

GCSE

Law

Unit **B142**: Civil Courts and Civil Processes.
Civil Liberties and Human Rights

General Certificate of Secondary Education

Mark Scheme for June 2014

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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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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	Benefit of doubt
	Incorrect point
	Expansion of a point
	Level 1
	Level 2
	Level 3
	Not answered the question
	No benefit of doubt given
	Not relevant or to indicate all or part blank answer pages have been seen by the marker
	Repeat
	Correct point
	Development of point
	Vague
	Omission mark


Subject-specific marking instructions**Blank answer spaces**

To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:

**Additional Objects**

You must also check any additional pages (shown as Additional Objects) which the candidate has chosen to use.

Before you begin marking, use the Linking Tool, to 'link' any additional page(s) to the relevant question(s) and mark the response as normal.

All additional pages must be annotated with the  stamp, so it is clear to centres that the additional pages have been viewed by the marker.

Question	Answer	Mark	Guidance																
1	<p>Candidates will identify the following:</p> <table border="1" data-bbox="365 347 1473 1098"> <thead> <tr> <th data-bbox="365 347 920 451">Clue</th> <th data-bbox="920 347 1106 451">Small claims track</th> <th data-bbox="1106 347 1279 451">Fast track</th> <th data-bbox="1279 347 1473 451">Multi track</th> </tr> </thead> <tbody> <tr> <td data-bbox="365 451 920 722">The case is likely to be heard by a senior Circuit Judge or a High Court Judge. The judge can insist that the parties try Alternative Dispute Resolution (ADR). If that fails, there should be a maximum of 72 weeks from the time the case is allocated to the trial itself.</td> <td data-bbox="920 451 1106 722"></td> <td data-bbox="1106 451 1279 722"></td> <td data-bbox="1279 451 1473 722">✓</td> </tr> <tr> <td data-bbox="365 722 920 895">The case is likely to be heard by a District Judge. There are no strict rules of evidence. If the parties agree, there can be a 'paper judgment' so they do not have to attend court.</td> <td data-bbox="920 722 1106 895">✓</td> <td data-bbox="1106 722 1279 895"></td> <td data-bbox="1279 722 1473 895"></td> </tr> <tr> <td data-bbox="365 895 920 1098">The case is likely to be heard by a Circuit Judge. The case should take 30 weeks from the time it is allocated until the trial. Normally only one expert witness appointed by the court is allowed.</td> <td data-bbox="920 895 1106 1098"></td> <td data-bbox="1106 895 1279 1098">✓</td> <td data-bbox="1279 895 1473 1098"></td> </tr> </tbody> </table>	Clue	Small claims track	Fast track	Multi track	The case is likely to be heard by a senior Circuit Judge or a High Court Judge. The judge can insist that the parties try Alternative Dispute Resolution (ADR). If that fails, there should be a maximum of 72 weeks from the time the case is allocated to the trial itself.			✓	The case is likely to be heard by a District Judge. There are no strict rules of evidence. If the parties agree, there can be a 'paper judgment' so they do not have to attend court.	✓			The case is likely to be heard by a Circuit Judge. The case should take 30 weeks from the time it is allocated until the trial. Normally only one expert witness appointed by the court is allowed.		✓		3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct track identified.</p> <p>(maximum 3 marks)</p>
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Scenario	The Supreme Court	Magistrates Court	Divisional Court QBD	County Court	CA Civil Division																						
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Statement	True or False								
The merits test is based on the likelihood of winning the case and getting back more money than the case would cost.	True								
Conditional Fee Arrangements can be used in any area of law.	False								

Question	Answer	Mark	Guidance
4	<p>Candidates will discuss any <u>two</u> of the following:</p> <p>Disadvantages:</p> <ul style="list-style-type: none"> ▪ Inconsistency – there is no doctrine of precedent and no publication of reasons for all decisions which can make results unpredictable. ▪ Access – there is no legal aid which can put people off or they are forced to represent themselves even if they do not have the skills to do so. ▪ Inequality – many actions involve an individual against an organisation which has money to spend on lawyers and experience of tribunals. ▪ Privacy – as hearings are private matters which should reach the wider public may not do so. ▪ Any other relevant comment. 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows for each of the two disadvantages:</p> <p>Level 3: 3 marks – develops a discussion of a relevant issue.</p> <p>Level 2: 2 marks – identifies a relevant issue with some elaboration.</p> <p>Level 1: 1 mark – identifies a relevant issue or makes any valid point.</p> <p>0 marks – no response or nothing worthy of credit</p> <p>Do not award – formality, complex rules and procedures which differ between tribunals as this is given in the question. Annotate as repetition.</p> <p>Do not award expensive / time consuming as more relevant to litigation.</p> <p>(3 marks for each disadvantage discussed, maximum 6 marks)</p> <p>Credit should be given for both breadth and depth</p>

