The standard of answers was generally high. A majority of students appeared to be well prepared and many accurate and detailed responses were seen.

However, questions that did not exactly follow traditional patterns and which provided a slightly greater challenge to students were not so well answered. This was particularly evident for questions 13 and 16. As before, it appears that students were generally thorough in learning specific material that they expected to be relevant and to which ‘standard’ answers are prepared. However, they were less ready, or able, to adapt to slightly ‘unexpected’ questions. Consistent with previous years, the best responses to evaluative questions showed evidence of real understanding which was supported by evidence.

Similar to many previous series, students from each centre tended to focus on particular topics. Accordingly, many answers had uniformity of content and the order in which points and information were introduced was very similar. There seemed to be a more even coverage of topics selected from Sections A and B, and it was particularly pleasing to see some more students attempting the topic of the judiciary. In Section A, the questions on delegated legislation and statutory interpretation appeared to be the most popular. In Section B, the questions on criminal courts and lay persons were overwhelmingly the most popular.

Section A: Law making

Parliamentary Law making

Question 01

In this question students were required to describe either the Law Commission or pressure groups as an influence operating on Parliament in the law making process. The majority of answers addressed pressure groups although, often, the quality of Law Commission answers was higher. An explanation for this may be that the focus of the Law Commission answers tended to be more directly linked with being an influence on Parliament.

If pressure groups were chosen answers could have covered:

- the meaning of a pressure group
- different types of pressure groups, including insider and outsider groups, cause groups and sectional groups
- who and how pressure groups influence e.g. lobbying, in order to get their message across
- an example of a campaign – whether successful or not.

Answers were generally accurate when describing the different types of groups and some campaigns. However, they were less strong on suggesting how groups can influence, and particularly how they can influence Parliament, as opposed to government. Also, many answers were quite general, and focused on pressure group activities rather than on how they influenced Parliament. Some answers had rather a narrow focus and concentrated on just one type of pressure group. To do well, answers should have considered different types of pressure group and
those students who did consider different types, were generally able to comment on the degrees of success that each type had.

If the Law Commission was chosen an answer could have covered:

- who works for the Commission
- how it works in investigating issues and reviewing the law
- its role in codifying and consolidating law
- its role in recommending repeals of law.

Consideration of examples of each of these points, and comments on the success in implementation of its recommendations by Parliament, would have enhanced answers. Many, generally accurate answers were seen detailing the roles of the Commission. Most answers were able to identify some aspects of the role in recommending new legislation or reforming or repealing out of date laws. Also, many were able to comment on the degree of success that the Law Commission has with its proposals. However, it was often stated that the Commission could change, introduce or repeal laws, whereas its role is to recommend to Parliament, and for Parliament to decide whether to act on the recommendations.

Question 02

In this question students were asked to describe the process in the House of Commons in the making of an Act of Parliament.

Answers could have described:

- the difference between public bills and private members bills
- the introduction of the bill at first reading by the minister or other promoter
- the purpose and procedure of each stage in the House of Commons
- the ping-pong procedure
- the supremacy of the Commons over the Lords, with reference to the Parliament Acts.

As has been said many times in the past, reference to Green and White Papers could not be credited in this procedural question, as they are published before a measure reaches the introduction of a bill. This question was generally answered well, with many students scoring high marks. The Parliamentary process in the House of Commons was often explained well, though a significant number of answers also included reference to Green and White Papers. Others spent a considerable time detailing the introductory first reading stage at the expense of some of the more important later stages. Most answers dealt with the requirements of the question, and only briefly with the different procedures and powers of the House of Lords, and the effect of the Royal Assent.
**Question 03**

In this answer students were required to discuss disadvantages of the Parliamentary law-making procedure.

