GradeMax



Mark Scheme (Results)

October 2019

Pearson Edexcel International Advanced Level

In Law (YLA1)
Paper 01 Underlying Principles of Law and the English Legal System

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Question number	Answer	Marks
1(a)	**(2 AO1)** **One mark for stating one career route up to two marks.** • Solicitors **(1)** • Barristers **(1)** • Legal executives/ Paralegals **(1)**	**(2)**

Question number	Indicative content	Marks
1(b)	**(2 AO1), (2 AO2)** **Responses are likely to include:** **Solicitors – Up to two marks for explaining the solicitor's role (2 AO1), and two marks for expansion/example (2 AO2).** • Provide advice on all legal matters directly to clients (1 AO1) and are the first point of contact (1 AO1) like a GP is for medical matters (1 AO1) AND one of: • Solicitor firms available on every high street/online (1 AO2) • Provide general advice and staff duty solicitor rota for help when a person detained at police station (1 AO2) • Can represent clients in court (1 AO2) • More common to instruct solicitor (general advice) first and then be referred to appropriate specialist barrister (1 AO1), as barristers can appear to represent clients in all courts (1 AO2). **Barristers –Up to two marks for explaining the barrister's role (2 AO1), and two marks for expansion/example (2 AO2).** • Barristers are specialists who group together in Chambers, not usually in offices on the high street and are self-employed (1 AO1). In most parts of the country they are not as assessible to the general public for advice (1 AO2) • They provide advice or briefs to clients, usually via a referral by solicitors. (1 AO1). Solicitors do the majority of the communicating with the client and preparation and research prior to handing the evidence over to the barrister, who then represent the client in court (1 AO2). **Legal executives/Paralegals Up to two marks for explaining their role (2 AO1) and two marks for**	**(4)**

	expansion / example (2 AO2). • employed in solicitor's offices (1 AO1) • not fully trained solicitors (1 AO1). AND one of: • May see clients to take instructions (1 AO2) • Solicitor firms available on every high street/online (1 AO2) • Provide general advice and staff duty solicitor rota for help when a person detained at police station (1 AO2) • Can represent clients in court (1 AO2)	

Question number	Indicative content	Marks
1(c)	**(2 AO1), (2 AO2), (4 AO3), (6 AO4)** **Responses are likely to include** **Explanation of requirements for jury selection, and their role could include:** • age, electoral role, numbers, exceptions/exemptions, courts in which used • listen to evidence, cross examination and summing up by prosecution and defence • listen to judge's summing up of evidence and legal directions • role – to decide on facts and give verdict • secret discussion, unanimous and majority verdicts **Discussion of disadvantages of use of jurors could include:** • return of perverse verdicts • compulsory, so reluctant to be there • influence/pressure from outside or inside jury complex issues/lack of understanding, ability to follow • reaching the verdict – issues and problems • cost of jury trial **Discussion of advantages of use of jury could include:** • cross section of community • wide variety of views/backgrounds/ages • local knowledge • trial by peers **Responses are likely to include** **Explanation of requirements for magistrates' selection, and their role could include:** • qualification – respond to advert/put self forward, age, live/work within area • selection – interviews by local advisory committee, required qualities • appointment – balance and requirements of bench, background checks, appointment by Lord Chancellor **Discussion of advantages of use of lay magistrates could include:** • local knowledge	**(14)**

	• volunteering, so want to do role • panel of three • inexpensive system, and they deal with a large number of cases, freeing up Crown courts • given training • variety of penalties, but only able to give fines, or small prison sentences **Discussion of disadvantages of use of lay magistrates could include:** • perverse/inconsistent sentencing • feelings of possible bias towards police/prosecution • make up of panel and selection issues • influence by clerk or within panel • complexity of issues **Discussion of advantages and disadvantages of using judges** – cost versus training, professionals, single/several on panel, delays, unrepresentative of public, trial by peers **Conclusion** **Level 4 responses will include lay magistrates and juries**	

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	**1–3**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent. There may be an incomplete attempt to address competing arguments based on interpretations of the law.
Level 2	**4–6**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to gauge the validity of competing arguments based on interpretations of the law.
Level 3	**7–10**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced. The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.
Level 4	**11–14**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.

