding of relevant political concepts, institutions and processes (AO1) analysis of three clear points is structured, clearly focused on the question and confidently developed into a coherent answer (AO2).
2	4–6	<ul style="list-style-type: none"> generally sound knowledge of political concepts, institutions and processes is demonstrated and generally appropriate political vocabulary is used (AO1) some development of explanations and generally appropriate selection of supporting examples demonstrate generally accurate understanding of relevant political concepts, institutions and processes, though further detail may be required in places and some inaccuracies may be present (AO1) analysis is developed in most places, though some points may be descriptive or in need of further development. Answers, for the most part, are clearly expressed and show some organisation in the presentation of material (AO2). <p>Students who only make two relevant points will be limited to this level.</p>
1	1–3	<ul style="list-style-type: none"> limited knowledge of political concepts, institutions and processes is demonstrated and little or no appropriate political vocabulary is used (AO1)

		<ul style="list-style-type: none"> limited development of explanations and selection of supporting examples demonstrate limited understanding of relevant political concepts, institutions and processes, with further detail required and inaccuracies present throughout (AO1) analysis takes the form of description for the most part. Coherence and structure are limited (AO2). <p>Students who only make one relevant point will be limited to this level.</p>
0	0	nothing worthy of credit.

Indicative content

In their explanations and analysis, students may be expected to cover areas such as the following:

- explanation and analysis of the direct influence theory, that the media does impact voting behaviour and can influence the outcome of elections (and not just during campaigns). The media helps shape voters' opinions of the leaders and parties, which is one reason as to why spin doctors and advertising agencies are employed (eg Saatchi and Saatchi, Alastair Campbell, Lee Cain). The media may have an influence upon undecided voters and may be particularly influential upon the 'magic million' (eg the 'Sun Wot Won It' 1992, 'Don't Chuck Britain in the Cor-Bin' 2019)
- explanation and analysis of the 'reinforcement theory,' that the media does little to influence voting but merely reinforces existing preferences. Voters favour papers/programmes that support rather than challenge their own views. Selective perception and selective retention may occur. Voters may recognise how sections of the media are openly biased, but choose to ignore it (eg 2017 17% of Daily Mail readers voted Labour despite the clear support of the paper for the Conservatives)
- explanation and analysis of the agenda setting theory, that the media has an influence regarding what the nation thinks about in terms of headlines and policies and also has an educational role. Interviewers (eg Paxman, Neil) scrutinise party leaders and cabinet/shadow cabinet members. Political correspondents inform viewers of key issues and events, particularly during the campaign itself
- explanation and analysis of the influence of the role played by TV debates since 2010 (eg 'Cleggmania' 2010, May's refusal to debate 2017, Johnson-Corbyn 2019)
- explanation and analysis of the influence of opinion polls, such as the 'bandwagon' and 'boomerang' effects (eg Portillo 1997)
- explanation and analysis of the influence of 'new media', such as social media platforms, that provide direct contact between those seeking election and voters themselves. In 2017, younger supporters used blogs and social media accounts to communicate pro-Corbyn coverage. The influence of social media forums is difficult to measure
- explanation and analysis of the role played by party political broadcasts, which may have an influence over viewers' perceptions of political brands (eg '12 questions to Boris' 2019, 'Labour's Tax Bombshell' 1992).

Students are required to consider only three ways. If a student exceeds this number reward only the best three. However, some may include relevant points not listed above and these should be credited. If a student gives only one or two examples they will receive a maximum of three and six marks respectively.

Student responses

Response A

My first point is the media picking up on recent trends. Focusing on what the people within society are having complaints about, social media in recent elections has been used heavily by the Labour leader in the 2019 general election where Jeremy Corbyn and the Labour party outspent both the Conservative party and Liberal Democrats by £1.6 million as Corbyn believed targeting social media would increase Labour's votes by getting young people on his side.

~~My~~ My second point would be newspapers, especially the large tabloids picking the side of the clear winner as an example of this is the Sun building a relationship with Blair and the Sun on the eve of the 1997 election with the headline 'it must be you'. ~~the example shows~~ this had a partial impact on the election as they are sharing with the leadership the relationship which Blair and Rupert Murdoch had built up after Blair flew to Australia to meet him.

My third point is that the media can ~~make~~ publish headlines about the ongoing issues which the country is facing, whether this being deindustrialisation, immigration, unemployment which were all prominent in the 1970s and 80s. This can then be relayed back to political parties and if political leaders are smart these national issues can be ~~used~~ fixed in their manifestos.

This is a Level 1 response

The student shows limited knowledge of media influence on elections. The answer is descriptive rather than analytical and limited in focus. They make the point about social media in the first paragraph, but do not link it to electoral outcomes. The second paragraph requires development as to the impact of Blair's relationship with Murdoch. The third point on agenda building is vague.

3 marks

Response B

1) One way in which the media can influence the outcome of elections is through newspapers. For example the headline in 1997 of 'The Sun Backs Blair' portrayed ~~on~~ clearly who the paper was supporting. This is significant as after having a Conservative government since 1979, who were arguably out of touch by the election, it was clear that the media were supporting a change. Additionally, Blair went on to win the largest parliamentary majority of 179.

Secondly the media can influence elections through the television. The rise of 'Cleggmania' occurred in 2010 due to Clegg's success at televised debates and even both of his

opponents agreed with some of his statements. The tv has a significant influence as the electorate can see for themselves the personalities of the party leaders and their strengths and weaknesses.

Finally the media can influence the outcome of elections through the use of social media. For example in the run up to the 2017 general election, Corbyn received much negative press about his personality and policies therefore Labour took advantage of using social media to appeal to the electorate. This resulted in 60% of 18-24 years-olds voting for Labour. Social media is a signi has

a significant influence on the outcome of elections as due to the fact younger people tend to use it more & ~~they~~ tend to be more progressive, it is a great way for such parties to appeal to these voters. However, it could be said that social media doesn't have much influence as in the case of this the example used, Theresa May went on to win the election.

This is a Level 2 response

The student has addressed three different forms of media. The first point regarding the impact of the press endeavours to link the 'Sun backs Blair' to the outcome of the 1997 election but this is not fully explained. The student makes use of 'Cleggmania' to demonstrate the influence of television; the answer would be improved by some analysis of the 2010 election result for the Liberal Democrats. There is some analysis of the impact of social media on the 2017 election and this has allowed the student to access Level 2.

5 marks

Response C

Finally, and arguably the most significant way the media can influence the outcome of an election is by covering positive news, which was vividly seen in 1997 under Tony Blair's 17th seat majority landslide victory. The media played a huge role as Tony Blair was ~~able~~ ^{able} to ~~bring~~ ^{bring} off the newspaper empire Rupert Murdoch who controlled many mainstream media outlets, this led to headlines such as, "The Sun backs Blair" showing how positive media coverage can lead to votes being swung. Alongside this, ~~as~~ this was one of the first elections where political spin doctors played a large role, there are officials that ensure newspapers are releasing positive stories on behalf of the party campaign, for example Brian Pater Murdoch for the Labour party. This made sure those voters were receiving positive stories essentially injecting how they would vote. Overall, positive press and how a significant influence on the outcome of general elections as it can put candidates in a "spotlight" for the electorate.

Furthermore, the media can also significantly impact elections by using negative press as seen in the 1983 Conservative win, where Michael Foot was outlasted by the media. The Labour campaign was seen as weak, but only 22% of media coverage was positive about the Labour party, this impacted how voters viewed the party campaign, Michael White a political writer, stated "Michael Foot's campaign was brave, but could up to the 'Battle of the Somme'" suggesting how brutal the media were on the original Labour party. This led to a 144 seat majority win by the conservative with Thatcher's dominance and Michael Foot's campaign being ~~dragged~~ ^{dragged} through the mud by the media.