Points for discussion could have been:

- the possible delay in dealing with an issue after a report has been issued, particularly following Law Commission reports
- alternatively, the enactment of ‘knee-jerk’ legislation to deal with a perceived problem. A common example, was the passing of the Dangerous Dogs Act
- debates, particularly in the House of Commons, can take a political approach rather than the House considering the genuine need for new legislation
- democracy - the House of Lords is not elected and many MPs only represent a small percentage of their constituents
- language – students may well be aware from their own research that legislation is often written in complicated language and there is seldom consolidation or codification of laws with the result that there is often the need to read more than one document to find the law on an issue
- legislation may be a compromise between the Commons and the Lords, rather than in its best form that achieves its original aim.

Answers d to make some of these points. Stronger answers developed the points into a detailed discussion, while weaker answers tended to make the points in forms of assertion rather than a discussion. Some answers ignored the question and covered advantages as well, which could not be credited. Some answers took a political approach and drew attention to issues of democracy, such as the role of the unelected House of Lords, or the domination of the Commons by the majority party. Other answers commented on the unsatisfactory nature of the process, such as it taking too long, or having insufficient scrutiny; while some students focused on the quality of the legislation that emerged, such as flawed Acts (the Dangerous Dogs Act was a popular choice) or complex, obscure language. All of these approaches were appropriate if done well, and resulted in high marks.

**Delegated legislation**

**Question 04**

In this question students were required to describe briefly two different forms of delegated legislation. It was open to candidates to decide which of the three main forms to discuss.

For statutory instruments the description could have covered the points that they are forms of law made by government ministers who have delegated powers under the authority of some form of primary legislation within the area of their responsibility. The use of such laws could have been covered. Examples of use could have been to update an existing law, to provide detailed rules within a framework Act, or as commencement orders for the whole or part of an Act.
For by-laws the description could have covered how they are made, often under delegated powers such as the Local Government Act 1972, and approved by a government minister. By-laws can also be made by public bodies and companies such as transport operators and the National Trust. Examples of these forms of by-laws would have enhanced answers.

For Orders in Council the description could have covered that they are made by the Privy Council, that they can be made when Parliament is not sitting, or in emergencies. Examples of their use include the Afghanistan Order and order to dissolve Parliament or to reorganise responsibility of government departments. In addition, they can also be used to bring an Act into force.

There were many excellent responses which achieved full marks. Stronger answers were clear on the descriptions of the form of delegated legislation, how it is made, the main uses of it, and contained specific examples.

When describing by-laws, most answers were able to describe the role of local authorities and companies and give examples of the types of local laws that could be made. Orders in Council were generally well described, though weaker answers could be quite broad. Many answers gave the example of the change in status of cannabis, which was often described as an emergency measure. This example does not describe the major thrust of the use of Orders in Councils.

Coverage of statutory instruments often lacked breadth, and answers tended to concentrate on such legislation adding details to an Act. The Minimum Wage Regulations were often accurately used as an example. Frequently, as has been mentioned in previous reports, a good number of students considered that an Act of Parliament, such as the Minimum Wage Act, was a piece of delegated legislation. Centres should be encouraging their students to understand the difference between primary and delegated legislation.

Question 05

In this question students were required to describe Parliamentary control on delegated legislation. This could have covered points such as the power of Parliament to repeal a piece of primary or delegated legislation and set limits in the initial enabling Act. Checking of legislation can be carried out by scrutiny committees of MPs asking questions of ministers to check the legislation is within the limits imposed by the enabling Act. In addition, there are the affirmative and negative resolution procedures.

For the well-prepared candidate, this was a straightforward question. There were some good answers from students who clearly understood the different Parliamentary controls. However, some answers were rather general, or were confused on the differences between negative and affirmative resolutions. Some students covered a narrow range of controls, and others talked about issues like publication or the power of ministers to approve by-laws, which are not Parliamentary controls. Some students wrote about judicial rather than Parliamentary controls, which received no credit.

Question 06

In this question students were required to briefly discuss advantages and disadvantages of delegated legislation.