Question number	Answer	Marks
2(a)	**(2 AO1, 2AO2)** **One mark for describing each type of delegated legislation up to a total of 2 types, and one mark for giving an example of each, up to a total of four marks.** • Statutory instruments – law made by government ministers with delegated powers under the authority of primary legislation (enabling Acts) (1AO1), example. (1AO2) • By-laws – made by local authority and other bodies, e.g. public corporations, to cover matters within their own area, they require authority of enabling Act or government minister (1AO1), example. (1AO2) • Orders in Council – the Queen and Privy Council, can make laws when parliament is not sitting for use in emergencies (1AO1), example. (1AO2)	(4)

Question number	Answer	Marks
2(b)	**(2 AO1), (2 AO2), (2 AO3)** **Responses are likely to include:** • It is flexible – different rules can be introduced in different areas (by-laws) as required by local need, or to deal with specific issues • It saves parliamentary time and so allows parliament to focus on major issues. • It can be made quickly because it does not have to go through either or both houses and can be used in the case of emergency, • It can be used to fill in the gaps in primary legislation and experts can be consulted for specific detail • Statutory instruments can complete the detail of a framework Act. • Control by either parliament or the judiciary is possible • Democracy is involved, as by-laws are made by local politicians and statutory instruments are made by or in the name of elected ministers. • Examples to illustrate the above points such as the change in the annual amounts of the minimum wage	(6)

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	0	A completely inaccurate response.
Level 1	**1–2**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent.
Level 2	**3–4**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
Level 3	**5–6**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.

Question number	Indicative content	Marks
2(c)	**(2 AO1), (2 AO2), (3 AO3), (3 AO4)** **Responses on courts' control are likely to include assessment of:** • Validity of delegated legislation can be made through judicial review procedure or in a civil claim • Delegated legislation can be challenged on grounds of ultra vires, that it is beyond the powers granted in the enabling act • Any delegated legislation ruled ultra vires is void and not effective • Delegated legislation can be challenged on grounds of unreasonableness Strickland v Hayes Borough Council 1896 • Delegated legislation can be challenged because the correct procedure has not been followed. Aylesbury Mushroom Case 1972 • Delegated legislation can be challenged if it is in conflict with EU law • Examples to illustrate the above points.	(10)

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	0	A completely inaccurate response.
Level 1	**1–2**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent. There may be an incomplete attempt to address competing arguments based on interpretations of the law.
Level 2	**3–4**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to gauge the validity of competing arguments based on interpretations of the law.
Level 3	**5–6**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced. The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.
Level 4	**7–10**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.

Question number	Answer	Marks
3(a)	**(2 AO1), (2 AO2)** **One mark each for an accurate description of each civil dispute method (2 AO1) and one mark for further detail of each (2 AO2) (up to a maximum of 4 marks in total).** Conciliation – parties try to reach an amicable settlement with the assistance of a conciliator who is a neutral third party (1AO1). Conciliator will suggest a non-binding proposal to settle the dispute (1AO2) Mediation – neutral mediator, confidential, go-between (1AO1) Mediator/Facilitator sees what common ground exists but does not give own views (1AO2).	(4)

Question number	Answer	Marks
3(b)	**(2 AO1), (2 AO2), (2 AO3)** **Responses are likely to include:** Civil courts of first instance: • County court – tracks and small claims, jurisdiction, judges, appeals • High court – divisions, jurisdiction, tracks and allocation, judges, appeals. • Examples /Illustrations	(6)

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	0	A completely inaccurate response.
Level 1	**1–2**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent.
Level 2	**3–4**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
Level 3	**5–6**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.