Finally, the media can also impact the outcome of elections by agenda-setting as seen in the 2009 Brexit election. The media centred their outlets around the single issue of Brexit rather than focusing more heavily on candidates like they traditionally do. In 2019, the most searched issue was Brexit with over 850,000 mentions before election day, showing how the media used

social media to get voters to vote on an issue rather than a candidate. This helped the Conservative party secure an 80 seat majority as Boris Johnson's campaign was headlined "Get Brexit done" appealing to the press and voters with a strong theme over the voting issue Brexit. Overall, the media can play a significant agenda-setting role to have an influence on what voters are voting for.

This is a Level 3 response

The student has addressed three clear impacts of the media with direct focus on how these have impacted election results. The student has used examples from three different elections in supporting their arguments showing detailed knowledge. The explanations are thorough for eg the role of spin doctors in the first paragraph, or the comparison with the focus on Brexit rather than leaders in the last.

9 marks

Question 2

Explain and analyse three ways in which the Official Opposition can challenge the government in the House of Commons.

[9 marks]

Mark scheme

Target AO1: 6 marks, AO2: 3 marks

Use [Level of response table on pages 3 and 4](#).

Indicative content

In their explanations and analysis, students should be expected to cover areas such as the following:

- explanation and analysis of the Official Opposition in the House of Commons and circumstances that may affect their ability to challenge the government (eg size of majority)
- explanation and analysis of opportunities via oral and written questions, such as PMQs, Ministerial Question Time and urgent questions
- explanation and analysis of opportunities via Opposition Days. Opposition Day debates can lead to a change in policy (eg Ghurkas 2009)
- explanation and analysis of opportunities via select committees, which can challenge the government by scrutinising policy, holding hearings and suggesting improvements to existing policy. A number are also chaired by members of the Official Opposition (eg Yvette Cooper as Chair of the Home Affairs Committee)
- explanation and analysis of challenge to the government via a vote of no confidence (eg 2019). Government defeats are rare but do occur (eg 1979).

Students are required to consider only three ways. If a student exceeds this number reward only the best three. However, some may include relevant points not listed above and these should be credited. If a student gives only one or two examples they will receive a maximum of three and six marks respectively.

Student responses

Response A

One way in which the opposition can challenge the government in the House of Commons is through PMQ's. PMQ's occurs for half an hour every Wednesday & allows the opposition to test the PM on their policy knowledge & effectively challenge them on certain salient issues. An example of this would be when Labour challenged the PM & government over the Covid parties scandal & over the police report stating that the PM broke ministerial code & should step down from office.

Another way the opposition can challenge the government is through the Shadow cabinet. The shadow cabinet's role is to mirror the government's cabinet & positions & aims to show what the opposition would've done if they're in power. For example when the Labour shadow cabinet came up with alternate policies in order to challenge & scrutinise the government over certain Covid measures in Mid 2020 & over public exams over that time period. This therefore put pressure on the government to make changes of their own which shows that in that case ~~at~~ they were effectively challenged.

A final way that the opposition can challenge the government is through opposition days.

Opposition days are certain select days throughout the year that the opposition is allowed to set the agenda for discussion in the House of Commons & can challenge the government on issues that matter to them. Labour in the past has used opposition days to raise concerns over topics such as the environment for example in order to challenge the government over their policies dealing with climate change.

This is a Level 2 response

The response considers three ways in which the Official Opposition can challenge the government but it is largely descriptive. The second point on the shadow cabinet is vague and lacks analysis. There is an attempt to include examples in each of the paragraphs but these would benefit from further development.

4 marks

Response B

2. Firstly, one of the main ways that the opposition can challenge the government is through PMQs (parliamentary question time) which is where every week, opposition parties get to scrutinise the work of the government and it is televised. For example, Keir Starmer used PMQs to scrutinise Boris Johnson over his lockdown policies, ~~and~~ and it can be seen as successful in some regard as it led to him getting fined, yet, he did not resign which some people thought he should so it could be seen as unsuccessful. However, PMQs are often regarded as a media ~~circus~~ circus as the opposition mostly try to get headlines that will appeal to the public and further their cause.

Secondly, another way that the opposition can oppose the government is through voting on legislation. This opposes the government as if the government is trying to pass a bill then it has to be voted on in parliament and therefore, if the opposition don't ~~pass~~ vote for it, then it may not be passed. For example, May could not get her Brexit deal passed in 2018 as it was voted against in parliament and she didn't have the majority to do so, so the opposition effectively scrutinised her. However, Lord Hailsham's theory of elective dictatorship suggests that if a party has a working majority then they can seemingly pass whatever legislation they want as the opposition don't have a strong base.

Finally, another way opposition can challenge the government in power is through the work of committees. Many opposition MPs get to sit on committees such as Public bill committees and offer amendments to legislation, meaning they can effectively scrutinise the government's work. For example, 40% of recommendations from committees are successful, so ~~stuff~~ ^{amendments} can be passed. Additionally, the Public Accounts committee, is chaired by an opposition MP e.g. Meg Hillier 2018 and so they can effectively scrutinise. However, most committees are chaired by a

member of the party in power, so it is hard to get stuff done as an opposition member as there is also usually a majority from the party in power

This is a Level 3 response

This response is just into Level 3. They have considered three ways in which the Official Opposition can challenge the government in the commons. There is some confusion as to the role that Prime Minister's questions (PMQs) played in the investigations into lockdown parties. The student makes a valid point on the powers of select committees, but does confuse them with public bill committees.

7 marks

Response C

Firstly and arguably the most significant way the opposition can challenge the governing party in the House of Commons is through PMQs. These are weekly questionings for the prime minister and are ~~usually~~ ^{usually} broadcasted on to millions of viewers across the UK. They can have a positive effect on the opposition party as they are allowed to ask the PM 6 ~~very~~ ^{very} questions in a 30 minute period, putting the party in a good light if the governing party can't answer effectively. For example, Tony Blair is famously known also to calling the current PM John Major "Wank, Wank, Wank" during PMQs, giving him a significant boost in popularity. However, the effectiveness of PMQs is limited as it can become dominated by ~~ad-hoc~~ ^{ad-hoc} ~~theatrics~~ ^{theatrics} rather than important scrutiny, making as politicians use it as a way to 'batter-up' the PM rather than scrutinise him limiting the effectiveness of the government. Overall, PMQs are a good way for the opposition to challenge the incumbent party and gain popularity with voters, but it can become undermined by petty-punk ~~scams~~ ^{scams}.

Furthermore, the official opposition can also challenge the governing party through select committees. Select committees exist as ~~review~~ ^{review} and scrutiny boards which ~~put~~ ^{put} ~~up~~ ^{up} ~~against~~ ^{against} ~~legislation~~ ^{legislation} and ~~recommend~~ ^{recommend} ~~advice~~ ^{advice} to the government. They are often chaired by opposition members e.g. the Public Accounts Committee is chaired by Greg Clark Labour MP ~~currently~~ ^{currently}. This means that effective scrutiny can take place as the governing party can't dominate committees and just pass through bills without scrutiny, but the opposition party can provide hard-hitting reports that can be used by the government to amend legislation. However, only 40% of select committee reports have been ~~used~~ ^{used} ~~accepted~~ ^{accepted}, highlights how this form of scrutiny could be undermined. Overall, ~~the~~ ^{the} ~~opposition~~ ^{opposition} ~~party~~ ^{party} can effectively ~~scrutinise~~ ^{scrutinise} the government by being

the heads of committees, ensuring legislation is pushed ahead before it is enforced.

Finally, the opposition can challenge the governing party by passing a vote of no confidence in the House of Commons. This is considered a 'Nuclear Option' and is used if the majority of MPs agree that the current Prime Minister puts his own interests of ruling the country. This can be used effectively by the opposition party as they can pressure the party in trying a vote of no confidence and they will likely win at the next election due to voters seeing the governing party as weak, especially seen when James Callaghan lost his vote of no confidence by 1 vote (311-310) and Thatcher took over at the next election. However, this form of scrutiny by the opposition is rare and hardly ever happens due to the dominance of the governing party, which means MPs vote and ruling party wins. ~~Therefore,~~ this form of scrutiny is the last significant but can be used in desperate times if the current government are not acting in the best interest of the people.