For advantages, points that could have been made included:
• it can save Parliamentary time, allowing Parliament to focus on major issues, it can be made quickly and it can be used in the case of emergency. This applies particularly to Orders in Council

• it is often made to cover technical matters. It can be used to fill in any gaps in primary legislation, and experts can be consulted for specific detail

• it is flexible, particularly in the case of by-laws, as different laws can be introduced in different areas, as required, to deal with local need or to deal with specific issues

• statutory instruments can complete the detail of a framework Act, or deal with regular changes, such as annual changes to the minimum wage

• some form of control is possible, either by Parliament or the Judiciary

• there is some form of democracy, as by-laws are made by local politicians and statutory instruments are made by, or in the name of, elected ministers.

For disadvantages, points that could have been made included:

• it is undemocratic as it may be made by unelected civil servants (acting behind government ministers) or Privy Councillors

• the sheer volume – over 3,000 statutory instruments are made every year

• the lack of publicity – despite the internet, it may be difficult to find a piece of delegated legislation, when it came into force, or that at piece exists at all

• the need for control – there is the possible need for more effective Parliamentary or judicial control of all forms of delegated legislation

• there is limited scrutiny and control of Executive power; partly due to the volume of statutory instruments, there is limited scrutiny in Parliament, and orders in council and by-laws have limited, if any, scrutiny

• many pieces of primary legislation can only work if supported by delegated legislation, giving limited chance of debate or scrutiny of detail; this is especially so for items in the ‘red book’, giving effect to many detailed rules in the budget

• the length and expense of judicial review, no legal aid is available for applicants, there is the ‘interest’ test before an action can be launched, and, recently, governments are seeking to reduce the availability of this remedy.

Many good answers were seen as answers covered several of these points and supported each point with appropriate evidence. Compared to other topics, fewer answers were seen which consisted of unsupported assertions.
Statutory Interpretation

Question 07

In this question students were required to outline internal and external aids of statutory interpretation. Answers should have defined briefly each type of aid and, ideally, supported their outline using some examples.

Internal aids could include:

- the long and short titles of an Act
- any preamble
- any definitions included in an Act
- any interpretation section of the Act
- and the detail given in a schedule to an Act.

External aids could include:

- an authorised dictionary from the year in which the Act was passed
- if the word is defined in an international treaty entered into by the UK, such as the Treaty of Rome, or subsequent EU treaties
- a report (such as a Law Commission report) on which the Act is based or a previous statute
- if the word is included in the Interpretation Act 1978 e.g. ‘he’ includes ‘she’
- if the word of phrase has been discussed in a Parliamentary debate, and is included in a Hansard report of the debate.

Most answers were able to identify appropriate examples of both internal and external aids. Stronger responses referred to specific case examples, particularly for external aids. Cheeseman v DPP, Vaughan v Vaughan and Pepper v Hart were the most frequently cited cases. Centres should note that the question referred to aids in the plural and therefore an answer which dealt with just one aid could not receive the highest marks.

Question 08

This question required an explanation of the mischief rule. The meaning of the rule needed to be explained, together with an outline of the requirements set out in Heydon’s case, from where the requirements of the rule originated. Then, there had to be an explanation of how the rule has been used in cases.

The most common example used was Smith v Hughes, but also seen were Elliot v Grey, DPP v Bull, Corkery v Carpenter, and RCN v DHSS.
Stronger answers were able to apply the rule to a case, in order to show how and why judges reached their verdict. Weaker answers tended to recite facts but with no application to the rule. Many answers made reference to Heydon's case as a means of discovering the intention of Parliament. Most answers referred to Smith v Hughes as a case example. To achieve the highest marks, students illustrated the mischief rule being applied by the court. Many answers were unable to take this final step.

There was also a significant number of disappointing responses, in which students displayed confusion or lack of knowledge, particularly referring to aspects of the golden rule and associated cases.

Question 09

This question required a brief discussion of both the advantages and disadvantages of the mischief rule.

Points that could have been made for advantages included:

- the avoidance of unjust outcomes, for example, as in Berriman. Many answers referred to the absurdity of this decision, but this is a comment that relates more closely to the golden rule. The use of the mischief rule deals with the justice of a decision, rather than any absurdity
- its flexibility in allowing judges to apply law as really intended by Parliament, such as in Smith v Hughes where Lord Parker said that the Street Offences Act was designed to clean up the streets
- that judges can fill in the gaps in legislation to arrive at ‘right’ or ‘just’ results
- it saves Parliament from having to pass an amending Act
- it allows judges to update law, so as to take account of changing social conditions, such as in RCN v DHSS.