Question number	Indicative content	Marks
3(c)	**(2 AO1), (2 AO2), (3 AO3), (3 AO4)** **Responses are likely to include:** • Grounds for appeal from each first instance to appeal court • Methods of appeal from each first instance to appeal court • From county courts – small claims and district judge fast-track, appeal to circuit judge. Circuit judge fast track appeal to High Court judge. Multi-track heard in county, appeal to Court of Appeal. Second appeal to Court of Appeal only in exceptional cases. • Divisional courts – Queens Bench – supervisory over inferior courts and tribunals – judicial review and prerogative orders – *mandamus, prohibition, certiorari and habeas corpus.* Chancery – bankruptcy and tax appeals. Family – from magistrates on family matters Court of Appeal civil –hears appeals from: • All three divisions of High Court • County court, multi-track • Tribunals (immigration and land) • Permission required, only granted if real prospect of success • Supreme court– hears appeals from Court of Appeal and divisional courts, and on rare occasions from High Court under leapfrog procedure. Panel of five Law Lords. *Pepper v Hart*. Permission required from SC or lower trial court. For leapfrog, both must give permission. This needs point of law of public importance and involves interpretation of statute or decision is bound by previous C of A or SC • ECJ article 234 • Assessment of the different processes including advantages, disadvantages and examples.	(10)

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	0	A completely inaccurate response.
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Level 2	**3–4**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to gauge the validity of competing arguments based on interpretations of the law.
Level 3	**5–6**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced. The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.
Level 4	**7–10**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.

Question number	Answer	Marks
4(a)	**(2 AO1)** **One mark for each example up to a total of 2 marks. (2 AO1).** • Intervening to stop a fight (1AO1) • Diving in to rescue an unrelated drowning child (1AO1) • Not committing adultery (1AO1) • Or similar correct moral examples (1AO1).	(2)

Question number	Indicative content	Marks
4(b)	**(2 AO1), (2 AO2)** **Responses are likely to include:** • Laws apply throughout a country to everyone. (1 AO1). • They are enforced by the state and have been through an official process when created, breach will incur a penalty (1 AO1) • Moral or social rules are not enforced by the state, they are informal and more flexible so breaking them will not carry serious consequences. (1 AO1) • A sport or society may have rules, which if broken may lead to expulsion from the sport/society. (1 AO2) • Unwritten rules may exist within a community/religion, but they are not enforced by legal sanctions. (1 AO2) • Examples of decided cases to illustrate (1 AO2) • Legal theories (1 AO2).	(4)

Question number	Indicative content	Marks
4(c)	**(2 AO1), (2 AO2), (4 AO3), (6 AO4)** **Responses are likely to include:** • Hart/Devlin Debate the latter arguing the damage caused by law lacking morality against the view that some people's moral values ought not to be used to stop others' behaviour • Discussion on legal theories – Hart – positivist – no valid connection between law and morals • Natural law – man made laws depend on a higher morality and if not, then they are not valid • Wolfenden Committee • Examples: Human Fertilisation and Embryology Act • Surrogacy • Euthanasia – Diane Pretty • St George's Healthcare Trust v S • Equality Act • Mandatory Life sentences • Anti-terrorism laws • Evaluating decided cases on above topics and cases such as R v Brown; Shaw v DPP; R v R; the Gillick case and concluding as to the extent to which morals have informed the development of laws • Justified conclusion.	**(14)**

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	**1–3**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent. There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 2	**4–6**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 3	**7–10**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced. Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.
Level 4	**11–14**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.

Question number	Indicative content	Marks
5	**(2 AO1), (2 AO2), (8 AO3), (8 AO4)** **Responses are likely to include:** • Civil liability – standard of proof, purpose, costs of action, result is liable or not liable • Civil sanctions and remedies available – injunction, specific performance, damages, rescission or rectification • Criminal liability – burden and standard of proof, methods of trial, costs of representation, result is guilty or not guilty • Criminal sanctions – prison sentence, community sentence, fines, discharge. Theories behind sentences – reparation, deterrence and retribution – achievement of aims • Comparison of both the above – cases/incidents which lead to both actions – e.g. road traffic incident. • Evaluation and conclusion.	**(20)**

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	**1–4**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent. There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 2	**5–8**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 3	**9–14**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced. Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.
Level 4	**15–20**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.