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

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

Further copies of this mark scheme are available from aqa.org.uk
LAW01

Assessment Objectives One and Two

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of students, mainly 17 years old, who have completed some part of the advanced subsidiary course, writing under examination conditions. The Potential Content given in each case is the most likely correct response to the question set. However, this material is neither exhaustive nor prescriptive and alternative, valid responses should be given credit within the framework of the mark bands.

Positive Marking

You should be positive in your marking, giving credit for what is there rather than being too conscious of what is not. Do not deduct marks for irrelevant or incorrect answers, as students penalise themselves in terms of the time they have spent.

Mark Range

You should use the whole mark range available in the mark scheme. Where the student’s response to a question is such that the mark scheme permits full marks to be awarded, full marks must be given. A perfect answer is not required. Conversely, if the student’s answer does not deserve credit, then no marks should be given.

Citation of Authority

Students will have been urged to use cases and statutes whenever appropriate. Even where no specific reference is made to these in the mark scheme, please remember that their use considerably enhances the quality of an answer.
### Assessment Objective Three

**QUALITY OF WRITTEN COMMUNICATION (QoWC)**

<table>
<thead>
<tr>
<th>Marks</th>
<th>Description</th>
</tr>
</thead>
</table>
| **2 marks** | The work is characterised by some or all of the following:  
- clear expression of ideas  
- a good range of specialist terms  
- few errors in grammar, punctuation and spelling  
- errors do not detract from the clarity of the material. |
| **1 mark** | The work is characterised by:  
- reasonable expression of ideas  
- the use of some specialist terms  
- errors of grammar, punctuation and spelling  
- errors detract from the clarity of the material. |
| **0 marks** | The work is characterised by:  
- poor expression of ideas  
- limited use of specialist terms  
- errors and poor grammar, punctuation and spelling  
- errors obscure the clarity of the material. |
The level of understanding in AS Law – LAW01

To help you find the level of understanding shown in a script, there will be some of the following characteristics shown. It is important to remember that the assessment is aimed at the notional 17-year-old, so the level of understanding required by these criteria will be that of the notional 17-year-old.

| Sound          | • The material will be generally accurate and contain material relevant to the Potential Content.  
|                | • The material will be supported by generally relevant authority and/or examples.  
|                | • It will generally deal with the Potential Content in a manner required by the question.  
|                | As a consequence, the essential features of the Potential Content are dealt with competently and coherently. |
| Clear          | • The material is broadly accurate and relevant to the Potential Content.  
|                | • The material will be supported by some use of relevant authority and/or examples.  
|                | • The material will broadly deal with the Potential Content in a manner required by the question.  
|                | As a consequence, the underlying concepts of the Potential Content will be present, though there may be some errors, omissions and/or confusion which prevent the answer from being fully rounded or developed. |
| Some           | • The material shows some accuracy and relevance to the Potential Content.  
|                | • The material may occasionally be supported by some relevant authority and/or examples.  
|                | • The material will deal with some of the Potential Content in a manner required by the question.  
|                | As a consequence, few of the concepts of the Potential Content are established as there will be errors, omissions and/or confusion which undermine the essential features of the Potential Content. |
| Limited        | • The material is of limited accuracy and relevance to the Potential Content.  
|                | • The material will be supported by minimal relevant authority and/or examples.  
|                | • The material will deal superficially with the Potential Content in a manner required by the question.  
|                | As a consequence, the concepts of the Potential Content will barely be established, as there will be many errors, omissions and/or confusion which almost completely undermine the essential elements of the potential content. |
Describe the law-making procedure in the House of Commons. [10 marks]

Potential content

(A) A sound answer will:

Describe the law-making procedure in the House of Commons.

Coverage of any of the following points can be credited and could enhance an answer that does not describe fully the law-making procedure in the House of Commons:

- the different form of bills (public, private and private members)
- the introduction of the bill at first reading by the minister or other promoter
- the ‘ping-pong’ procedure in conjunction with House of Lords

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Describe the influence on Parliamentary law-making of any one of the following:

- the Law Commission or
- the media or
- pressure groups.