This is a Level 3 response

The student shows clear understanding of the status of PMQs and analyses both its strengths and weaknesses with use of the Blair example as evidence. There is clear analysis of the work of select committees and the Public Accounts Committee example is well deployed (though there is an error in the final sentence regarding select committees and legislation, the rest of the paragraph shows detailed knowledge and understanding). The third point on Parliamentary confidence votes is well expressed.

9 marks

Question 3

Explain and analyse three ways in which UK political parties select their leaders.

[9 marks]

Mark scheme

Target AO1: 6 marks, AO2: 3 marks

Use [Level of response table on pages 3 and 4](#).

Indicative content

In their explanations and analysis, students may be expected to cover areas such as the following:

- explanation and analysis of how the Labour Party selects its leader (role of the parliamentary labour party (PLP,) local parties and trade union affiliate members). The process reflects internal party democracy as party members and registered supporters vote one member one vote (OMOV) and alternative vote (AV) used). Rule changes under Ed Miliband allowed any member of the public who supported Labour to join the party as a 'registered supporter' for £3 and qualify to participate in the leadership election (eg this led to the election of Corbyn 2015)
- explanation and analysis of how the Conservative Party selects its leader. The Conservative Party had no formal mechanism for electing its leader until 1965. Between 1965 and 1997, the leadership election was restricted to the party's MPs alone. In 1997 The Fresh Future outlined the election rules that are applied today. The system of electing the leader consists of two stages. Conservative Members of Parliament vote until two candidates remain. Party members then vote on a one member one vote basis, such as in 2019 when Boris Johnson was elected as leader. The process has become more democratic internally with the greater involvement of party members
- explanation and analysis of how the Liberal Democrats select their leader. The Liberal Democrats have relied on postal ballots of members since 1975. AV is the electoral system that is used. Students for leadership must be MPs, with the support of at least 10% of Liberal Democrat MPs, at least 20 local parties and at least 200 members
- explanation and analysis of how there may only be one student on the ballot for leadership, either from the start of the process or by the final stage of voting (eg Theresa May 2016 was declared Leader without a vote from the party membership; Gordon Brown 2007; Vince Cable 2017)
- explanation and analysis of how minor parties select their leaders, such as the Green Party, who automatically hold leadership elections every two years and is considered to be more internally democratic in its involvement of party membership.

Students are required to consider only three ways. If a student exceeds this number reward only the best three. However, some may include relevant points not listed above and these should be credited. If a student gives only one or two examples they will receive a maximum of three and six marks respectively.

Student responses

Response A

3) One way political parties such as Labour select their candidates is through an AV voting system. This involves ranking your preferences of candidates. Then if there is not a clear 50% + winner, votes are reallocated.

Secondly another way political parties select their candidates is through conventions. The conservative party vote and select their candidate during a conservative national convention.

This is a Level 1 response

This response is largely descriptive. The response shows limited knowledge of the leadership elections for the three political parties identified. The supporting examples are vague and lack the development necessary to access Level 2 marks.

2 marks

Response B

The Conservatives select their leaders through the 1922 committee and the votes of the parliamentary conservative party. MPs the most significant part of the process the candidate must be endorsed by a large minority a least of Tory MPs. Do make use of One member one vote also, the meaning the candidate/leader is a representative of the whole party.

*OMOV

Labour make use of a one member one vote system, though use a Alternative voting system, first choice for leader given by voter & other ranked. MPs are significant in endorsing the candidates, however Corbyn won the leadership election in 2016 with only

the support of 15% of Labour MP. Grassroots movements and party members have more of an influence for the Labour leadership elections.

It is important to recognise the reduced influence of Trade Unions in the Labour party and after giving of the Block vote which formally contributed to leadership elections, which meant the ~~trade~~ head of a Trade Union could vote on behalf of the whole.

The Lib Democrats also make use of a
 OMOV system & an alternative vote. Though
 A vote vote wasn't needed in the last
 leadership election of the Lib Dems only had
 two MPs. However as membership is free
 turnout for the vote was high giving it
 legitimacy. It has been proposed that
 non-MP be able to run for leader in the
 future of the Lib Dem significant & this is not
 don't be the two main parties.

This is a Level 2 response

The student considers three political parties and explains some of the mechanisms by which their leaders are elected. They understand the role of the 1922 Committee for the Conservatives but do not develop their analysis of the role of party members. They make a valid point about the role of Trades Unions in the Labour party, but need greater clarity in their examination of the Corbyn leadership elections. This is a generally sound response which lacks the detailed understanding necessary for Level 3 marks.

6 marks

Response C

Conservative - support of 10 MPs then rounds until final 2 got OMOV

Labour - Support 10% MPs then at least 2 TU or 5% party
 - rounds voted on AV constituencies

Lib Dem - most democratic w/ 10% MPs and 200 members from 20
 - Goes to OMOV in rounds - diff local parties

The conservative elect their leader using largely using MP ballots with it going to members in the final stage. An MP must gain the support of a ~~first~~ ^{first} and a second of the 8 other MPs, ~~the~~ prospective leaders are then whittled down to 2 in MPs ballot rounds with Johnson winning ~~over~~ 160 votes to Hunt's with Hunt getting less than half that. It is then sent to a one member one vote system where Johnson gained $\frac{2}{3}$ of the vote and so was elected leader. This has become more democratic since the time before Macmillan where leaders were selected from ~~for~~ MP discussion but remains the least democratic of the 3 major parties

Labour leader candidates are required to gain the support of 10% of MPs and at least 2 Trade Unions or 5% of local party constituencies before running. Labour leaders are then selected through rounds using an alternative vote system which is more proportional and members vote throughout the rounds using one member one vote until a candidate gains more than 50% of the vote as Keir Starmer did in the first and only round gaining 56% of the vote and therefore being elected leader.

Labour is clearly more democratic than the Tories but not to the level the Lib Dem are as Trade Union power is still somewhat prevalent.

The Lib Dem follow a far more democratic federal structure than the other main parties as they have to gain the support of 10% of MP and 200 party members from at least 20 different local constituency parties. Lib Democrat the Liberal Democrats then follow the same rounds system using proportional one member one vote system which led to Sir Ed Davey being elected leader in the first and only round in gaining more than half of the vote. This reflects the Liberal Democrats emphasis on its members in policy and selecting leaders giving them much greater say and therefore a greater mandate for the leader.

This is a Level 3 response

This answer is very clearly constructed. The student demonstrates detailed knowledge of the methods of leadership election for the Conservative, Labour and Liberal Democrat parties. They provide examples of the most recent leadership elections for each of the parties (this answer was written before Johnson's resignation). They also provide analysis of the degree of democracy within each race and draw an excellent comparison with the selection of Macmillan as Conservative leader.

9 marks

Section B

Extracts cannot be included for copyright permissions. See Paper 1, June 2022.

Question 4

Analyse, evaluate and compare the arguments in the above extracts regarding the need for a codified constitution in the UK.