Points that could have been made for disadvantages included:

- that too much power is given to the unelected judiciary, and that the use of the rule encourages judicial law making, such as in Smith v Hughes. An obvious counter point to this, which was not seen in any answer, is that, presumably, Parliament must have been content with the judge’s interpretation, as no subsequent Act was passed to replace the decision
- it may be difficult to identify the mischief in the previous law and find to Parliament’s real intention
- it can lead to unpredictable results and lawyers may find it difficult to advise their clients
- it can be said to be outdated and not fit to deal with current issues.

Most students were able to discuss some relevant advantages and disadvantages of the rule, although weaker answers read like a list of points which were unsupported by evidence or cases.
Many answers cited literal rule cases and argued that the mischief or purposive approach would have produced a better outcome. Most responses identified as a disadvantage, a lack of respect for the sovereignty of Parliament, but some students tried to argue, at the same time, that the rule respected the intention of Parliament. These points required further development and clarification, but this was only provided in few responses. Several answers wrote about the mischief rule as if it were identical to the purposive approach. A common issue with this question was the use of case examples. Case examples can be from the mischief rule, or from other rules, such as the literal rule, but they must be used in support of the argument being put forward.

**Judicial Precedent**

**Question 10**

This question required an outline of the term *ratio decidendi* and a brief description of the use of law reports.

An outline of *ratio* required the point that it is the reason for the judge’s decision in case, that it is the binding part of the decision, and that, if it comes from a judge in a higher court, it has to be followed by judges in the lower courts. The outline should have been supported by a case example illustrating the *ratio* of a decision; *Donoghue v Stevenson* and *Howe* were often seen as such examples.

A brief description of law reports could have included:

- the need for reporting to publicise judgements, and that reports include statements of law for lawyers and judges and academics, to be used as a precedent in later cases

- an official law report is an accurate and authorised record of the reasons for the decision

- that a report contains the facts of the case, the judge’s summary of the issues and arguments, the decision and the reason(s) for it. Many answers considered that a law report contains all evidence from the case, rather than a summary

- that official reports are written by specialist lawyers and approved by the judge handing down the decision

- an example of a series of authorised reports such as the Law Reports, Weekly Law Reports, All England Law Reports, The Times, Bailii, rather than just saying they could be found on the internet.

There were many good answers seen to this question. Several answers pointed out that the ratio in the lower courts could act as a persuasive precedent in the higher courts, particularly if the decision is reported. Most answers to law reports showed a good understanding of why law reports existed and what was in them, but there were fewer examples of the different series of reports identified.

**Question 11**

In this question students were required to outline the use of the Practice Statement by the Supreme Court, and how judges can distinguish a precedent.
For the first part, the answer could have covered what the Practice Statement says and used a case example to show its operation. Well-prepared students tackled this part of the question effectively and were able to refer to relevant cases to illustrate the use of the practice direction. *Herrington Anderton v Ryan* and *Shivpuri* were often seen, with occasional reference being made to *Hoare*. Some responses covered overruling in general without linking this to the Practice Statement. There was little attempt to say why the Supreme Court has used the Practice Statement. However, in many cases this was compensated by coverage of the point that the Supreme Court is often reluctant to use its powers.

An outline of distinguishing could have covered:

- what distinguishing is
- which judges can distinguish
- a case example of when judges have distinguished.

There were many good responses, especially those explaining distinguishing. Most students could use an appropriate case example – the most common being *Balfour v Balfour*, which was distinguished in *Merritt v Merritt*. Occasionally reference was made to *R v Brown*, which was distinguished by the Court of Appeal in *R v Wilson*. Weaker responses covered the facts of *Balfour* and *Merritt* without identifying the distinguishing features.

**Question 12**

In this question, students were required to discuss advantages of judicial precedent.