[10 marks]

Potential content

(A) A sound description of (A) should describe at least four of the following bullet points for the chosen influence:

The Law Commission:
- who works for the Commission
- how it works in investigating issues/reviewing the law with possible example
- its role in codifying law with possible example
- its role in consolidating law with possible example
- its role in recommending repeals of old law with possible example
- reporting to Parliament and possible implementation of recommendations.

Pressure groups:
- the meaning of a pressure group
- insider pressure groups and example and how they can influence
- outsider pressure groups and example and how they can influence
- cause groups and example and how they can influence
- sectional groups and example and how they can influence
- examples of campaigns – successful or unsuccessful.

Media:
- what is meant by media – radio, TV, Press, Internet, Social Media
- how media can influence Parliament – campaigns, regular articles, features, follow up articles to events, specific events, use of media by MPs
- when they can influence – after an event such as Hillsborough or as part of a regular campaign eg immigration, knife crime, acid attacks
- effect of influence – either no change in law or eventual change in the law eg Dangerous Dogs Act 1991 and amendment or Sara Payne campaign to name and shame paedophiles, or any other relevant campaign.

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Briefly discuss advantages and disadvantages of the influence that you have described in Question 02 above.

[10 marks + 2 marks for AO3]

Remember to award a mark for AO3

Potential content

(A) Law Commission

Advantages:
- Commissioners have considerable legal expertise and are supported by expert staff
- reports are well informed and researched, based on considerable evidence
- Law Commission is independent and non-political
- draft legislation is presented with report to Parliament.

(B) Disadvantages:
- only a small percentage of reports are accepted and acted on by Parliament
- there is no obligation on government to consult Law Commission before any new law is introduced
- investigations can be lengthy
- several areas of law are investigated at one time – investigations may not be completely thorough.

Note – for Sound (A) or (B) – at least two bullet points should be briefly discussed, each supported by an example if appropriate

Pressure groups

(A) Advantages:
- can raise public awareness of issue and keep Parliament/MPs in touch with issues of public concern
- many are non-political but can influence all political parties
- they will have expertise on their issue
- for some groups, e.g. National Trust or TUC, the size of their membership means they can be representative of the general public and be more influential as they will have large budgets and be able to afford media campaigns
- some groups can provide international experience and contacts
- insider groups have the ear of decision makers and can be consulted on proposed changes
- likely to be successful if they have media support.

(B) Disadvantages:
- undemocratic as leaders unlikely to be elected by membership
- they are not likely to be objective and are likely to provide only one side of an argument
- outsider groups can use undesirable/illegal tactics to get publicity and to promote their view
- can represent small number of members and have limited funds available to advertise/influence
- outsider groups unlikely to be consulted or influence decision makers
- unlikely to be successful if no media support for their issue.

Note – for Sound (A) or (B) – at least two of the above points should be briefly discussed, each supported by an example if appropriate
Media

(A) Advantages:
- can raise issues of public concern with decision makers in government and parliament
- can support pressure group campaigns
- can raise and support public awareness of an issue
- can generate public support.

(B) Disadvantages:
- may represent only a small percentage of the population
- may not be able to effectively influence government or Parliament
- ownership of the media source may have possible bias
- social media may be inappropriately reactive to an event.

Note – for Sound (A) or (B) – at least two bullet points should be briefly discussed, each supported by an example if appropriate

Mark bands

8 – 10 The student deals with (A) and (B) as follows:
  max 10: two sound
  max 9: one sound, one clear
  max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:
  max 7: one sound or one clear, one some
  max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Outline any two types of delegated legislation. [10 marks]

Potential content

(A) Outline of first type of delegated legislation.
(B) Outline of second type of delegated legislation.

Types of delegated legislation are:

Statutory Instruments
- the existence of law made by government ministers
- ministers having delegated powers under the authority of primary legislation (an enabling Act), within the area of their responsibility
- use including example(s) – to update an existing law or to provide detailed rules within a framework Act; commencement orders for the whole or part of an Act.