[25 marks]

Mark scheme

Target AO1: 5 marks, AO2: 10 marks, AO3: 10 marks

Level	Marks	Descriptors
5	21–25	<ul style="list-style-type: none"> detailed and accurate knowledge and understanding of relevant political concepts, institutions and processes are used to support analysis of the issue under discussion (AO1) analysis of the extract is balanced and confidently developed comparisons are well explained, are focused on the question and fully supported with relevant and developed examples (AO2) evaluation of the above leads to well substantiated conclusions that are consistent with the preceding discussion (AO3) relevant perspectives and/or the status of the extract are successfully evaluated in the process of constructing arguments (AO3) the answer is well organised, coherent and has a sustained analytical focus on the question (AO2).
4	16–20	<ul style="list-style-type: none"> accurate knowledge and understanding of relevant political concepts, institutions and processes are used to support analysis of the issue under discussion, though further detail may be required in places (AO1) analysis of the extract is balanced and developed, though some elements of the analysis could be expanded and/or developed further comparisons are relevant to the questions as set, and supported with examples (AO2) evaluation leads to conclusions that show some substantiation and are consistent with the preceding discussion (AO3) relevant perspectives and/or the status of the extract are evaluated in constructing arguments, although in some places there could be further development (AO3) the answer is well organised, analytical in style and is focused on the question as set.
3	11–15	<ul style="list-style-type: none"> generally sound knowledge and understanding of relevant political concepts, institutions and processes are used to support points made, though inaccuracies will be present (AO1) analytical points relating to the extract are made and developed in places, showing some balance, though some points are descriptive rather than analytical comparisons are made and may be supported by examples (AO2)

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		<ul style="list-style-type: none"> • evaluation leads to conclusions that are consistent with the preceding discussion, but that lack substantiation (AO3) • relevant perspectives and/or the status of the extract are commented on in constructing arguments, though evaluation is lacking depth (AO3) • the answer is organised, occasionally analytical and focused on the question as set.
2	6–10	<ul style="list-style-type: none"> • some knowledge and understanding of relevant political concepts, institutions and processes are used to support points made, though these contain inaccuracies and irrelevant material (AO1) • analysis of the extract takes the form of description in most places, with some attempt at balance, though many points are unsupported assertions (AO2) • comparisons tend to be limited and unsupported by examples (AO2) • some attempt to draw conclusions is made, but these lack depth and clear development from the preceding discussion (AO3) • relevant perspectives are identified and some awareness of the status of the extract is shown in the process of constructing arguments, though evaluation will be superficial (AO3) • the answer shows some organisation and makes some attempt to address the question (AO2).
1	1–5	<ul style="list-style-type: none"> • limited knowledge and understanding of relevant political concepts, institutions and processes, with inaccuracies and irrelevant material present throughout (AO1) • analysis of the extract takes the form of description and assertion, with little or no attempt made at balance (AO2) • comparisons tend to be superficial and undeveloped (AO2) • conclusions, when offered, are asserted and have an implicit relationship to the preceding discussion (AO3) • little or no evaluation of relevant perspectives and the status of the extract is present (AO3) • the answer shows little organisation and does not address the question (AO2).
0	0	nothing worthy of credit.

Indicative content

In the analysis and evaluation of the debate regarding whether the UK should adopt a codified constitution, as made in the extracts, students should be expected to cover areas such as the following:

- analysis and evaluation of how and why the UK is “unusual” in not having a codified constitution and why it is “one of only a few democracies in the world” not to have one. Reference may be made to the evolutionary nature of the UK constitution and its several sources. Comparisons may be made with Extract 2, which argues that there is “no need of a written constitution” and that existing constitutional arrangements are sufficient
- analysis and evaluation of the extent to which the current “arrangement is no longer adequate” due to its “lack of clarity”, as argued in Extract 1. Analysis and evaluation may focus upon the extent to which a codified constitution would provide greater clarity on what is and isn’t constitutional. Comparisons may be made with the arguments in Extract 2 regarding how the current constitution is sufficient in adapting to the “changing needs of the nation”. Codification would remove the flexibility and adaptability that the author argues is a strength of existing arrangements
- analysis and evaluation of how Extract 1 argues for the need of a codified constitution due to the failure of the current arrangement, even though “Britain does have a Human Rights Act” to “properly protect fundamental rights”. Comparisons may be made to arguments in Extract 2 that argues against the need for a codified constitution as “rights are protected in multiple ways” (eg statute law)
- analysis and evaluation of how Extract 1 argues for the need of a codified constitution due to the “inadequacy of the current devolution settlement”. Reference may be made to tensions between the devolved administrations regarding Brexit and the “minimal role” played by them. Some responses may reference more recent policy divergences for analysis (eg response to Covid). In comparison, Extract 2 argues that Brexit “is a question mainly for Westminster” due to international relations being a reserved power
- analysis and evaluation of how a codified constitution would provide greater institutional checks and balances by separating power, including “properly setting out the power of the devolved administrations”. Comparisons may be made to arguments in Extract 2 that raise concerns regarding how “codified constitutions dramatically increase the role of the courts”. Reference may be made to how this would give greater political power to unelected and unaccountable judges who would be called upon to determine whether laws and political processes are constitutional. Extract 2 clearly argues that the existing constitutional arrangements “balance and share power” effectively enough without the need for a codified constitution. This is different to the perspective of Extract 1
- analysis and evaluation of how a lack of a codified constitution has “exacerbated recent political crises in recent years” due to a “lack of clarity,” as argued in Extract 1. Analysis should be supported with examples, such as the questionable legal status of referendums and their impact upon parliamentary sovereignty. In comparison, Extract 2 does recognise how Brexit has revealed “unresolved tensions” in the UK constitution but does not believe that a “written constitution would resolve them.”

The analysis and evaluation of any political information is affected by:

- who the author is – their position or role
- the type of publication – newspaper, academic journal, electronic media
- the overt or implicit purpose of the author – to inform, persuade or influence

- the relevance of the extract to a political issue or concern, and how representative the extract is of a particular viewpoint.

Students will be expected to address some of these factors in their analysis and evaluation of the extracts:

- In relation to the extracts for this question, reference should be made to the fact that Extract 1 is taken from an article published by the Constitution Unit, based at UCL. It is educational and is the product of independent academic research. Extract 2 is taken from Prospect Magazine which specialises in current affairs, but the articles that it publishes may be more persuasive towards a particular political viewpoint.
- Extract 1 is written by Sionaidh Douglas-Scott, an academic Law Professor at Queen Mary University of London. She is arguing in favour of a codified constitution for the UK, based upon academic research and expertise in Law rather than political affiliation.
- Extract 2 is written by Adam Tomkins, a former Conservative MSP and also a Professor of Public Law. His political affiliations may be identified as a reason as to why he is against the UK adopting a codified constitution. His role as an MSP may be used to support his view that devolution illustrates how the British constitution can adapt sufficiently to the changing needs of the nation. However, as a Conservative MSP his political allegiances do not support a complete overhaul of existing arrangements by adopting a codified constitution and further clarifying the powers of the devolved administrations.
- Extract 1 was written in January 2020, after the December 2019 general election when the Conservative government gained a large overall majority of over 80 seats. This may be used to reference concerns within Extract 1 regarding the UK's uncodified constitution. Extract 2 was written in April 2019, before the 2019 general election, when there was a confidence and supply government and sufficient checks upon power, illustrated by 'all three branches of government' being brought in to play by the Brexit process. This may lead some students to agree with the arguments in Extract 1 and the need for a codified constitution due to the tensions across the UK regarding Brexit and also the situation that arises when a party with a large majority forms the government and the impact that this can have upon statute laws passed. However, some may agree with Extract 2, that the case for retaining the current status quo is sufficient and support the viewpoint that a codified constitution leads to concentrations of power in unelected branches of government, such as the Supreme Court, rather than being able to adapt and protect rights via statute law and common law. Some may cite Brexit as enhancing parliamentary sovereignty.
- Students are required to analyse and evaluate the arguments presented in the articles. Students who identify which arguments support which of the different views towards the need for a codified constitution may be awarded marks for analysis (AO2). To gain marks for evaluation (AO3) students must assess the relative strengths of the differing arguments and whether the arguments in Extract 1 regarding the need for a codified constitution are more convincing than those in Extract 2 that are against a codified constitution. The analysis and evaluation must clearly focus on the arguments presented in the articles.

My second point is that having a codified constitution would take a long time, the three points ~~have been~~ set out in the first extract have been easily ~~overturned~~ in the second extract in the first extract it says it takes a long time, however with a uncodified constitution it is easy to adapt to then make it more clear, ~~an~~ for example it is also harder to change a law in the UK than the US, the US need to have a two thirds majority in Congress as well as being approved in the house of representatives.

