GradeMax



Mark Scheme (Results)

Summer 2021

Pearson Edexcel International Advanced Level in Law (YLA1)

Paper 1: Underlying Principles of Law and the English Legal System

Edexcel and BTEC Qualifications

Edexcel and BTEC qualifications are awarded by Pearson, the UK's largest awarding body. We provide a wide range of qualifications including academic, vocational, occupational and specific programmes for employers. For further information visit our qualifications websites at www.edexcel.com or www.btec.co.uk. Alternatively, you can get in touch with us using the details on our contact us page at www.edexcel.com/contactus.

Pearson: helping people progress, everywhere

Pearson aspires to be the world's leading learning company. Our aim is to help everyone progress in their lives through education. We believe in every kind of learning, for all kinds of people, wherever they are in the world. We've been involved in education for over 150 years, and by working across 70 countries, in 100 languages, we have built an international reputation for our commitment to high standards and raising achievement through innovation in education. Find out more about how we can help you and your students at: www.pearson.com/uk

Summer 2021
Question Paper Log Number P63385A
Publications Code YLA1_01_2106_MS
All the material in this publication is copyright
© Pearson Education Ltd 2021

General Marking Guidance

- All candidates must receive the same treatment. Examiners must mark the first candidate in exactly the same way as they mark the last.
- Mark schemes should be applied positively. Candidates must be rewarded for what they have shown they can do rather than penalised for omissions.
- Examiners should mark according to the mark scheme not according to their perception of where the grade boundaries may lie.
- There is no ceiling on achievement. All marks on the mark scheme should be used appropriately.
- All the marks on the mark scheme are designed to be awarded. Examiners should always award full marks if deserved, i.e. if the answer matches the mark scheme. Examiners should also be prepared to award zero marks if the candidate's response is not worthy of credit according to the mark scheme.
- Where some judgement is required, mark schemes will provide the principles by which marks will be awarded and exemplification may be limited.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, the team leader must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.

Question number	State four stages a bill must go through to become an Act of Parliament. **Answer**	Marks 4
1(a)	**(4 AO1)** **One mark for stating each stage of the legislative process up to four marks.** • A bill is presented in Parliament, usually in the House of Commons **(1)** • First reading **(1)** • Second reading **(1)** • Committee stage **(1)** • Report stage and process in the other House **(1)** • Third reading **(1)** Becomes an Act after receiving Royal Assent **(1)**	

Question number	Analyse how judges can interpret statutes when deciding a case. **Indicative content**	Marks 6
1(b)	**(2 AO1, 2 AO2, 2AO3)** Responses are likely to include: When considering a case, judges need to interpret how they understand an Act applies to the facts in issue. Tools used by judges include: • literal rule • mischief rule • golden rule • purposive approach • intrinsic aids • extrinsic aids • reference to binding and persuasive precedents • Some analysis of use of tools	

Level	Mark	Descriptor
	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 and legal authorities 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	Assess the effectiveness of the rules of statutory interpretation. **Indicative content**	**Marks** 10
1(c)	**(2 AO1), (2 AO2), (2 AO3), (4 AO4)** **Responses are likely to include:** • Statutes can often be expressed in complex, technical and obscure terms. • In applying the law, judges need to decide on the meaning of an act of Parliament through an interpretation of the wording of the act. • As a non-elected body, judges interpreting statutes can be said to play an important role in declaring the law. Whereas the parliamentary law-making process is slow. • Judges, in examining a statute closely in a case before them, can detect problems in the wording used in the parliamentary drafting. • Such problems are addressed by judges employing the statutory rules of interpretation: literal, mischief and golden and also by adopting the purposive approach. • Reviewing evidence through the judge's role in such cases as Whiteley v Chappell 1868, R v Sigsworth 1935, R v Allen (1872), Smith v Hughes (1960), Pepper v Hart (1993), Magor and St Mellons v Newport Corporation (1950).	

Level	Mark	Descriptor
	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 and 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 and 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	Describe two types of delegated legislation. **Answer**	**Marks** 4
2(a)	**(2 AO1, 2AO2)** **One mark for describing each type of delegated legislation, 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) (1), example. (1) • 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 (1) example. (1) • Orders in Council – the Queen and Privy Council, can make laws when parliament is not sitting for use in emergencies (1) example. (1)	
Question number	Explain the advantages of delegated legislation. **Indicative content**	**Marks** 6
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.	

Level	Mark	Descriptor
	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	Assess how effectively the courts control delegated legislation. **Indicative content**	**Marks** 10
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.	

Level	Mark	Descriptor
	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 and 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 and 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	State the role of lay magistrates in summary trials. **Answer**	**Marks** 2
3(a)	**(1 AO1), (1 AO2)** One mark for accurate definition of the role in the relevant process (1 AO1), and one mark for further description of the role in that context (1 AO2) (up to a maximum of 2 marks in total). • pre-trial (1)– - sentence following guilty plea (1), grant bail or custody if case is adjourned for any reason. (1) • trial as summary offence – hearing evidence as bench of three (1), deciding guilt/innocence as unanimous/majority decision (1). • post-trial (1)– deciding sentence (1), committing case to Crown Court if their powers are insufficient (1).	

Question number	Explain the selection of a jury in a Crown Court trial. **Answer**	4
3(b)	**(2 AO1), (2 AO2)** **Responses are likely to include:** One mark for explaining selection criteria, up to two marks (2 AO1), and one mark for further explanation of disqualification or selection criteria up to a maximum of 2 marks. (2 AO2). • Selection: Age limits, Electoral register, Residence • Reasons for non-selection: disqualification, deferral, excusal, or other good reason for not serving. • Initial selection by Jury Central Summoning Bureau (JCSB), in jury waiting room and in court, challenges, swearing in. • Number sworn in for trial and minimum required for trial to continue.	