By-laws
- how made – under delegated powers given by eg Local Government Act 1972, or other relevant statute and approved by a government minister
- made by a local authority for the benefit of the local authority area – example such as dog fouling
- alternatively, can be made by public bodies or companies eg smoking bans or penalty fares made by transport operators.

Orders in Council
- made by Queen and Privy Council – reference to members of Council
- laws can be made when Parliament is not sitting or in emergencies eg Afghanistan Order
- use – Orders to dissolve Parliament or to reorganise responsibility of government departments; Orders can be issued to bring an Act into force.

Note – For sound (A) and (B) – all three bullet points to be outlined

Mark bands

8 – 10 The student deals with (A) and (B) as follows:
- max 10: two sound
- max 9: one sound, one clear
- max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:
- max 7: one sound or one clear, one some
- max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Explain parliamentary controls on delegated legislation. [10 marks]

Potential content

(A) Explanation of parliamentary controls:

- role of scrutiny committees
- asking questions of ministers in either House of Parliament
- explanation of affirmative resolution procedure
- explanation of negative resolution procedure
- repeal of previous primary or delegated legislation
- setting limits in enabling Act.

Note – For Sound A – at least three bullet points should be explained, supported, where appropriate, by example(s)

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Discuss disadvantages of delegated legislation.  

[10 marks + 2 marks for AO3]

Remember to award a mark for AO3

Potential content

(A) Disadvantages:

- it is undemocratic – it may be made by unelected civil servants (acting behind government ministers) or Privy Councillors
- volume – over 3000 statutory instruments are made annually
- lack of publicity – despite the internet, it may be difficult to find a piece of delegated legislation and when it came into force
- need for control – there is a need for effective parliamentary or judicial control
- limited scrutiny and control of Executive power – due to the volume of statutory instruments, there is limited scrutiny in parliament; orders in council and by-laws have limited, if any, scrutiny
- delegated powers to impose tax (eg through budget) – many pieces of primary legislation can only work if supported by delegated legislation giving limited chance of debate or scrutiny; this is especially so for items in the ‘red book’ giving effect to many detailed rules in the budget
- length and expense of judicial review – no legal aid is available for this procedure; there is the ‘interest’ test before an action can be launched; government is seeking to reduce availability of this remedy.

Note – For Sound A – at least three bullet points should be explained, supported, where appropriate, by example(s)

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
In relation to statutory interpretation, outline both of the following:

- any one rule of language and
- internal (intrinsic) aids to interpretation.  

[10 marks]

**Potential content**

(A) **Outline of a rule of language**

Either

- The *ejusdem generis* rule – general words following specific words, must be at least two specific words to create a genus, case example such as *Powell v Kempton Park Racecourse 1897*
  
  or
  
  - The *noscitur* rule – the meaning of a word is to be found from its context, case example such as *Inland Revenue v Frere 1964*
    
    or
    
    - The *expressio* rule – the expression of one thing implies exclusion of another, case example such as *Inhabitants of Sedgely 1831*.

(B) **Outline of internal (intrinsic) aid**

- what an internal aid is and where it can be found
- long and short titles of an Act
- any preamble or marginal notes
- any definitions included in the Act
- the interpretation section of the Act
- the detail given in a Schedule to an Act.

**Note** – For Sound (B) an answer will outline the first bullet point and any other two bullet points

**Mark bands**

8 – 10 The student deals with (A) and (B) as follows:

max 10: two sound

max 9: one sound, one clear

max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:

max 7: one sound or one clear, one some

max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges

or

mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
Explain the mischief rule and its use by judges. [10 marks]

Potential content

(A) Explanation of mischief rule and its use:

- that judges are looking at gaps/defects in the law; the process from Heydon’s case – the Act is to be interpreted according to these questions – what was the old law? What was the defect? What was Parliament’s intention? The Act is then interpreted to give effect to that intention;
- use of mischief rule by judges in case(s) eg Smith v Hughes, Elliott v Grey, DPP v Bull, Corkery v Carpenter, RCN v DHSS.