My third point is that in the first extract says ~~to~~ have a codified constitution will further protect fundamental rights this is contradicted in the second extract where Tomkins says "the British constitution continues to adapt to the changing needs of the nation" the view ~~of~~ of whether the

My fourth and final point is regarding the challenges to democracy, with ^{no} a codified constitution it would increase the role of the courts, passing power from the elected to unelected, this would challenge democracy because

~~My conclusion is that there is no need for a codified constitution, it would take a long time, it would make it harder to change laws, adapt current ones and more importantly who would write it.~~

~~Do referentives still sit on the legal status of referentives has not been clearly set out' this is written in the extract written by Sionath Douglas-Scott~~

This is a Level 1 response

This is a limited response. It is descriptive and largely based upon assertions stated in the extracts. There are frequent issues with clarity and organisation. There is a vague point about Dicey and the twin pillars of the constitution, but this could be developed. The comparison to the American system is inaccurate.

5 marks

Response B

A codified constitution is a set of rules that outline government functions and relationships between political institutions in a single legal document and is present in the majority of liberal democracies such as the US.

The first article outlined why a codified constitution is required in the UK whilst the title of the second article, 'Britain has no need of a codified constitution,' outlined a clear view against the introduction of a codified constitution.

The first article is expected to be politically neutral and have been in its original due to being taken from an informative source written by political experts. Whilst we express a bias against a codified constitution in the second article as the author was a former member of the Conservative Party who benefits from the current uncodified constitution. In this essay I will argue that we should ~~not~~ have a codified constitution to provide clarity and protect rights although I will discuss how the UK constitution does currently provide some.

Firstly, the UK should ~~not~~ have a codified constitution as it would provide clarity. The UK's current uncodified constitution is found across many sources such as the Magna Carta, the common law and not many more. As a result it is difficult for citizens to identify clear powers and relationships of the UK's political institutions. Politicians have resisted a political expert's attempt to codify the constitution such as Vernon Bogdanor's 'new British constitution.' This ~~was~~ the 'lack of clarity' was demonstrated by David Johnson's prerogative of pardon in 2019 which appeared to be a prerogative power of the PM but was found void by the Supreme Court to limit parliamentary sovereignty, a key aim of the constitution as outlined by AU theory, and this be 'unpopular.' This demonstrates clear issues of political relationships which could be removed with a codified constitution which had clear checks and balances. However, a codified constitution

would merely ^{threaten} ~~threaten~~ democracy by increasing the power of the 'unelected' ~~judges~~ as suggested by Adam Tomkins in the second article. However, overall the partial erosion caused by the uncodified constitution is itself undermining democracy and needs to be ~~be~~ addressed.

Secondly, the UK uncodified constitution occupies weak protection of citizens' rights. Within the constitution civil liberties and rights of the citizen are not entrenched nor are they enforceable via the judiciary. As a result this led ~~to~~ ^{to} an authoritarian government that circumvented natural individual freedom, which is a key feature of democracy. The constitution failed to 'protect fundamental rights' used precedent ~~is~~ when the UK government failed to respect voting rights of prisoners despite ~~it~~ ^{it} ~~was~~ ^{was} ~~not~~ ^{not} ~~enforced~~ ^{enforced} and appeals to the European Convention of human rights. The lack of entrenchment demonstrated a clear threat to democracy and individual ~~freedom~~ ^{living} ~~being~~ ^{being} in the UK which was highlighted via the Coronavirus Act 2020 which was described by Lord Sumner as 'the greatest invasion of personal liberty'. However, the UK uncodified constitution has been shown to protect rights via acts of parliament ^{such as} the human rights act 1998 as well as the consolidation of ~~the~~ ^{the} ~~rights~~ ^{rights} ~~of~~ ^{of} ~~1918~~ ¹⁹¹⁸. These changes and protection of rights were only possible due to the flexible and evolving nature of the uncodified constitution. However, on the whole the simple manipulation of the constitution demonstrates weak protection of rights which needs to be changed via a codified constitution.

(A) as Adam Tomkins clearly identified in Article 7.

~~Finally~~, on the other hand, the UK should keep its uncodified constitution as it promotes political pluralism. As outlined by Tomkins a good constitution 'shares power' and the UK constitution currently provides the executive, judiciary and

Legislative are with significant power. Whilst the executive can control the legislature due to the fusion of powers, the legislature can push back via scrutiny methods such as Select Committees. Whilst the judiciary can advise on a law via scrutiny the executive (legislature) using judicial review and the HRA. This was demonstrated via devolution where the court would be above the ministers of devolution whilst devolution had been implemented and reversed via Parliament. The judiciary most above the central government in Westminster is not above of the devolved bodies' policy when withdrawing power from Northern Ireland. Furthermore 'Brexit brought all three branches into play' further demonstrating the theory of power. However, in practice the executive wields significant power of the legislature that it has effectively become sovereign, such as Brexit's 79 seat majority, and the judiciary power in relation to the HRA is limited by parliamentary sovereignty. Therefore the outcome in practice leads to a quasi-dictatorship which needs to be solved via clear separation of powers in a written constitution.

In conclusion, it is clear that the weight of the evidence demonstrates how the guidelines must be changed in order to clarify partial power, devolve power and adequately protect rights. Thus the argument portrayed in Article 1 is more convincing, perhaps not primarily due to the ~~correct~~ ^{correct} internal nature of its source as opposed to the primary bias views in extract 2.

This is a Level 4 response

The student addresses the provenance in the introduction, where they consider that the former Conservative MSP would likely question the necessity of a codified constitution. The student also considers a range of arguments extracts are used and compared throughout the answer but further development would be necessary to progress within the level. The first paragraph shows understanding of the sources of the constitution and how this has impacted UK politics with the Miller ruling of 2019. However, the answer would benefit from greater development of the point regarding the powers of 'unelected' judges. The third paragraph would be improved with an example of judicial review under the Human Rights Act.

16 marks

Response C

The British constitution's uncodified nature can lead to criticisms over a lack of clarity and fundamental rights, but overall it works well because of its adaptability and minimal power of the judiciary.

The provenance of extract 1 improves its credibility as it is an independent piece written by a Professor, meaning it is likely well-researched, and intended to inform rather than persuade. Similarly, extract 2 is likely to be well researched as it is by a Professor, but the author being a Conservative may lead it to praise aspects of the constitution which have benefited the Conservatives.

Extract 1 is right to highlight a problem with the UK's uncodified constitution as being its lack of clarity, as this was evident during the Brexit process. The referendum in 2016 was not legally binding due to Parliamentary sovereignty, and this led to some calls for Parliament not to go through with Brexit, especially in the latter stages of the process when a no deal exit seemed possible. The ~~2017~~ *R (Miller) v Secretary of State for Exiting the European Union* (2017) case highlighted the unclear balance of power both between Parliament and the executive in triggering Article 50, but also between the judiciary and Parliament in its role in regulating Parliamentary affairs. This represents a significant weakness of the ~~UK's~~ uncodified constitution as the relationship between different branches of government can be uncertain, meaning that it is not obvious to the public where political power lies and therefore how to go about initiating change, which stands as a barrier to the democratic process in the UK.

However, extract 1's criticism of the lack of a codified devolution settlement is misplaced, as the UK constitution mostly makes for a clear and rigid devolution settlement. Although powers to devolved bodies such as the Scottish Parliament have been increasing since 1997, the uncodified constitution is still clear ~~the~~ on Parliamentary sovereignty, and this is seen in the fact that

attempts to secure a second Scottish Independence referendum are directed at Westminster rather than Holyrood. The judiciary also plays a key role in upholding the devolution settlement, striking down the Scottish Continuity Bill in 2018 and the attempt to enshrine the UN Declaration on the Rights of the Child into Scottish law in 2021 as these measures went beyond the power of the Scottish Parliament. Therefore, while extract 1 is right to highlight the lack of clarity of an uncodified constitution, it is wrong to apply this to the devolution settlement as the constitution has been rigid in its defence of the power balance between Westminster and devolved institutions.