Question		Answer	Mark	Guidance
5		<p>Candidates will give the following:</p> <p>Patrick is most likely to be a Legal Executive. Rita is likely to be a Barrister. Shona is most likely to be a Solicitor.</p>	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct legal professional identified.</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance				
6	A	<table border="1"> <thead> <tr> <th>Power</th> <th>Legal profession</th> </tr> </thead> <tbody> <tr> <td>The Senate of the Inns of Court have the power to disbar for a serious complaint</td> <td>Barrister</td> </tr> </tbody> </table>	Power	Legal profession	The Senate of the Inns of Court have the power to disbar for a serious complaint	Barrister	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct profession identified</p> <p>(maximum 1 mark)</p>
Power	Legal profession							
The Senate of the Inns of Court have the power to disbar for a serious complaint	Barrister							

Question		Answer	Mark	Guidance
6	B	<p>Candidates will identify as follows:</p> <p>Legal Services Ombudsman</p>	1	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for correct identification</p> <p>Have to contain "Ombudsman" - annotate with BOD</p> <p>(maximum 1 mark)</p>

Question	Answer	Mark	Guidance														
7	<p>Candidates will select up to <u>three</u> of the following:</p> <table border="1" data-bbox="367 347 1131 831"> <thead> <tr> <th data-bbox="367 347 862 413">Job</th> <th data-bbox="862 347 1131 413">Civil work</th> </tr> </thead> <tbody> <tr> <td data-bbox="367 413 862 486">Enforce timetables.</td> <td data-bbox="862 413 1131 486">✓</td> </tr> <tr> <td data-bbox="367 486 862 555">Hands down sentence.</td> <td data-bbox="862 486 1131 555"></td> </tr> <tr> <td data-bbox="367 555 862 624">Hears cases and evidence to decide on liability.</td> <td data-bbox="862 555 1131 624">✓</td> </tr> <tr> <td data-bbox="367 624 862 692">Deals with applications for bail.</td> <td data-bbox="862 624 1131 692"></td> </tr> <tr> <td data-bbox="367 692 862 761">Uses allocation questionnaires to manage cases.</td> <td data-bbox="862 692 1131 761">✓</td> </tr> <tr> <td data-bbox="367 761 862 831">Hears appeals against conviction.</td> <td data-bbox="862 761 1131 831"></td> </tr> </tbody> </table>	Job	Civil work	Enforce timetables.	✓	Hands down sentence.		Hears cases and evidence to decide on liability.	✓	Deals with applications for bail.		Uses allocation questionnaires to manage cases.	✓	Hears appeals against conviction.		3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct job selected as indicated by ✓.</p> <p>(maximum 3 marks)</p>
Job	Civil work																
Enforce timetables.	✓																
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Question		Answer	Mark	Guidance
8	A	Candidates will identify: Judicial College	1	ASSESSMENT OBJECTIVE 1 1 mark the correct identification. (for 1 mark) <i>Mark " Judicial Studies Board" as BOD</i>
8	B	Candidates will identify any two of the following: <ul style="list-style-type: none"> • induction course – e.g residential course, role play/visiting prisons • mentoring scheme e.g. shadowing • continuing education e.g updates on the law/lectures 	2	ASSESSMENT OBJECTIVE 1 1 mark for each correct identification (maximum 2 marks)

Question	Answer	Marks	Guidance
9	<p>Use levels of response</p> <p>Candidates will discuss any <u>two</u> of the following:</p> <ul style="list-style-type: none"> ▪ Composition – often seen to be white, male, middle aged, public school and Oxbridge educated. This means they are not representative but they may well be the best candidate for the job ▪ Bias against women – although the majority entering the legal professions is female the same is not true of judges. ▪ There is also evidence of sexist behaviour among judges and towards defendants in sentencing. However all judges have some training in equal treatment ▪ Inconsistency in sentencing caused by discretion in application in guideline which leads to unfairness ▪ Racial Minorities – Insufficient numbers entering the professions at entry level has a knock on effect on the Judiciary. ▪ Political bias – judges often accused of siding with the establishment and being conservative and Conservative. However there are lots of cases where results suggest otherwise and the HRA 1998 has made the judges more aware of people’s rights and therefore less biased ▪ Any other relevant comment. 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows for each of the <u>two</u> criticisms:</p> <p>L3 - 3 marks – develops a discussion of a relevant issue L2 - 2 marks – identifies a relevant issue with some elaboration L1 - 1 mark – identifies a relevant issue 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> <p>(maximum 6 marks)</p>

