

GCSE

Law

Unit **B141**: The Nature of Law. Criminal Courts and Criminal Processes

General Certificate of Secondary Education

Mark Scheme for June 2016

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.













All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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1. Annotations

Annotation	Meaning
	Not relevant or the response given is 'Unclear' to the marker. Or to indicate all or part blank answer pages have been seen by the marker.
	Not answered question
	Level 1
	Level 2
	Level 3
	Benefit of Doubt
	Response is incorrect, no credit given
	Unclear
	Repeat
	Correct point or answer given
	Vague – credit cannot be given
	Omission mark

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • Contract • Consumer • Tort • Family • Employment • Company • International <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct type identified</p> <p>Do not credit criminal law since this is the example in the stem of the question.</p>
1	(b)	<p>Candidates will explain one of the following:</p> <ul style="list-style-type: none"> • To protect individual freedoms and rights. Without such freedoms we would not be able to live in harmony and enjoy our lives. For example, disallowing criticism of the British government would prevent open and democratic debate. • To regulate relationships. Citizens will often enter into agreements in order for one part to carry out a specific role, duty or service requiring regulation under the law if a dispute arises. For example, in contract law specific rules are set to regulate any disagreement. • To set standards. Citizens are generally required to observe a certain level or standard in what they are doing. If they were to fall below that standard, and perhaps injure someone, then the law needs to step in and resolve the situation. For example, if a builder negligently carries out their duty and someone dies then the law will intervene. <p>Credit any other relevant response</p>	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>Candidates will be rewarded as follows:</p> <p>3 marks – develops an explanation on one relevant reason 2 marks – explains one relevant reason with some elaboration 1 mark - explains a relevant reason or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Candidates who simply give three separate reasons will only be credited with one mark.</p> <p>Candidates can be credited with both breadth and depth</p>

Question		Answer	Mark	Guidance
2	(a)	<p>Candidates will identify any of the following:</p> <ul style="list-style-type: none"> • Where there are two previous Court of Appeal (Civil Division) decisions which contradict each other. • Where a previous Court of Appeal (Civil Division) decision contradicts with a, usually later, Supreme Court (House of Lords). • Where an earlier Court of Appeal (Civil Division) decision was decided to be <i>per incuriam</i>. <p>Credit any other relevant response</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct exception identified</p>
2	(b)	<p>Candidates will insert Prison, Flexible and Misunderstood in this order.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct word identified</p>
2	(c) (i)	<p>Candidates will give any three of the following:</p> <ul style="list-style-type: none"> • To avoid earlier criticism about being rigid in its following of precedent; • To provide a more flexible position from which to work on updating the law; • To avoid injustice that sticking with previous incorrect precedent could produce; • To avoid restricting the proper and natural development of the law; • To avoid the necessity to rely on Parliament to amend the law. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct reason given</p>

Question	Answer	Mark	Guidance
2 (c) (ii)	<p>Candidates will explain:</p> <p>Original Precedent:</p> <ul style="list-style-type: none"> • This is a point of law in a case that has not arisen or been decided before; • The judge who decides the law in such a situation sets a new, or original, precedent for future cases to follow; • In such situations the judge will follow similar analogous case law; • However, sometimes where there is no analogous law, so the judge has to create totally new law from their own opinion; • Whether a decision is original precedent will depend on which court is making the decision; • Judges will create original precedent only when necessary to avoid injustice. <p>Binding Precedent</p> <ul style="list-style-type: none"> • This is established precedent from an earlier case; • It is specifically part, or the whole, of a previous case's decision; • Whether such a decision is followed, depends upon where in the hierarchy of the courts the previous, binding decision was made; • The binding precedent will only be followed if the judge feels that the facts of the second case are so similar to that of the first; • It is important to follow binding precedent on the grounds of certainty. <p>Credit any other relevant response.</p>	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>For <u>each</u> type of precedent explained:</p> <p>3 marks – develops a explanation on one relevant type 2 marks – explains one relevant type with some elaboration 1 mark - explains a relevant type or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>As this is an AO2 question on explaining two types of precedent and not specifically the advantages and disadvantages only allow one mark per advantage or disadvantage per part answer.</p>