Question number	Evaluate the advantages and disadvantages of using laypeople in the criminal justice system. **Indicative content**	**Marks** 14
3(c)	**(2 AO1), (2 AO2), (4 AO3), (6 AO4)** **Responses are likely to include:** **Discussion of disadvantages of use of jurors could include:** • return of perverse verdicts • compulsory, so reluctant to be there • burden on employers of absentee staff through jury service • influence / pressure from outside or inside jury • pressure from media publicity • 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 • number of jurors on jury • burden of proof and need for unanimous / majority verdict • guidance and direction of judge on legal issues A conclusion that could include: • discussion of and connections made between the competing advantages and disadvantages • contrasting and comparing these advantages and disadvantages • weighing up the validity and significance of each • effective justification to support the conclusion reached • cross section of community • wide variety of views / backgrounds/ ages • local knowledge • trial by peers **Explanation of requirements for selection of magistrates, 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 • 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 Reference to examples such as Lord Devlin's view, Quakers Penn 1670, Clive Ponting, Kronlid, Stephen Young, Home Office reports, Magna Carta. Discussion could also include civil and Coroners courts. Conclusion with justification	

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 and 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	**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	State the meaning of mediation in civil dispute resolution. **Answer**	Marks 2
4(a)	**(1 AO1), (1 AO2)** **One mark for accurate definition of the term (1 AO1), and one mark for further description of that term (1 AO2) (up to a maximum of 2 marks in total).** Mediation is where a neutral mediator helps the parties reach a compromise solution, requires compromise	

Question number	Explain how arbitration can be used to settle disputes. **Answer**	Marks 4
4(b)	**One mark for explaining what arbitration is and one mark for its role in settling disputes, up to two marks (2 AO1), and one mark for each linked explanation up to a maximum of 2 marks (2 AO2).** **Responses are likely to include:** • arbitration can be in court (commercial QB cases) or an agreement to submit the claim to private arbitration – outside court as an alternative to courts for settlement of disputes - it means fair resolution of a dispute by an impartial tribunal • voluntary submission to someone other than a judge, agreed in writing, used commonly in commerce / business • could be arbitration clause in a contract, so under Arbitration Act, will not be dealt with by a court • parties can agree on the number of arbitrators. If no agreement, one is used and an expert appointed by the trade / business involved – Institute of Arbitrators • decision is an award and binding	

Level	Mark	Descriptor
	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 and 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	Evaluate the effectiveness of the different types of civil dispute resolution. **Indicative content**	Marks 14
4(c)	**(2 AO1), (2 AO2), (4 AO3), (4 AO4)** **Responses are likely to include:** **Advantages of Conciliation, Mediation and Negotiation:** • Held in private, aim is to compromise and avoid publicity • Qualified independent person • Informal **Disadvantages of Conciliation, Mediation and Negotiation:** • Even if compromise may lead to both parties being dissatisfied • Not binding, no appeals • No public airing of grievance **Advantages of Tribunals:** • experts on panel • hearings quicker and cost less than courts • allows dispute to be heard publically, so better than other types of ADR **Disadvantages of Tribunals:** • no state funding and although costs less than court one party may not be able to afford a solicitor • even though all panel experts, chair of panel may influence lay panel members • can only appeal on legal grounds • hearing could attract publicity. **Advantages and disadvantages of arbitration;** • Can choose arbitrator and will be an expert • Can be expensive and parties may not be on an equal footing to present their case. Appeals limited **Disadvantages of court:** • Taking a claim through the court system is costly and process takes time and is complicated for claimants to understand • Once a court case starts, the aim is to win (as it is adversarial), and not to compromise • Judge may not be an expert in the technical details of the claim, whereas there would be experts on the tribunal	

	panel. **Advantages of Courts:** • Clear process, time limits and procedure • Funding opportunities and availability • Precedent available for lawyers to provide advice • Appeal structure and rules for courts. Ombudsman services: • Availability for types of dispute • Advantages and disadvantages • Overall conclusion weighing up evidence on the overall effectiveness Normally answers only providing basic evaluation of one type of ADR with the courts will only go to the top of Level 2 mark band. Normally answers only providing basic evaluation of two types of ADR with the courts will only go to the top of Level 3 mark band. Answers evaluating three or more types of ADR with the courts can go to the top of Level 4 mark band. However, an excellent evaluation of only one or two types of ADR with the courts, can go to the top of Level 4 mark as depth can compensate for breadth.	

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	Evaluate if law should follow morality or whether morality should follow the law. **Indicative content**	**Marks** 20
5	**(3AO1), (3 AO2), (7 AO3), (7 AO4)** **Responses are likely to include:** • Stating the definition of law as a set of legal rules • Contrasting this with rules that are defined by standards of morality • Differentiating law from morals and recognising that rules adopted by people following personal conscience may not necessarily be reflected in legislation • Illustrating the similarities and differences between moral and legal rules • Explaining the debate following the Wolfenden Committee report on homosexuality and prostitution • The 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 • Evaluating decided cases such as R v Brown, Shaw v DPP, • R v R, the Gillick case and concluding as to the extent to which morals ought to inform English laws • Significant legal/moral debates around abortion, drugs, euthanasia, etc may be draw upon. • Providing a justified conclusion.	

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 and 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 is 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.

Pearson Education Limited. Registered company number 872828
with its registered office at 80 Strand, London, WC2R 0RL, United Kingdom