Extract 2 is right to highlight the adaptability of the uncodified constitution as it has allowed changes such as Brexit and devolution in recent years. Parliamentary sovereignty in the UK, as opposed to constitutional sovereignty were it codified, has allowed the UK to easily amend the constitution in order to make necessary changes. The growth of national identities in Scotland and Wales has been accompanied by a gradual increase in devolution, from the Scotland Act, 1998 to the Scotland Act, 2016 and the Wales Act, 2017, which account for the large support for 'dev-nax' in Scotland and Wales. Similarly, the constitution has been flexible in changing the UK's relationship with the European Union, by allowing for the people to settle the membership question in a referendum in 2016. While there was some interference in Brexit from the judiciary in the Miller cases, the matter was resolved by elected lawmakers in Parliament with the European Union (Withdrawal) Act, 2018 and the European Union (Withdrawal Agreement) Act, 2020, which removed an entire institution from the UK's political system at the request of the people. Therefore, both Brexit and greater devolution show the UK constitution being flexible for a changing country, allowing the UK to redefine its relationship with the EU and Scotland and Wales to redefine their relationship with Westminster according to the wishes of the people. Therefore, the argument in extract 2 that the UK's constitution is flexible is stronger than the argument over a lack of clarity in extract 1 as the lack of clarity rarely prevents progress from being made, while the uncodified nature of the constitution is designed to allow it.

Extract 2 is also correct to identify the lack of judicial power as a strength

of the UK's uncodified constitution, although this has been under threat recently. A key advantage of an uncodified constitution is that rights are determined by elected representatives in Parliament, rather than by an unelected body's interpretation of an out-of-date document, as would occur with a codified constitution. The strength of this was seen in the case of the *Jobseekers Act, 2013*, which was deemed by the Supreme Court to be incompatible with the ECHR, but the sovereignty of elected representatives in Parliament meant that the legislation remained until there was a democratic will to amend it in 2020. The claim in extract 1 that the lack of judicial power undermines rights is misguided, as the Supreme Court does still have influence, seen in the incompatibility of the *Data Retention and Investigatory Powers Act, 2014*, with the ECHR, which led to its replacement with the *Investigatory Powers Act, 2016*. However, the crucial benefit of the uncodified constitution is that ~~the~~ the power to change the law lies only with Parliament, whose power is highly concentrated in the hands of elected representatives. Therefore, extract 2 highlights a key benefit of the uncodified constitution in the supremacy of elected representatives in Parliament over the judiciary, as this prevents judicial overreach. Although the influence of the courts has been increasing, seen in the case of *R (Miller) v The Prime Minister (2019)*, which declared the prorogation of Parliament illegal, the placement of an *order clause* in the new *Dissolution and Calling of Parliament Act, 2022*, should help to reduce the impact of the courts and place power back with Parliament. Therefore, extract 2 makes a strong argument in favour of the uncodified constitution, as the fact that political power is held by an elected Parliament is crucial to the democratic process in the UK.

Overall, it is clear that the arguments in extract 2 that the UK does not need a codified constitution are most convincing, as it gives power to elected representatives to uphold rights and make much-needed changes to the political system. While it is true that the balance of power can be unclear, although less so with regards to devolution, this problem could be addressed through legislation in an uncodified constitution, as with the *Constitutional Reform and Governance Act 2010*, which enumerated the role of Parliament in ratifying treaties. Therefore, the arguments of adaptability and democracy from extract 2 are correct to show that the UK does not need a codified constitution.

This is a Level 5 response

This is a detailed and accurate response to the question regarding the need for a codified constitution in the UK. The student shows sophistication in their consideration of the perspectives of the extracts. This is then consistently used throughout the response to inform their answer. The student uses a range of relevant and developed examples; showing particularly clear understanding of the roles of the judiciary and devolved powers in their consideration of the arguments presented in the extracts. The analytical focus is sustained throughout the response, the conclusion is well substantiated and consistent with the preceding discussion.

23 marks

Section C

Question 5

In your answer you should draw on material from across the whole range of your course of study in Politics.

'The UK judiciary has had an increasingly significant impact upon the working of the executive and Parliament since 1997.' Analyse and evaluate this statement.

[25 marks]

Mark scheme

Target AO1: 5 marks, AO2: 10 marks, AO3: 10 marks

Level	Marks	Descriptors
5	21–25	<ul style="list-style-type: none"> detailed and accurate knowledge and understanding of relevant political concepts, institutions and processes are used to support analysis of the issue under discussion (AO1) analysis is balanced and confidently developed (AO2) synoptic links are well explained, are focused on the question and fully supported with relevant and developed examples (AO2) evaluation leads to well substantiated conclusions that are consistent with the preceding discussion (AO3) relevant perspectives are successfully evaluated in the process of constructing arguments (AO3) the answer is well organised, coherent with a sustained analytical focus on the question (AO2).
4	16–20	<ul style="list-style-type: none"> accurate knowledge and understanding of relevant political concepts, institutions and processes are used to support analysis of the issue under discussion, though further detail may be required in places (AO1) analysis is balanced and developed, though some elements of the analysis could be expanded and/or developed further (AO2) synoptic links are relevant to the questions as set, and supported with examples (AO2) evaluation leads to conclusions that show some substantiation and are consistent with the preceding discussion (AO3) relevant perspectives are evaluated in the process of constructing arguments, although in some places there could be further development of the evaluation (AO3) the answer is well organised, analytical in style and is focused on the question as set.

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3	11–15	<ul style="list-style-type: none"> • generally sound knowledge and understanding of relevant political concepts, institutions and processes are used to support points made, though inaccuracies will be present (AO1) • analytical points are made and developed in places, showing some balance, though some points are descriptive rather than analytical • synoptic links will be made, though explanation will lack depth (AO2) • evaluation leads to conclusions that are consistent with the preceding discussion, but that lack substantiation (AO3) • relevant perspectives are commented on in the process of constructing arguments, though evaluation lacks depth (AO3) • the answer is organised, occasionally analytical and focused on the question as set.
2	6–10	<ul style="list-style-type: none"> • some knowledge and understanding of relevant political concepts, institutions and processes are used to support points made, though these contain inaccuracies and irrelevant material (AO1) • analysis takes the form of description in most places, with some attempt at balance, though many points are unsupported assertions (AO2) • synoptic links tend to be limited and undeveloped (AO2) • some attempt to draw conclusions is made, but these lack depth and there is no clear development from the preceding discussion (AO3) • relevant perspectives are identified, though evaluation is superficial (AO3) • the answer shows some organisation and makes some attempt to address the question (AO2).
1	1–5	<ul style="list-style-type: none"> • limited knowledge and understanding of relevant political concepts, institutions and processes, with inaccuracies and irrelevant material present throughout (AO1) • analysis takes the form of description and assertion, with little or no attempt made at balance (AO2) • few if any synoptic links are offered (AO2) • conclusions, when offered, are asserted and have an implicit relationship to the preceding discussion (AO3) • synoptic points tend to be superficial and undeveloped (AO2) • little or no evaluation of relevant perspectives is present (AO3) • the answer shows little organisation and does not address the question (AO2).
0	0	nothing worthy of credit.

Indicative content

In the analysis and evaluation of the statement students may be expected to cover areas such as the following:

- analysis and evaluation of the increasing significance of judicial review in the UK and the impact that it has had upon the working of the executive and Parliament since 1997, with analysis supported by examples such as *R (Miller) v Secretary of State for Exiting the European Union*, 2017
- analysis and evaluation of the impact of the Constitutional Reform Act 2005, with analysis supported by examples such as changes to the role of the Lord Chancellor
- analysis and evaluation of the extent to which judicial independence and the separation of powers have been enhanced by measures such as the Judicial Appointments Commission and the location of the court in a separate building
- analysis and evaluation of the impact of the Human Rights Act 1998, which has allowed senior judges to directly question statute laws, executive actions and government policy within UK courts. Analysis will be supported by examples
- analysis and evaluation of the impact of EU law and the precedent set under *Factortame*. However, many public policy areas remained within the remit of Parliament and Brexit removed the precedent of EU law over UK law
- analysis and evaluation of the extent to which the executive branch and Parliament consider potential conflicts in the courts when drafting legislation (eg the role of Parliament's Joint Committee on Human Rights)
- analysis and evaluation of allegations and criticisms of growing judicial activism in recent years. However, judges do not have the power to enact legislation or policy, unlike Parliament and the executive branches of government.