Question	Answer	Mark	Guidance
2 (d)	<p>Candidates will discuss any of the following important roles:</p> <ul style="list-style-type: none"> • The Court’s role is to ensure that European Union law is interpreted and applied correctly; • They ensure that European Union law is applied uniformly across all member states; • The Court hears ‘preliminary rulings’ on points of European Union law; • The Court is also a court of first instance dealing with specific labour and competition law. <p>Credit any other relevant explanation</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>3 marks – develops a discussion on three of the relevant roles or one or more with developed discussion 2 marks – discusses one or more relevant roles or one with some elaboration 1 mark - discusses a relevant role or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Candidates can be credited with both breadth and depth</p>
3 (a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • In the past; • In the present; • In the future. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each time identified</p>
3 (b) (i)	<p>Candidates will describe any of the following</p> <ul style="list-style-type: none"> • Their rights cover not only to stop and/or search the public on foot but also vehicles in a public place; • The police can even stop and search a citizen in a more private place e.g. a private garden if they believe they don’t live there; • They can stop and/or search a citizen or vehicle for any ‘prohibited articles’; • The police simply need reasonable grounds to believe the citizen or vehicle is carrying ‘prohibited articles’; • The police can stop and search a citizen if they are out of uniform. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>3 marks – develops a description on the relevant power 2 marks – describes one relevant power with some elaboration 1 mark - describes a relevant power or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit can only be given to police powers under stop and search under PACE84.</p> <p>Credit should be given for both breadth and depth</p> <p>(Maximum 3 marks)</p>

Question		Answer	Mark	Guidance						
3	(b) (ii)	<p>Candidates will discuss any of the following safeguards:</p> <ul style="list-style-type: none"> • The right to liberty is a key principle under the Human Right’s Act 1998 and the police need to be aware that an arrest is a significant interference with this right; • The arrest must be justified. If at all possible the police must seek to avoid an arrest and seek an alternative way of resolving the matter; • The member of the public can only be arrested if the police have to have reasonable suspicion that it is necessary to make the arrest; • The police must know of the member of the public’s involvement, suspected involvement or attempted involvement; • As soon as practically possible the police officer must inform the member of the public that they are under arrest and, even if obvious, the reason for being arrested. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>3 marks – develops a discussion on the relevant safeguard 2 marks – discusses one relevant safeguard with some elaboration 1 mark - discusses a relevant safeguard or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit should be given for both breadth and depth</p>						
3	(c)	<p>Candidates will successfully match any or all of the following:</p> <table border="1" data-bbox="443 1070 851 1177"> <tbody> <tr> <td>A</td> <td>2</td> </tr> <tr> <td>B</td> <td>4</td> </tr> <tr> <td>C</td> <td>1</td> </tr> </tbody> </table>	A	2	B	4	C	1	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each correct number identified</p>
A	2									
B	4									
C	1									

Question		Answer	Mark	Guidance
3	(d)	<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • Told to remove her jeans. A strip search can only be carried out by a police officer of the same gender as the suspect. • Removal of jeans at the reception desk in front of a member of the public. While carrying out a strip search, this must be conducted in a private place, for example: a police cell. • Intimate search is carried out by male police officer. An intimate search for drugs can only be carried out by a suitably qualified person – specifically a doctor or nurse. • The permission for the intimate search is given by the receptionist. Permission to carry out an intimate search can only be authorised by a high-ranking police officer. <p>Credit any other relevant response.</p>	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>For <u>each</u> reason the searches were illegal explained:</p> <p>2 marks – explains one relevant reason with some elaboration 1 mark - explains a relevant reason or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Maximum 2 marks for each reason discussed</p>
4	(a) (i)	<p>Candidates will tick the boxes as follows to obtain each mark:</p> <p>A – True B – False C - True</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct tick</p>

