



General Certificate of Education

Law 5161/6161

LAW2 Dispute Solving

Mark Scheme

2006 examination – June series

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' 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.

Assessment Objectives One and Two

General Marking Guidance

You should remember that your marking standards should reflect the levels of performance of candidates, 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 candidates 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 candidate'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 candidate's answer does not deserve credit, then no marks should be given.

Levels of Response for Essay Marking

When reading an essay it is useful to annotate your recognition of the achievement of a response level. This will help the Team Leader follow your thought processes. Levels of response marking relies on recognition of the highest Level achieved by the candidate. When you have finished reading the essay, therefore, think top-down, rather than bottom-up. In other words, has the candidate's overall answer met the requirements for the top level? If not, the next level?

Citation of Authority

Candidates 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

The Code of Practice for GCSE, GCSE in vocational subjects, GCE, VCE and GNVQ requires the assessment of candidates' quality of written communication wherever they are required to write in continuous prose. In this unit, this assessment will take place by marking the candidate's script as a whole, by means of the following criteria:

Level 3 Moderately complex ideas are expressed clearly and reasonably fluently, through well linked sentences and paragraphs. Arguments are generally relevant and well structured. There may be occasional errors of grammar, punctuation and spelling.

4-5 marks

Level 2 Straightforward ideas are expressed clearly, if not always fluently. Sentences and paragraphs may not always be well connected. Arguments may sometimes stray from the point or be weakly presented. There may be some errors of grammar, punctuation and spelling, but not such as to detract from communication of meaning.

2-3 marks

Level 1 Simple ideas are expressed clearly, but arguments may be of doubtful relevance or be obscurely presented. Errors in grammar, punctuation and spelling may be noticeable and intrusive, sufficient to detract from communication of meaning.

1 mark

Level 0 Ideas are expressed poorly and sentences and paragraphs are not connected. There are errors of grammar, punctuation and spelling, such as to severely impair communication of meaning.

0 marks

The level of understanding in AS Law – LAW2

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	<ul style="list-style-type: none">• The material will be generally accurate and contain relevant material 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. <p>As a consequence, the essential features of the Potential Content are dealt with competently and coherently.</p>
Clear	<ul style="list-style-type: none">• 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. <p>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.</p>
Some	<ul style="list-style-type: none">• 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. <p>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.</p>

1**Total for this question: 30 marks**

(a) Outline the role of a judge in a Crown Court trial.	(10 marks)
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Potential Content

- (A) Outline of role, eg dealing with pre trial issues, deciding matters of law, directing jury, sentencing after verdict or guilty plea

Mark Bands

- 8 – 10 The candidate demonstrates a sound understanding of (A).
- 5 – 7 The candidate demonstrates a clear understanding of (A).
- 3 - 4 The candidate displays limited understanding by introducing consideration of any of the material in (A).
- 1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Briefly describe how superior judges are chosen, appointed and dismissed. Consider why it is so difficult to dismiss a superior judge from office. (20 marks)

Potential Content

- (A) Brief description of choice, appointment and dismissal, eg secret soundings, promotion of inferior judges, advertisements, appointment by Queen after recommendation, dismissal after Parliamentary petition, possible reference to Judicial Appointments Commission to be credited but not required
- (B) Consideration of dismissal, eg security of tenure, impartiality of decisions, independence from Executive, freedom from pressure, possible reference to the Constitutional Reform Act 2005 to be credited but not required

Mark Bands

- 16 - 20 The candidate deals with (A) and (B) as follows:
max 20: two sound (there may be some imbalance in treatment as between them)
max 17: one sound, one clear.
- 11 - 15 The candidate deals with (A) and (B) as follows
max 15: one sound, one some **or** two clear
max 14: one sound
max 13: one clear, one some
max 11: one clear **or** two some.
- 6 - 10 The candidate displays limited understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

2

Total for this question: 30 marks

- (a) Jo has been seriously injured in an accident. Explain where she could obtain legal advice about a claim for compensation **and** how the claim could be paid for. (20 marks)