Synoptic links may be found in areas such as the executive, Parliament, US Supreme Court, rights, US Constitution and the Bill of Rights, the EU. Any response that does not include synoptic points cannot achieve above Level 4.

Students would not need to cover each and every one of the above points to gain high marks; equally, some may introduce further relevant points and these should be credited. The conclusion should clearly focus on the issue in question. In their evaluation, it does not matter what view students reach. However, their position must be supported by their arguments and examples.

Student responses

Response A

5). I strongly agree that the UK judiciary has had an increasingly significant impact upon the working of the executive and Parliament since 1997 as it has the ability of judicial review/ultra vires rulings and can delay important acts of legislation

Firstly, the UK judiciary has had an increasingly significant impact upon the working of the executive /Parliament since 1997, as their powers have increased. Following the Constitutional Reform Act, the UK judiciary left the House of Lords and became a completely separate branch of government. This also meant their ~~the~~ powers increased, specifically their power of ultra vires rulings. The UK Supreme Court case Miller vs PM (Johnson at the time) involved the proroguing of Parliament in order to pass Johnson's Brexit deal. The UK SC deemed Johnson as acting ultra vires after judicial review. This means he was acting above his powers. This ruling hugely impacted the working of the executive and Parliament as it slowed down the fulfillment of the Brexit deal, which was Johnson's flagship policy, "Get Brexit Done". However this did cause some public unrest as the Brexit process had already been a long and testing process, seen through May's

unsuccessful 'checkers deal'. On the other hand there have been no ~~change~~ amendments to the constitution to increase the UK judiciary powers, therefore structurally they have not had an increasingly significant impact, instead their size of impact has stayed constant.

In conclusion, the UK judiciary has had an increasingly significant impact as the status of the rulings can cause Parliament to either redo the legislative process

This is a Level 2 response

The student demonstrates some knowledge of the Supreme Court Miller ruling and the significance of this to the working of the executive and legislature. The answer is largely descriptive and shows little awareness of the implications of the question. The student fails to demonstrate any knowledge or analysis of how the role of the judiciary has changed since 1997.

6 marks

Response B

While it can be argued that the UK judiciary has had an increasingly significant impact on the working of the executive and Parliament since 1997 due to its application of the ECHR and judgements on ultra vires cases, these impacts have been fairly minor and Parliamentary sovereignty continues to guarantee the inferior status of the judiciary.

~~However~~ There is credibility in the argument that the UK judiciary has had an increasingly significant impact on the working of the executive of Parliament since 1997, due to the application of the ECHR as per the Human Rights Act, 1998. Placing the ECHR into British law has allowed a number of judicial reviews to be made by the Supreme Court (UKSC), such that there are now thousands of judicial reviews each year compared to hundreds in the 1970s. Judgements under the ECHR such as *R (on the application of) Secretary of State for Work and Pensions (2019)*, which dictated that the government must calculate housing benefit before the deduction of bedroom tax, shows that the UKSC is having an increasing role in UK politics through its application of the ECHR. The effect of this is seen in Parliament in the Joint Committee on Human Rights, which raised questions over the legality of the Police, Crime, Sentencing and Courts Bill in 2021, showing the impact of the judiciary in the workings of Parliament. Therefore, a case can be made ~~that~~ that judicial influence has increased, as legislation now has to be much more careful to abide with the ECHR in order to avoid interference from the judiciary.

Despite this, the ~~greater~~ ^{impact} influence of the judiciary is lesser given how minor its rulings are in the context of UK politics. While the UKSC has gained influence under the ECHR seen in the aforementioned ruling on housing benefit, these decisions are of negligible importance to the UK political system when the wider picture is considered. The calculation of housing benefit is of far less significance than areas of public policy such as taxation and healthcare, and

in these more important areas, the influence of the judiciary is minimal. Nevertheless, the power of the UKSC in judicial review looks set to decrease anyway, amidst plans to allow ministers to override judicial review, and the insertion of an ouster clause into the Dissolution and Calling of Parliaments Act, 2022, continues that the judiciary will continue to have influence in future. Therefore, while there ~~was~~ has been increased judicial ^{impact} ~~influence~~ over Parliament and the executive since 1997 under the ECHR, this affects only minor areas of government policy, and the influence is set to decline in future too.

A different area where the judiciary has certainly had greater ~~influence~~ impact since 1997 is in ultra vires cases, regarding both the government in Westminster and the devolved governments. The intervention of the UKSC in the Brexit process in both *R (Miller) v Secretary of State for Exiting the European Union* (2017), and *R (Miller) v The Prime Minister* (2019) showed drastically increased influence over Parliament and the executives, as the judiciary became highly involved in the relationship between the two branches of government. Unlike application of the ECHR, this had a profound impact on the UK political system, with the 2017 decision forcing a vote in Parliament to trigger Article 50, and the 2019 decision forcing the calling of a general election to resolve Brexit. On top of the Westminster government, the UKSC has intervened to curtail the powers of the Scottish executive and Parliament in striking down the Continuity Bill in 2018 and attempts to enshrine the UN Declaration of the Rights of the Child into Scottish law in 2021, deeming that the Scottish government went beyond its powers, representing a significant influence over the balance of power between the devolved and the national Parliament in Scotland. Therefore, interventions by the UKSC in the Brexit process and in the balance of power ~~with~~ with regards to devolution show that the judiciary has had increasing influence over the executive and Parliament since the devolution programme commenced in 1997, as it has forced actions such as a general election and petitioning to Westminster for a second independence referendum where the decisions would otherwise have been taken elsewhere.

However, despite the growing influence of the judiciary on the executive and Parliament, it remains clear that Parliament is sovereign, and the influence of the judiciary has not grown to a point where this can be challenged. Despite

high-profile interventions in the Brexit process, the ~~UKSC~~ UKSC was powerless to uphold laws such as the Fixed Term Parliaments Act, 2011, in the calling of the 2019 general election, as Parliamentary sovereignty means that ~~the~~ the UKSC cannot simply strike down an Act of Parliament. Its lack of influence was also seen in regards to the Jobseekers Act, 2013, which the UKSC declared incompatible with the ECHR, but the legislation remained active until it was amended in 2020 due to ~~the~~ the UKSC's lack of ability to ~~force~~ force Parliament to comply with the ECHR. This is significant as it shows that, even if the ~~impact~~ impact of the judiciary on the working of the executive and Parliament has increased since 1997, these changes are not enough to challenge the principle of Parliamentary sovereignty which is crucial in the UK's political system. Therefore, it is important that the increased impact of the judiciary is not overstated due to the lack of major change to the UK's constitutional arrangements.

Overall, while it is clear that the UK judiciary has had an increasingly significant impact upon the working of the executive and Parliament since 1997, it is important to consider that the change in its influence has been minor. Although the Human Rights Act, 1998, devolution and the creation of an independent Supreme Court have allowed for the influence of the judiciary to increase, seen in the application of the ECHR and ultra vires decisions, the impact of this has been relatively minor. The changes have done little to undermine Parliamentary sovereignty as a key principle of the UK constitution, and the ECHR judgments have only involved minor decisions. Therefore, the increase in judicial influence has been relatively minor, and its influence is set to fall in future with new restrictions on the power of judicial review, meaning that the increased impact we have seen has ~~been~~ led to no major reconfiguration of the British political system.