Question		Answer			Mark	Guidance	
10		Candidates will identify the following:			3	ASSESSMENT OBJECTIVE 2 1 mark each for each correct answer (maximum 3 marks)	
			Source of Freedom				
		Scenario	Common Law	Statute Law			European Law
		Pierre is a male nurse from France. He applies for a job in the UK but is refused entry into the UK at the airport.					✓
		Mary is a member of a jury which is finding it hard to reach a verdict. The judge tells Mary and the other jurors that they will not be able to leave the jury room and they will get nothing to eat or drink until they reach their decision.	✓				
Colin has been arrested and kept in a prison cell overnight but he has not been charged with any offence.		✓					

Question	Answer	Mark	Guidance										
11	<p>Candidates will match up to <u>four</u> of the following freedoms :</p> <ul style="list-style-type: none"> ▪ Information – ensures police data is held lawfully ▪ Person – prevents unlawful stop and search ▪ Association and assembly – allows picketing outside a place of work ▪ Thought, belief and religion – allows provision of different schools <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Type of Freedom</th> <th style="width: 50%;">The way in which it may protect an individual</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Freedom of information</td> <td style="text-align: center;">allows picketing outside a place of work.</td> </tr> <tr> <td style="text-align: center;">Freedom of the person</td> <td style="text-align: center;">allows provision of different schools.</td> </tr> <tr> <td style="text-align: center;">Freedom of association and assembly</td> <td style="text-align: center;">ensures police data is held lawfully.</td> </tr> <tr> <td style="text-align: center;">Freedom of thought, conscience and religion</td> <td style="text-align: center;">prevents unlawful stop and search.</td> </tr> </tbody> </table>	Type of Freedom	The way in which it may protect an individual	Freedom of information	allows picketing outside a place of work.	Freedom of the person	allows provision of different schools.	Freedom of association and assembly	ensures police data is held lawfully.	Freedom of thought, conscience and religion	prevents unlawful stop and search.	4	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct answer</p> <p>(maximum 4 marks)</p>
Type of Freedom	The way in which it may protect an individual												
Freedom of information	allows picketing outside a place of work.												
Freedom of the person	allows provision of different schools.												
Freedom of association and assembly	ensures police data is held lawfully.												
Freedom of thought, conscience and religion	prevents unlawful stop and search.												

Question	Answer	Marks	Guidance
12	<p>Use levels of response</p> <p>Candidates will explain restrictions of the following:</p> <p>Freedom of information</p> <ul style="list-style-type: none"> ▪ involvement in crime, disorder or fraud ▪ involvement in terrorist activities ▪ a threat to national security ▪ other illegal activity such as grooming or downloading child pornography ▪ a need to protect the economy ▪ a need to protect the morals of others ▪ a need to protect the rights or freedoms of others ▪ a need to protect against obscenity <p>Freedom of the person</p> <ul style="list-style-type: none"> ▪ lawful stop, search, arrest or questioning to allow police to do their job ▪ lawful detention in connection with terrorism to protect public ▪ lawful detention under mental health legislation to protect individuals and public ▪ being deported to a country of origin needed to protect and do justice <p>Freedom of association and assembly</p> <ul style="list-style-type: none"> ▪ participating in illegal strikes or demonstrations as this is against the spirit of the law ▪ belonging to a banned organisation as this can threaten public safety ▪ participating in unlawful assembly as this can put safety at risk and protection is needed for private landowners. 	8	<p>ASSESSMENT OBJECTIVE 2</p> <p>No marks are awarded for simply describing a freedom which is restricted.</p> <p>Candidates will score as follows for explaining a restriction for each of the four freedoms:</p> <p>L2 - 2 marks – explains why the freedom may be restricted with some elaboration or the use of an example</p> <p>L1 - 1 mark – explains why the freedom may be restricted</p> <p>0 marks – no response or nothing worthy of credit</p> <p>(maximum 8 marks)</p> <p>Answers must relate to a legitimate restriction</p>