Note – For Sound (A) – both bullet points to be explained

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Briefly discuss advantages **and** disadvantages of the use of the mischief rule.

**[10 marks + 2 marks for AO3]**

**Remember to award a mark for AO3**

**Potential content**

Brief discussion of:

(A) **Advantages:**

- avoidance of unjust outcomes as in, for example, **LNER v Berriman**
- flexibility in allowing judges to apply law really intended by Parliament – eg **Smith v Hughes**
- judges can fill in the gaps in legislation to arrive at ‘right’/just result
- it saves Parliament from having to pass an amending Act
- it allows judges to update law to take account of changing social conditions eg **RCN v DHSS**.

(B) **Disadvantages:**

- too much power given to unelected judiciary/encourages judicial law-making/undemocratic; eg **Smith v Hughes**
- it may be difficult to identify the mischief in the previous law and find parliament’s intention
- it can lead to unpredictable results
- it can be said to be outdated and not fit to deal with current issues.

**Note** – For sound A or B – at least **two** bulleted points to be briefly discussed, supported, where appropriate, by case examples

**Mark bands**

8 – 10 The student deals with (A) and (B) as follows:

- **max 10:** two sound
- **max 9:** one sound, one clear
- **max 8:** one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:

- **max 7:** one sound or one clear, one some
- **max 5:** one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Outline the main features of the system of judicial precedent. [10 marks]

Potential content

(A) Outline of the main features of judicial precedent

- Hierarchy of courts – an outline of court structure (either civil and/or criminal); which courts bind others; which courts are bound
- Ratio decidendi/obiter dicta (key distinctions) – outline should include the reason for the decision/things said by the way; outline may include the binding part of the decision/the persuasive part of the decision; must be followed by other judges (depending on status)/may be followed by other judges
- Law reporting – the need for reporting; content of law reports; written by authorised barristers; authorised by judge; example of different sources of reports, eg All England Law Report, The Times.

Note – For Sound (A) all three bullet points to be outlined. Coverage of stare decisis can be credited and could enhance an answer that does not fully outline the main features of judicial precedent.

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Explain how judges can use powers of overruling and distinguishing to avoid following a binding precedent.  

[10 marks]

Potential content

(A) **Explanation of use of overruling:**

- what is overruling and which courts can overrule
- case example(s) to show use of overruling eg **Hedley Byrne v Heller & Partners** which overruled **Candler v Crane Christmas; Herrington v BRB** overruling **Addie v Dumbreck**; when Court of Appeal can overrule using **Young v Bristol Aeroplane**.

(B) **Explanation of use of distinguishing:**

- what is distinguishing and which courts can distinguish
- case example(s) to show use of distinguishing. Case examples could include **Merritt v Merritt** distinguishing **Balfour v Balfour**; **R v Wilson** distinguishing **R v Brown**.

*Note – For Sound (A) or (B) both bullet points to be explained*

Mark bands

8 – 10 The student deals with (A) and (B) as follows:

- **max 10:** two sound
- **max 9:** one sound, one clear
- **max 8:** one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:

- **max 7:** one sound or one clear, one some
- **max 5:** one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
1. Briefly discuss advantages and disadvantages of the use of judicial precedent.

[10 marks + 2 marks for AO3]

Potential content

(A) **Advantages:**
- flexibility – dealing with new situations as they arise, or updating out-of-date rules as in *R v R* and/or *Herrington*
- dealing with real, as opposed to theoretical, cases
- providing detailed rules for later cases
- gives a just outcome, as judges are impartial and basing their decisions on legal rules
- authoritative – especially in decisions of Supreme Court and Court of Appeal due to the numbers and experience of judges in court
- certainty
- time saving
- value to first instance/inexperienced judges, legal professions, academics etc.