Question		Answer	Mark	Guidance
4	(a) (ii)	<p>Candidates will define as follows:</p> <ul style="list-style-type: none"> • Rehabilitation looks to change the criminal ways of the offender through education and aims to break the cycle of offending and is used mainly with young offenders as well as with older offenders; • Deterrence looks at deterring offences from being committed through the fear of punishment and can be by either individual or general deterrence; • Reparation makes the offender to make some kind of compensation for their criminal actions to the victim themselves or to society as a whole. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct definition</p> <p>Do not credit a candidate who simply rewords the aim or purpose. For example: Rehabilitation is to rehabilitate an offender.</p>
4	(b)	<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • Their main civil role is in relation to family matters. Although, this is generally minor involvement, it is necessarily important. For example: making orders for residence of and contact with children; • They are responsible for the enforcement of financial penalties. This is where the individual owes money to specific organisations, usually utility companies but has not, or is refusing to pay them back. This has usually involved either a previous court fine or non-payment of council tax. • They will hear appeals against local authorities licensing decisions. Here an individual would have applied and been turned down for a specific licence. For example: to sell alcohol or operate a betting shop. <p>Credit any other valid response</p>	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>For <u>each</u> role explained:</p> <p>3 marks – develops a explanation on one or more relevant roles 2 marks – explains one or more relevant roles with some elaboration 1 mark - explains a relevant role or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit should be given for both breadth and depth</p>

Question	Answer	Mark	Guidance
4 (c)	<p>Candidates will explain any two of the following reasons:</p> <ul style="list-style-type: none"> • Members of the Armed Forces. If the serviceman's commanding officer feels that jury service would be prejudicial to his military unit then they can be excused. This would be where their absence from work would be prejudicial to the safety and efficiency of the service. • Medical reasons: illness or disability. If a person was too ill or unable to sit on a jury then they may be excused. Being in such a situation would be difficult as they may be unable to sit and concentrate on the trial. • Childcare or looking after elderly relatives. If a child or relative relies upon the parent or carer then their absence while on jury service would be a legitimate reason for excusal. Leaving a child or relative on their own would clearly put them in a vulnerable situation and the juror facing a potential criminal charge themselves. • Business commitments. If the potential juror is an important part of a business and their absence would be prejudicial to the business then they can ask for an excusal. For example: if a self-employed window-cleaner had to spend six month on a fraud trial then he wouldn't earn any income. • Examinations to be sat. If a student was due to take an examination which was to be sat at the time of the jury service, then they could ask for an excusal. If they were not granted an excusal then they would miss the exam and perhaps not be able to resit it for another year. 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Level 3: good explanation (5–6) Level 2: adequate explanation (3–4) Level 1: identification of reasons (1-2) 0 marks = no response or nothing worthy of credit</p> <p>Level 3 = 5-6 marks Good discussion covering two reasons.</p> <p>Level 2 = 3-4 marks At least one developed discussion to reach Level 2.</p> <p>Level 1 = 1-2 marks Identifies reasons. One point for bottom Level 1 two or more limited points for top Level 1.</p> <p>Maximum 4 marks if only one reason discussed.</p> <p>Credit should be given for both breadth and depth</p> <p>(Maximum 6 marks)</p>

Question	Answer	Mark	Guidance
	<ul style="list-style-type: none"> • Holiday/Wedding booked. It may be that an expensive or special holiday or wedding had been booked by the juror costing a significant amount of money. If they were not excused then they would lose all of this money and be particularly unhappy while sat on the jury. <p>Credit any other reasonable response.</p>		
4	<p>(d)*</p> <p>Candidates will discuss any of the following:</p> <ul style="list-style-type: none"> • An official at each Crown Court organises the summoning of those who will sit on a jury; • They organise and issue the jury summoning letter which are generated from local electoral registers by a central computer system; • The letter will inform the potential juror of the date they are to attend and contains comprehensive information about qualification, disqualification, excusals and expenses; <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>3 marks – develops a discussion on the relevant point 2 marks – discusses one relevant point with some elaboration 1 mark - discusses a relevant point or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit any reference to the jury central summoning bureau.</p> <p>Credit should be given for both breadth and depth</p>

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