This is a Level 5 response

This response begins with clear understanding of the significance of changes made after 1997, particularly the implications of the Human Rights Act (1998) and how this has impacted both the judiciary and the drafting of legislation. The student shows sophisticated awareness of the nature of judicial review as well as ultra vires rulings against the UK and devolved governments. There is detailed and accurate analysis of parliamentary sovereignty supported well with the example of the Jobseekers (Back to Work) Act (2013). The conclusion is clear and well supported by the preceding discussion. The answer would benefit from a little more development of the point on changes to judicial review (and perhaps some consideration of proposed changes to the Human Rights Act). It is, nevertheless, a comprehensive response.

23 marks

Question 6

'Representative democracy is in crisis in the UK.' Analyse and evaluate this statement.

[25 marks]

Mark scheme

Target AO1: 5 marks, AO2: 10 marks, AO3: 10 marks

Use [Level of response on pages 38 and 39](#).

Indicative content

In the analysis and evaluation of the statement, students may be expected to cover areas such as the following:

- analysis and evaluation of the nature and features of representative democracy, with analysis supported by examples (representation, accountability, legitimacy, participation, power dispersal)
- analysis and evaluation of the extent to which referendums (eg EU, AV) have challenged representative democracy and the doctrine of parliamentary sovereignty. Reference may be made to Burke's trustee model of representation
- analysis and evaluation of the extent to which party discipline has challenged representative democracy and how MPs may be conflicted between balancing the interests of the party and party members who selected them with the interests of wider constituents. Reference may be made to the mandate model of representation. However, MPs are still accountable to their constituents and follow the delegate model (eg Zac Goldsmith 2016)
- analysis and evaluation of the extent to which the under-representation in Parliament of a wide range of social groups (eg women, ethnic minorities) has had an impact upon representative democracy. Reference may be made to the 'male, pale and stale' image of many MPs and the theory regarding the need for Parliament to be a microcosm of society
- analysis and evaluation of the extent to which unelected institutions, such as the House of Lords or the monarchy, undermine representative democracy with analysis supported by examples (92 hereditary peers, cash for honours)
- analysis and evaluation of the extent to which representative democracy is in crisis due to the electoral system of FPTP that is used for general elections (eg 2019, the Conservatives won 365 seats on just under 44% of the popular vote). Safe seats lead to a lack of real choice in many constituencies. Comparisons may be made to the use of more proportional electoral systems (eg AMS in elections to the Scottish and Welsh Parliaments) and their impact upon representation and the party system
- analysis and evaluation of the extent to which pressure groups enhance representative democracy, with analysis supported by examples (Howard League for Penal Reform, Liberty). However, elitism occurs with powerful groups dominating due to factors such as status and financial resources. Reference may be made to the theories of Dahl and Mills.
- analysis and evaluation of extent to which the franchise has been extended across the UK, with analysis supported by examples such as sixteen-year olds voting in the Scottish Independence referendum, 2014 and local elections. However, there are still many who feel disenfranchised (eg advocates of extending the franchise to 16- and 17-year olds for general elections, votes for prisoners.) Some responses may discuss participation and differential turnout for analysis.

- analysis and evaluation of the extent to which representative democracy has been enhanced by devolution across the UK due to the dispersal of power.

Synoptic links may be found in areas such as pressure groups, electoral systems, referendums, political parties, Parliament, voting behaviour, democracy and political participation and devolution. Any response that does not include synoptic points cannot achieve above Level 4.

Students would not need to cover each and every one of the above points to gain high marks; equally, some may introduce further relevant points and these should be credited. The conclusion should clearly focus on the issue in question. In their evaluation, it does not matter what view students reach. However, their position must be supported by their arguments and examples.

Response A

6. I do not believe that ~~the~~ Representative democracy in the UK is 'in crisis' in the UK, ~~as I believe that~~ but it doesn't meet all aspects, as it ~~meets~~ fulfills the features of Rule of Law and free and fair elections however, representation is not properly fulfilled in the UK.

Firstly, one feature of representative democracy in the UK is rule of law. Rule of law is the theory by A.V. Dicey that everyone in the UK is subject to the laws of the land including the executive. This is fulfilled in the UK as the UK have an ~~into~~ a good judicial system and the highest court of appeal in the UK is also independently elected by the judicial appointments committee and 'are separated from the other branches of government such as after the Constitutional Reform Act from 2005 which gave them their own branch. This makes them completely independent and so they can effectively run without influences. An example of Rule of Law being applied in the UK is in 2022 when Boris Johnson was fined for having a drinks party during lockdown which was his own rule. This shows that everyone is subject to the law in the UK. Additionally, ministers can be checked for not breaching their power and breaking the law. This can be seen through the expenses scandal of 2009 which led to 2 MPs going to jail. The US can also be argued to have effective rule of law, as Presidents can go through Impeachment trials, for example, in 1974 Richard

Nixon went through impeachment trials over the Watergate scandal where he broke the law and it led to him having to resign. However, there are exceptions in the UK as the Queen and diplomats, are exempt from Rule of Law. For example, a US diplomat's wife, Anne Saccolas was in the UK, and drove on the wrong side of the road which ended up killing Harry Dunn who was on the right side of the road and she claimed diplomatic immunity and ~~didn't receive any~~ wasn't subject to rule of law.

Secondly, The UK also meets the feature of a representative democracy which is the idea that there are free and fair elections in the UK. This can be seen to be true as the UK has universal suffrage, meaning everyone over the age of 18 can vote after the representation of the people's Act 1969. However, there are arguments that the UK should allow vote for 16 year olds like they do in Scotland. This is argued by the Vote at 16 campaign. Nonetheless, this still means that the UK election is free as everyone can vote who is an adult. Additionally, the UK also has fair elections as parliament cannot bind its successors meaning the election result is the will of the people. For example, until the election in 1997 John Major was in power with a LID seat majority but the 1997 election saw Tony Blair, a Labour candidate into power with a 179 majority. Showing that results are completely fair and parliament can't bind its successors. It can be argued that the US doesn't have completely free and fair elections as many states have put in provisions for the ban of postal votes and early voting due to claims of corruption but this will stop a lot of people being able to vote.

Finally, although the UK representative democracy is not in crisis on basis of Rule of Law and free and fair elections, it could be argued that it is in crisis on the basis of representation this is because it can be argued that the House of Commons

does not represent the population through means of mirror representation. For example, in the UK there are 51% of females, whereas in parliament there is only 34% showing under-representation of women. On the other hand, men are over-represented as only 49% of the population is male but 66% of MPs are men. Finally, LGBTQ+ are also over-represented as only 6% of the population is LGBTQ+ but 8% of MPs are LGBTQ+. This shows that parliament is not meeting its representation feature

and is therefore, in a crisis. It can also be argued that MPs don't meet the representation feature of a representative democracy. This is because if the UK was fully representative then the ~~the~~ MPs would follow the delegate model of representation which is where they are the mouthpiece for their constituency whereas most MPs follow the mandate theory which is where MPs are elected to fulfill their mandate as it is argued that most people vote for their party, rather than one candidate MP. The US can be seen to represent its members well as the house of representatives is ~~made up~~ divided into districts in a state so they can more easily listen to their ~~the~~ ~~constituents~~ districts concerns whereas the UK only has one MP per constituency making it harder. However, Zac Goldsmith can be seen to fulfill the representative function of a representative democracy as he voted against party lines, against the expansion of Heathrow airport and when it was approved he resigned, showing him representing his voters base.

In conclusion, I don't think that the ~~the~~ representative democracy in the UK is in a crisis as it meets the features of the rule of law and free and fair elections and although, it doesn't specifically meet the representation feature, we have seen efforts to make this happen for example, David Cameron's A-list tried to make the conservative candidates more diverse and better meet the mirror representation that would make the UK democracy more representative.

This is a Level 3 response

This is a generally sound response. The student considers the nature and extent of the rule of law in the UK and endeavours to draw comparisons with the USA. Some of the language lacks clarity (such as referring to judges being 'elected'). There is some drift away from the focus of the question in places. The indicative content provides a guide to where the student could have better explored the nature and extent of representative democracy.

14 marks

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