The following points could have been discussed, and this was an answer where the support by a case example was particularly appropriate evidence:

- certainty – a judge had to reach a decision in a case; lawyers can advise their clients on the state of law and how it will affect their case
- flexibility – judges are used to adapting the law to new or slightly different situations
- a case which comes to court is a real (as opposed to theoretical) case
- precedent decisions (particularly of the appeal courts) provide detailed rules for later cases to follow; it is just that similar cases with similar points of law should be decided in the same way
- judges (particularly in the higher courts) carry great authority and their decisions are respected as being impartial
- there is a benefit to new or inexperienced judges in the lower courts being able to rely on the reasoning from the judgements of more senior judges.

Stronger answers accurately discussed appropriate points and supported the discussion with relevant cases. In weaker responses, points were often briefly made and did not develop the point or refer to supporting case examples. Some responses tended to focus on issues such as
sentencing and the weaknesses of precedent in its relation to unfair sentencing. Their responses were rarely convincing. This series, it was notable that there was a tendency for students to become confused with cases relating to the topic of statutory interpretation, and that students rarely mentioned the fact that deciding like cases alike leads to equality of treatment and justice. As always, a small minority of students misread the question and considered disadvantages of precedent, or discussed both advantages and disadvantages.

Section B: The Legal System

The Civil Courts and Alternative Dispute Resolution

Question 13

This question was in two parts. Firstly, it required an outline of the civil trial courts that can hear cases involving claims for compensation. Secondly, it required a brief explanation of out of court settlement by negotiation.

An outline of the civil trial courts required coverage of:

- the Small Claims Court – where there is a maximum claim of £1,000 in personal injury claims, and £10,000 in all other claims
- the County Court – which deals with claims of up to £50,000 in personal injury cases, and £100,000 in other matters
- the High Court QBD – which deals with claims of over £50,000 in personal injury cases, and £10,000 in other claims.

A brief explanation of negotiation could have included:

- reference to who can carry out the negotiation and where
- the possible forms of negotiation (face-to-face, by phone or email)
- the possible outcomes of the negotiation process and the effect of a successful, or an unsuccessful, conclusion.

Answers to this question were of a variable quality. A number of students did not seem to be clear what they had to cover for the courts and wrote very detailed accounts of the tracking system as well as covering the courts that could hear a civil case. Surprisingly, many students considered either the Small Claims Court or the County Court in detail, without reference to the High Court. There were also some confused responses, with some even referring to criminal rather than civil courts. It was noticeable that many answers referred to incorrect financial limits for each of the courts. It is important for centres to keep up to date with these limits.

Negotiation was fairly well covered, although some students referred to the role of a ‘negotiator’ as a third party and did not appreciate that negotiation is usually carried out between the parties, outside of the presence of a third party. However, as several responses suggested, the negotiation can be carried out by lawyers or representatives on behalf of the parties.
Question 14

This question required a description of how arbitration is used to resolve civil disputes.

Points that could have been made were:

- the qualification and expertise of the arbitrator
- that the parties will be aware from the outset of the use of arbitration by a *Scott v Avery* clause in the initial agreement
- the types of cases dealt with in this process such as in commercial and/or consumer arbitration
- the nature of hearing and process – that it can be an oral hearing or paper-based
- the potential outcome – an award, enforceable, if necessary, through the courts
- a limited possibility of an appeal.

Any reference to the statutory framework such as the Arbitration Acts was also credited. There were some good responses to this question, which should have presented few difficulties to well-prepared students. However, some answers confused the system of arbitration with mediation, conciliation and/or tribunals, and some considered that arbitration is a preliminary hearing to a full court hearing. However, surprisingly few responses referred to the broad categories of cases likely to be heard by arbitration, such as commercial and consumer arbitrations; although most were able to say something about the process and refer to *Scott v Avery* clauses in contracts.

Question 15

This question required a brief discussion of the advantages and disadvantages of dispute resolution by arbitration.