(B) **Disadvantages:**
- the undemocratic nature of law-making, as judges’ role can be said to be applying law passed by Parliament rather than making law
- in order to make precedent, there is need for case to come to court, especially the higher courts, which may be a lottery based on the lawyer’s advice and funding
- in some cases, each judge may give a different reason for their decision which may result in difficulty for later judges/lawyers identifying the ratio
- the number of precedents made and the difficulty of finding an authoritative law report
- rigidity – bad decisions difficult to change
- uncertainty of result
- retrospective nature of decision, eg *R v R* 1991.

**Note** – for Sound (A or B,) at least two of the bullet points should be briefly discussed, supported by case example(s) where appropriate

Mark bands

8 – 10 The student deals with (A) and (B) as follows:
- **max 10:** two sound
- **max 9:** one sound, one clear
- **max 8:** one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:
- **max 7:** one sound or one clear, one some
- **max 5:** one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges
- or
- mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Outline both of the following:

- the civil courts, including appeal courts, that can hear a claim for compensation and
- the process of mediation.

[10 marks]

Potential content

(A) Outline of civil courts:

- Small Claims Court – informal procedure, decided by District Judge, maximum claim £1000 in personal injury cases and £10000 in other cases
- County Court – decided by Circuit Judge, financial limit £50000; hears appeals from Small Claims Court
- High Court QBD – decided by High Court judge, for claims over £50000 with no maximum limit
- Court of Appeal – panel of three appeal judges; hears appeals from County Court and QBD on amounts of compensation and issues of law; can confirm or vary original decision
- Supreme Court – panel of five justices; hears appeals from Court of Appeal decisions if the case involves a point of law of public importance; can confirm or vary previous decision.

*Note* – A sound answer of (A) will outline any two trial courts + one appeal court

*Note* – Answers which deal with more than three courts (as above), make appropriate allowance for breadth rather than depth

(B) Outline of mediation:

- who carries out the mediation – a qualified mediator
- types of cases dealt with – family, neighbour or commercial
- the form of mediation – mediator shuttles between the parties carrying messages until the parties themselves reach a settlement
- a successful outcome is an enforceable agreement if it is recorded.

*Note* – A sound answer of (B) will outline any three bullet points

Mark bands

8 – 10 The student deals with (A) and (B) as follows:

max 10: two sound
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max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:

max 7: one sound or one clear, one some
max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Describe arbitration as a form of alternative dispute resolution. [10 marks]

Potential content

(A) Description of arbitration:
- qualification/expertise of arbitrator
- how arbitration can come about eg from a Scott v Avery clause in the agreement
- types of cases dealt with – commercial and/or consumer arbitration with possible example of type of case
- nature of hearing/process – oral hearing or paper based
- potential outcome – an award, which can be enforced
- limited possibility of an appeal
- reference to statutory framework (eg Arbitration Acts) or relevant cases.

Note – For Sound (A) – at least five bulleted points should be described

Mark bands
8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Briefly discuss advantages and disadvantages of using the civil courts to deal with a negligence claim.

[10 marks + 2 marks for AO3]

Remember to award a mark for AO3

Potential content

(A) Advantages:
- resolution by impartial tribunal
- authority of court
- legal expertise of judge and lawyers
- hearing of all evidence before final decision
- possible public hearing
- certain outcome
- right of appeal
- availability of funding options
- enforceability of decisions.

(B) Disadvantages:
- cost of case and possible award of costs if case is lost
- formality
- possible lack of legal representation and imbalance between parties
- (lack of) speed and efficiency of process
- lack of convenience as fixed court dates and times
- adversarial nature of process
- likely publicity
- lack of state funding.

Note – for Sound (A) or (B) – at least two bullet points should be briefly discussed and must be relevant to claims for negligence

Mark bands

8 – 10 The student deals with (A) and (B) as follows:
max 10: two sound
max 9: one sound, one clear
max 8: one sound, one some or two clear

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max 7: one sound or one clear, one some
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3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.
Describe how lay magistrates are selected and appointed. [10 marks]

Potential content

(A) Description of selection and appointment of lay magistrates:

Selection

- interviews by local advisory committee following application
- key (personal) qualities required with possible reference to judicial aptitude.