Potential Content

- (A) Explanation of forms of legal advice for civil claims, eg solicitors, barristers through Bar Direct, insurance companies, membership of organisations such as AA, RAC, trade union, consumer organisations, law centres and CAB, internet, Claims firms
- (B) Explanation of finance, eg private finance, no-win no-fee deals, legal aid in limited cases, *pro bono*, funding by organisations

Mark Bands

- 16 - 20 The candidate deals with (A) and (B) as follows:
max 20: two sound (there may be some imbalance in treatment as between them)
max 17: one sound, one clear.
- 11 - 15 The candidate deals with (A) and (B) as follows:
max 15: one sound, one some **or** two clear
max 14: one sound
max 13: one clear, one some
max 11: one clear **or** two some.
- 6 - 10 The candidate displays limited understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
 a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

- (b) Comment on the advantages **and** disadvantages of Jo settling her claim rather than going to court. *(10 marks)*

Potential Content

- (A) Comment on advantages, eg cost, early payment, lack of publicity, maintaining relationship
- (B) Comment on disadvantages, eg bargaining power of parties, possible reduced award, lack of publicity for issue

Mark Bands

- 8 – 10 The candidate 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 candidate 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 candidate demonstrates some capacity for explanation and/or application but neither is clear.
- 1 – 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
or
mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

3

Total for this question: 30 marks

‘Trial by jury is the means by which members of the general public have a say in important decisions affecting law and order.’

- (a) Explain how jurors may or may not qualify for jury service, and describe how jurors are chosen to serve on a jury. (15 marks)

Potential Content

- (A) Explanation of basic jury qualification, eg age, electoral register, residence, random selection by Central Summoning Bureau
- (B) Explanation of good reasons for not serving, eg disqualification, excusal, deferral
- (C) Description of selection methods, eg vetting, ballot in court, challenges, swearing in

Answers should refer only to post 2004 rules

Mark Bands

- 12 – 15 The candidate deals with all three of (A) – (C) as follows:
max 15: two sound, one clear
max 13: two sound, one some **or** one sound, two clear
max 12: two sound **or** one sound, one clear, one some **or** three clear.
- 8 – 11 The candidate deals with (A) – (C) as follows:
max 11: one sound, one clear **or** one sound, two some **or** two clear, one some
max 10: one sound, one some **or** two clear **or** one clear, two some
max 9: one sound **or** one clear, one some **or** three some
max 8: one clear **or** two some.
- 4 – 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) – (C).
- 1 – 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
 a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Identify and discuss the advantages and disadvantages of trial by jury.	(15 marks)
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Potential Content

- (A) Identification and discussion of advantages, eg open justice, trial by peers, public confidence, fairness
- (B) Identification and discussion of disadvantages, eg perverse verdicts, feelings of bias, unrepresentative nature, selection procedures, influence, media pressure, complexity of issues

Mark Bands

- 12 - 15 The candidate deals with (A) and (B) as follows:
max 15: two sound
max 13: one sound, one clear.
- 8 - 11 The candidate deals with (A) and (B) as follows:
max 11: one sound, one some **or** two clear
max 10: one sound
max 9: one clear, one some
max 8: one clear **or** two some.
- 4 - 7 The candidate displays limited understanding by introducing consideration of any of the material in (A) - (B).
- 1 - 3 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes or confusion.
- 0 The answer contains no relevant information.