Points that could have been made for advantages of arbitration were:

- the speed of the process
- its informality
- the control of the process by the parties
- the expertise of the arbitrator
- that there is a limited need, or no need at all, for legal representation
- the binding effect of the award
- its lower cost compared to court proceedings
- its privacy.
Points that could have been made for disadvantages were:

- that the lack of state funding or ‘no win no fee’ is likely to mean a lack of legal advice or representation
- this could then lead to a possible imbalance between the parties, especially if a large company is being challenged
- its availability is dependent on an arbitration clause being included within the agreement
- the cost and/or availability of a specialist arbitrator
- that there are limited appeal rights following the award.

Those students who answered question 14, also generally answered this question well. Students should note that, while there are similar advantages and disadvantages for negotiation, mediation and conciliation, the points to be made about arbitration are slightly different, mainly because the award made in arbitration is binding on the parties. Some students misread the question and actually answered a question about the advantages and disadvantages of ADR in general. As a result, responses to this question varied in quality, with many answers making points which were more appropriate to other forms of ADR, or to ADR in general.

**Question 16**

This question required an outline of the trial and appeal courts that can hear adult criminal cases and the types of cases that these courts deal with.

This required an outline of:

- the Magistrates Court and the types of cases with which it deals – i.e. summary and either-way cases
- the Crown Court and the types of cases with which it deals – i.e. either-way and indictable cases
- appeal courts (which could include the QBD divisional court, the Crown Court, the Court of Appeal and Supreme Court) and the types of appeals which they hear.

The starting point for an answer to this question could be either the courts or the types of cases, but at some stage the two needed to be brought together, in order for a clear picture to emerge, of which were the trial courts and the kind of cases with which they deal. It was also necessary to cover the system of appeals and it was encouraging to see many accurate summaries of the routes of appeal from both the Magistrates Court and the Crown Court.

On the other hand, some unnecessary information was often provided on the roles of magistrates in granting warrants and bail. Weaker responses were unable to outline the routes to, and grounds of, appeal. It was common for some students to believe that the Supreme Court (or the Court of Appeal) is a trial court for murder and terrorism cases. It also seems to be a commonly held, but erroneous, belief that minor theft (especially shoplifting) is a summary offence.
Question 17

This question required an outline of the qualifications required for appointment as a lay magistrate, and a brief explanation of the training of a lay magistrate following appointment. It did not require coverage of the selection or appointment process.

Qualifications of lay magistrates could cover:

- the age range (on appointment, 18-65)
- key (personal) qualities
- a willingness to take an Oath of Allegiance
- excluded professions such as the police and/or those with excluded backgrounds such as bankrupts or those with serious convictions
- balancing factors such as occupations, gender, political allegiance or connection with the local area.

Training could cover:

- it being the responsibility of the Judicial Studies Board (now known as the Magisterial Committee of the Judicial College) and delivery by the court legal adviser
- the initial compulsory training
- the provision of mentoring ongoing training, also known as core training and appraisal, later chairmanship training or specialist panel training, such as for youth courts.

Many students showed good understanding of both aspects of this question, but many wasted time explaining the appointment and selection process, which could not be credited. There was some confusion evident about the qualifications between juries and lay magistrates, especially a requirement for being on the electoral roll. Some answers blurred the distinction between the appointment process and training, although most were able to say something about some aspect of training.

The best responses to this question were often quite brief and focused, providing the information that the question required and nothing else. Weaker responses often only covered appointment or training.

Question 18

This question required a discussion of disadvantages of using lay persons (jurors and lay magistrates) in the criminal justice process. An answer required discussion of both jurors and lay magistrates in order to achieve a sound quality.

A discussion of disadvantages of use of jurors could have included points such as:

- the returning of perverse verdicts, such as in Ponting or Owen
- possible bias and selection issues, such as with ‘the Romford jury’
- influence within a jury, such as in Young
- media pressure as in West or the Taylor sisters
- complexity of issues as in fraud trials
- how juries reach their verdicts, again, as in Young
- use of external sources of information, as in Theodore Dallas.