Appointment

- balance and requirements of bench
- recommendation to Minister of Justice by Local Advisory Committee
- background checks
- formal appointment and swearing-in
- initial training, appointment/role of mentor.

Note – A sound answer of (A) will describe both bullet points for selection and any two bullet points for appointment

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Mark bands

8 – 10  The student demonstrates a sound understanding of (A).
5 – 7  The student demonstrates a clear understanding of (A).
3 – 4  The student demonstrates some understanding of (A).
1 – 2  The student demonstrates limited understanding of (A).
0  The answer contains no relevant information.
Briefly discuss advantages and disadvantages of the use of juries in the criminal justice process.

[10 marks + 2 marks for AO3]

Remember to award a mark for AO3

Potential content

(A) Advantages:
- long-established system of trial by peers
- open justice
- public confidence
- fairness
- limited number of appeals
- cost compared to judge only trials
- reduction of professional involvement
- shared decision-making.

(B) Disadvantages:
- returning of perverse verdicts
- possible bias and selection issues
- influence within jury or from outside eg judge or advocates
- media pressure/misuse of media sources
- complexity of issues/length of trials
- how juries reach their verdicts/secrecy of discussions
- cost of jury trial.

Note – for Sound (A) or (B) – at least two bullet points should be briefly discussed

Mark bands

8 – 10 The student deals with (A) and (B) as follows:
max 10: two sound
max 9: one sound, one clear
max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:
max 7: one sound or one clear, one some
max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Describe the work of solicitors in serious criminal court cases. [10 marks]

Potential content

(A) **Description of the work of solicitors in serious criminal court cases:**

- possible initial advice at police station as duty solicitor, by recommendation or previous contact
- initial instruction of barrister by solicitor
- initial researching and obtaining evidence by solicitor
- liaising with CPS over charges, witnesses, evidence to be used at trial, date and procedure at trial
- appearance at initial Magistrates Court and preliminary pre-trial hearings for consideration of bail/custody, legal representation and sending to Crown Court
- solicitor advocate may conduct trial with extended rights of audience qualification – alternatively will support barrister during trial
- advice on possible appeal; preparation and conduct of appeal by solicitor advocate with extended rights of audience qualification – alternatively will support barrister in appeal.

*Note – A sound answer of (A) will describe at least four bullet points*

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Alan has been badly injured in an accident and wishes to sue for damages.

- Briefly explain where Alan could obtain legal advice about a possible claim and
- outline how this advice, and any legal representation, could be paid for.

[10 marks]

Potential content

(A) **Brief explanation of where legal advice can be obtained from:**

**Lawyers** – solicitors who are available nationally. Can offer advice on initial merits of claim, negotiate with insurance company or person causing accident, draft court papers and pursue claim. Barristers may be approached through Direct Access scheme to provide a similar service.

**Citizens Advice (formerly CAB)** – a charity providing general free legal advice on range of issues to those living in their local areas. They offer initial advice and some representation though if the case is complex they may pass case to more specialist agencies or lawyers.

**Law Centres** – often situated in large cities to provide access to legal advice when legal aid is not available; they may employ lawyers or paralegals who may be specialists in certain areas of work; they may be able to pursue a case right through to court.

**Insurance companies** – initial advice on merits of a civil accident claim provided nature of claim is covered by policy conditions to their insured; may be prepared to fund more specialist advice or taking the case to court, if so advised. Policies may be taken to cover legal expenses when covering houses, businesses or vehicles. Policy may be taken to cover ‘no win no fee’ cases.

**Internet** – advice is open to all on range of mostly civil topics, given either by qualified lawyers or by non-qualified persons (often for a fee); they may provide initial documents and material (again for a fee) but it may be unable to continue to help if case becomes more complex, or requires court appearance or appeal.

**Claims company** – can provide initial advice on merits of claim and will then pass the case to specialist solicitors.

*Note* – For sound (A) any two sources of advice should be briefly explained

(B) **Outline of how advice, and legal representation, could be paid for:**

- private funding
- ‘no win no fee’ conditional fees
- via insurance policy
- via union membership
- pro bono.