4**Total for this question: 30 marks**

(a) Briefly explain the work of a barrister.	(10 marks)
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Potential Content

- (A) Brief explanation of barrister's work, eg specialist areas of work, giving pre trial advice and drafting of documents, advocacy in court, advice and conduct on possible appeal, working from chambers, independent status, now direct access but also instructed through solicitors

Mark Bands

- | | |
|--------|---|
| 8 – 10 | The candidate demonstrates a sound understanding of (A). |
| 5 – 7 | The candidate demonstrates a clear understanding of (A). |
| 3 – 4 | The candidate displays limited understanding by introducing consideration of any of the material in (A). |
| 1 - 2 | The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion. |
| 0 | The answer contains no relevant information. |

- (b) Describe the work of solicitors both in **and** out of court. Discuss how they can be held responsible to their clients for poor work. (20 marks)

Potential Content

- (A) Description of work of solicitors, eg work in court general advocacy and extended rights of audience in civil and criminal cases, work out of court including advice and drafting papers in traditional provincial practice, specialist work in city practice, role of solicitor instructing barrister
- (B) Discussion of solicitors' responsibility for poor work, eg ability to be sued for negligent work, Consumer Complaints Service and possible disciplinary action, possible complaint to and investigation by Legal Services Ombudsman

Mark Bands

- 16 - 20 The candidate deals with (A) and (B) as follows:
max 20: two sound (there may be some imbalance in treatment as between them)
max 17: one sound, one clear.
- 11 - 15 The candidate deals with (A) and (B) as follows
max 15: one sound, one some **or** two clear
max 14: one sound
max 13: one clear, one some
max 11: one clear **or** two some.
- 6 - 10 The candidate displays limited understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 5 The answer consists of brief fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

5

Total for this question: 30 marks

Tribunals and Arbitration are two forms of Alternative Dispute Resolution (ADR).

- (a) Explain how these **two** forms of ADR work, and describe the types of cases they **both** deal with. (20 marks)

Potential Content

- (A) Explanation of tribunals and description of work, eg separate from court, decided by panel, legally qualified chair, types of cases such as employment and/or social benefits and/or domestic tribunals, outcomes
- (B) Explanation of Arbitration and work of Arbitrators, eg qualified Arbitrators, private hearings, making of awards, types of cases such as holidays, consumer matters, contractual disputes

Note: Reference to possible appeals may enhance quality of (A) and/or (B).

Mark Bands

- 16 – 20 The candidate deals with (A) and (B) as follows:
max 20: two sound (there may be some imbalance in treatment as between them)
max 17: one sound, one clear.
- 11 - 15 The candidate deals with (A) and (B) as follows:
max 15: one sound, one some **or** two clear
max 14: one sound
max 13: one clear, one some
max 11: one clear **or** two some.
- 6 – 10 The candidate displays limited understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 5 The answer consists of brief, fragmented comments or examples so that no coherent approach emerges
or
a more substantial attempt at explanation is fundamentally undermined by mistakes and confusion.
- 0 The answer contains no relevant information.

(b) Discuss the advantages and disadvantages of either tribunals or arbitration. (10 marks)

Potential Content

- (A) Discussion of advantages of Tribunals **or** Arbitration, eg limited publicity, less formal, quicker and cheaper than the courts, limited legal representation, less confrontational, increased acceptance by the courts
- (B) Discussion of disadvantages of Tribunals **or** Arbitration, eg lack of reasoning, use of precedent, appeals to court system, enforcement of awards, expense, lack of legal aid, imbalance between the parties

Mark Bands

- 8 - 10 The candidate 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 candidate 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 candidate displays limited understanding by introducing consideration of any of the material in (A) and (B).
- 1 - 2 The answer consists of brief, fragmented comments or examples so that no coherent explanation and application emerges
 or
 mistakes and confusion fundamentally undermine a more substantial attempt at explanation and application.
- 0 The answer contains no relevant information.

ASSESSMENT GRID

(to show the allocation of marks to Assessment Objectives)

Advanced Subsidiary Level Law (LAW2)

UNIT 1	AO1	AO2	AO3
Question 1	20	10	
Question 2	20	10	
Question 3	20	10	
Question 4	20	10	
Question 5	20	10	
	(x2 from 5)	(x 2 from 5)	
AO3 (Quality of written communication for the paper as a whole)			5
Total marks	40	20	5
% of the AS	18.5	9	2.5
% of the A Level	9.25	4.5	1.25