A discussion of disadvantages of use of lay magistrates could have included points such as:

- inconsistent sentencing
- feelings of possible bias towards the police, as in R v Bingham Justices ex parte Jowitt, or prosecution
- the make-up of the panel and selection issues
- influence by the clerk or from within the panel
- complexity of issues for lay magistrates to deal with.

Again, there were many strong answers to this question and most students recognised that the question required them to consider the disadvantages of juries and lay magistrates separately, rather than joining them together as lay people.

The strongest points were supported with a case or an example. Reference to Young, Ponting, Owen and the Taylor sisters was often seen to support points made about jury trials, although points about magistrates could be less well supported. Weaker answers tended not to distinguish between jurors and lay magistrates and/or did not support points with an example or authority. They were also likely to be brief, generalised and based on assertion rather than evidence. Unfortunately, many responses dealt with advantages instead of, or as well as, disadvantages; this material could not be credited.

Legal Profession and funding

This was not a popular choice of topic again this series and, as few answers were seen, limited comments can be made.
Question 19

In this question, students were asked to describe briefly two sources of advice from a choice of the Citizens Advice Bureaux, Law Centres, trade unions, insurance companies and the internet, and to outline the types of cases they can give advice on.

For the CAB – this is a charity providing free general legal advice on a range of issues to those living in local areas. It tends to specialise in debt, welfare, consumer, housing, employment and immigration problems. It may claim funding from sources such as local authorities, Lottery funds, primary care trusts, charitable trusts, companies, individuals and government grants. It offers initial advice and some representation, although, if the case is complex, it may pass it on to more specialist agencies or lawyers.

For Law centres – they are often situated in large cities to provide access to legal advice where traditional legal services are less available; they are specialist in social welfare issues including immigration and asylum, housing, employment and benefit entitlement. They may be partly funded by local authorities and may employ lawyers or para-legals who may be specialists in the field; they may be able to pursue a case to court.

For Trade Unions – advice is available to their members on civil matters, and the advice is generally related to employment issues such as discrimination, unfair dismissal and contract disputes. Advice and representation will generally be free to full members. Advice will be provided by lawyers attached to the Union or by independent solicitors. Legal services will include both advice and dispute resolution both in and out of court.

For Insurance companies – they can give initial advice on the merits of usually civil claims provided that the type of claim is covered by the conditions of the relevant policy. They may be prepared to fund more specialist advice or take the case to court, if so advised. Policies may be taken to cover legal expenses when covering houses, businesses and vehicles. Alternatively, a policy may be taken to cover no-win no-fee cases.

Using the internet – advice is open to all with internet access on a range of mostly civil topics and can be given either by qualified lawyers or by non-qualified persons, a fee is often payable. Initial documents, such as a claim form and other material may be provided (again, for a fee) but this form of advice may no longer be of help if the case becomes more complex, or requires court appearances or an appeal.

Answers seen tended to be fairly general in nature and concentrate on trade unions and use of the internet.

Question 20

This question required an explanation of the qualification and training requirements to become a solicitor.

The possible routes are:

- degree entry – by law degree; or, alternatively, a non-law degree with further study of the Common Professional Exam or Graduate Diploma in Law. The student has to enrol with the Solicitors Regulation Authority and obtain a certificate of completion of the academic stage of training.
alternatively, the student can follow the CILEX route and pass examinations to qualify, firstly as a member, and later as a fellow

further academic training is through the Legal Practice Course, for the purpose of developing the skills needed to work in a firm of solicitors

there is then a two year training contract in a firm of solicitors or other organisation authorised to take trainees

during this time there is the Professional Skills Course covering client care and professional standards, advocacy and communication skills, financial and business skills, together with elective courses relevant to specific types of practice and areas of law

students are required to enrol with the Solicitors Regulation Authority

finally, when all the aforementioned steps are completed, a student has to enrol on the Roll of Solicitors.

Question 21

In this question, students were required to discuss briefly advantages and disadvantages of using ‘lawyers’ (limited to solicitors and barristers) to resolve legal disputes.