*Note 1* – for sound (B) any two bullet points should be outlined

*Note 2* – credit can be given for other credible sources of funding and that Legal Help/Legal Representation Orders are not available for negligence claims
Mark bands

8 – 10 The student deals with (A) and (B) as follows:
   max 10: two sound
   max 9: one sound, one clear
   max 8: one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:
   max 7: one sound or one clear, one some
   max 5: one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Briefly discuss advantages and disadvantages of the methods of obtaining funding for advice and representation in civil cases. [10 marks + 2 marks for AO3]

Potential content

(A) **Advantages:**

- Legal Help – for those receiving state benefits or who are suffering from a disability it provides a source of advice
- 'no win no fee' arrangements allow for advice and claims from those who could not afford to fund court action
- funding provided by insurance companies, motoring organisations or unions benefit their members
- private funding allows a choice of legal representative
- pro bono – if available, allows those who cannot privately fund a case or who do not qualify for any other scheme to get advice and/or representation.

(B) **Disadvantages:**

- the general expense of issuing and taking a court action must be undertaken
- there is now very limited availability of state funding for civil court actions
- limited availability of pro bono
- the cost of obtaining 'after the event' insurance policies which are required for 'no win no fee' cases
- the threshold test for the likelihood of success of 'no win no fee' cases
- insurance or union funding is only available to members of the company or union who may impose certain conditions before funding the claim.

*Note – for Sound (A) or (B) – at least two bullet points should be briefly discussed*

Mark bands

8 – 10 The student deals with (A) and (B) as follows:

**max 10:** two sound

**max 9:** one sound, one clear

**max 8:** one sound, one some or two clear

5 – 7 The student deals with (A) and (B) as follows:

**max 7:** one sound or one clear, one some

**max 5:** one clear or two some

3 – 4 The student demonstrates some understanding of (A) or (B), or limited understanding of (A) and (B).

1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation emerges or mistakes and confusion fundamentally undermine a more substantial attempt at explanation.

0 The answer contains no relevant information.
Describe how judges are trained for their judicial role.

[10 marks]

Potential content

(A) Description of judicial training:

- training is the responsibility of the Judicial College (formerly the Judicial Studies Board)
- provision of initial practical training, eg how to run a court, sitting with experienced judges and visits
- annual continuing training and induction courses when receiving new responsibilities
- regular mentoring scheme.

Note – for Sound (A) – at least three of the above points should be described

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Explain how judges can be dismissed from office. [10 marks]

Potential content

(A) Explanation of how a judge can be dismissed from office:

- dismissal of inferior level judges in cases of incapacity and misbehaviour – the powers of Lord Chief Justice, in conjunction with Lord Chancellor and Secretary of State for Justice; an answer could refer to the expiry of a fixed-term appointment or resignation
- dismissal of superior level judges – by parliamentary petition
- role of Judicial Conduct Investigations Office (formerly the Office for Judicial Complaints).

Note – A sound answer of (A) will explain any two bulleted points

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
Discuss why it should be difficult to dismiss judges from office.

[10 marks + 2 marks for AO3]

Remember to award a mark for AO3

Potential content

(A) Discussion of why it should be difficult to dismiss judges from office:

- the need for judges to be independent of the legislature and Executive
- the freedom of a judge at any level to make a 'just' decision
- the need for judges to be free from influence of the parties, advocates, press and anyone interested in the case
- that judges are upholding the Rule of Law
- that difficulty in dismissing a judge maintains public confidence in the law and in the judicial system

Note – A sound answer of (A) will discuss any three bulleted points

Mark bands

8 – 10 The student demonstrates a sound understanding of (A).
5 – 7 The student demonstrates a clear understanding of (A).
3 – 4 The student demonstrates some understanding of (A).
1 – 2 The student demonstrates limited understanding of (A).
0 The answer contains no relevant information.
## ASSESSMENT GRID A Level Law (LAW01)

(To show the allocation of marks to Assessment Objectives)

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