Points that could have been made for advantages included:

- their availability in most areas of the country. In addition, in certain types of cases, it is possible to have direct access to barristers without the need to first contact a solicitor

- they are generally specialists in specific areas of law and they will know relevant procedures and routes to deal with a dispute. In addition, they may be able to bring about a resolution by using an alternative to court. Furthermore, their involvement may bring an early resolution to a dispute

- methods of funding may only be available through lawyers. These could include state funding, now mostly limited to criminal cases, ‘no-win no-fee’ in civil cases and pro bono services.

Points that could have been made for disadvantages included:

- availability – as some lawyers are not specialists in certain areas of law and might, for business reasons, choose not to offer legal services in these areas. They may only be available during the working week, and so there may be the practical issue of their unavailability

- delay – communications between a client and their own lawyer and between lawyers themselves may cause significant delays. There is a public perception of delay in dealing with legal disputes as a means of raising the costs of an action and attempting to avoid liability
• cost – there may be a need to use both solicitors and barristers in certain types of dispute, especially if the dispute involves litigation in the higher courts. If state funding or ‘no-win no-fee’ services are not available, the cost of private funding is likely to be an issue for many potential litigants

• the language used – legal words and phrases may be inaccessible to the general public in the form of lawyer to lawyer language, the wording of court documents, or the language used by courts. This may make it difficult for a lay person to contemplate dealing with their own case without the support of a lawyer.

Most students who attempted this question were able to identify some relevant advantages and disadvantages; most connected with cost or specialist skills. Some answers also made distinctions between barristers and solicitors, which could be appropriate, although they needed to be in the context of the use of lawyers generally, rather than contrasting the roles of barristers and solicitors.

The judiciary

In this series, it was pleasing to find that several centres covered this topic.

Question 22

In this question students were required to describe the work of a judge in a civil case. Answers could have included knowledge of negligence or contract law that could have been covered for LAW02. An answer could have dealt with pre-trial issues, such as ensuring the case is allocated to the correct track, that a judge acts as a trial manager and reads relevant case papers. During a trial, the judge will hear relevant evidence and any legal submissions, will rule on legal issues, will decide liability, and, following this, will decide the appropriate remedy and award costs. Any reference to the later role in appeals was credited.

There were many good responses to this question from students who had clearly been well-prepared. However, pre-trial issues were often rather briefly covered with surprisingly few students making reference to tracking. Weaker answers tended to blur the distinctions between civil and criminal work; using terminology such as ‘guilt’ and verdict’, and referring to the role of a jury.

Question 23

In this question students were asked to explain how a judge can be dismissed from office. Answers were required to cover the different procedures for inferior and superior-level judges and/or to explain the role of Office for Judicial Complaints, (now the Judicial Conduct Investigation Office). Inferior-level judges can be dismissed in cases of incapacity and misbehaviour and cases are considered by the Lord Chief Justice, in conjunction with Lord Chancellor and Secretary of State for Justice. Reference to the expiry of fixed term appointment was also credited. The position is different for superior-level judges of the High Court and above, who can only be dismissed by Parliamentary petition.

There were some excellent responses to this question, with the distinction between superior and inferior judges well understood and the role of the Judicial Conduct Investigation Office clearly explained.
Question 24

In this question students were required to discuss why it is, and why it should be, difficult to dismiss a judge.

Points that could have been made included:

- the need for judges to be independent of the legislature and the Executive
- the freedom of a judge of any level to make a ‘just’ decision
- the need for judges to be free from influence of the parties in the case, their advocates, the press and any other interested parties
- that judges are upholding the Rule of Law
- that the difficulty in dismissing a judge maintains public confidence in the law and judicial system
- for superior-level judges, there are practical difficulties in obtaining a Parliamentary petition.

Well-prepared students were able to make perceptive comments, particularly about the need for judges to be free to criticise the Executive, and the need for the public to feel confident about the independence of judges.
Mark Ranges and Award of Grades

Grade boundaries and cumulative percentage grades are available on the Results Statistics page of the AQA Website.

Converting Marks into UMS marks

Convert raw marks into Uniform Mark Scale (UMS) marks by using the link below.

UMS conversion calculator