Question			Answer	Marks	Guidance
			<p>Freedom of thought, conscience and religion</p> <ul style="list-style-type: none"> ▪ necessary to protect public safety ▪ necessary to protect public order ▪ necessary to protect health or morals ▪ necessary to protect the rights and freedoms of others. ▪ necessary to prevent racial hatred and violence 		

Question			Answer	Mark	Guidance
13			<p>Candidates will insert up to <u>three</u> the following correct words in this order:</p> <p>Greeks Written Council</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct word selected</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance
14		Candidates will identify: Article 8 / right to respect for private and family life, home life and correspondence.	1	ASSESSMENT OBJECTIVE 1 (maximum 1 mark)

Question		Answer	Mark	Guidance
15		Candidates will identify: Article 14 / freedom from discrimination.	1	ASSESSMENT OBJECTIVE 1 (maximum 1 mark)

Question		Answer	Mark	Guidance																												
16		Candidates will select the following:	3	ASSESSMENT OBJECTIVE 2 1 mark for each correct Article selected (maximum 3 marks) If more than one answer given, even if correct, annotate "NBOD" and no mark is awarded.																												
		<table border="1"> <thead> <tr> <th>Article of Human Rights Act</th> <th>Case 1</th> <th>Case 2</th> <th>Case 3</th> </tr> </thead> <tbody> <tr> <td>Article 2 the right to life.</td> <td></td> <td>✓</td> <td></td> </tr> <tr> <td>Article 4 the right to freedom from slavery, servitude and forced or compulsory labour.</td> <td></td> <td></td> <td>✓</td> </tr> <tr> <td>Article 5 the right to liberty.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Article 6 the right to a fair trial.</td> <td>✓</td> <td></td> <td></td> </tr> <tr> <td>Article 10 the right to freedom of expression.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Article 14 the right to freedom from discrimination.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Article of Human Rights Act	Case 1	Case 2	Case 3	Article 2 the right to life.		✓		Article 4 the right to freedom from slavery, servitude and forced or compulsory labour.			✓	Article 5 the right to liberty.				Article 6 the right to a fair trial.	✓			Article 10 the right to freedom of expression.				Article 14 the right to freedom from discrimination.			
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Question	Answer	Marks	Guidance
17	<p>Use levels of response</p> <p>Candidates will discuss any <u>one</u> of the following arguments to allow a law in the context of Article 3/inhuman treatment:</p> <ul style="list-style-type: none"> ▪ Justification argument-proportionate to legitimate aim e.g. National security/ prevention of crime. ▪ There may be a need to use force to arrest someone, even if it amounts to an assault, to protect the police and the public ▪ There may be a need to restrain a person in police custody, a mental institution or in prison to protect the individual and those around them ▪ There may be a need to use psychological interrogation if the person is not giving information which could protect the public and national security techniques ▪ Any other relevant comment <p>Candidates will discuss any <u>one</u> of the following arguments not to allow a law in the context of Article 3/inhuman treatment:</p> <ul style="list-style-type: none"> ▪ Freedom from torture is a fundamental right and so there can be no exceptions without breaking the law as well as being an indicator of a civilised society ▪ Using inhuman methods to extract information or confessions means that the person might not tell the truth and so the public could still be in danger ▪ Treating individuals badly such as corporal treatment of children does not lead to better behaviour and creates problems for society in future ▪ Religious practices in other countries cannot be done in the UK if inhuman and not in line with UK religious practices 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows for each argument:</p> <p>Level 3: 3 marks – point explained with good reasoning and with effective communication through discussion. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p>Level 2: 2 marks – point made with some elaboration and adequate communication. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p>Level 1: 1 mark – basic point made with basic communication. Credit Article 3 or mention of. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>0 marks – no response or no response worthy of credit</p> <p>Using examples attracts some credit</p> <p>Credit can be given for the use of the Mosquito as an example, provided it is clearly linked to Article 3/inhumane behaviour and not simply repetition of the stem. Mere repetition of the stem should not be credited and should be annotated as ‘REP’.</p> <p>Reference to other articles attracts some credit provided it is clearly linked to Article 3/inhumane behaviour.</p> <p>Do not credit use of torture/inhumane treatment as a deterrent.</p>

Question	Answer	Marks	Guidance
	<ul style="list-style-type: none"> ▪ Inhuman treatment of groups through long term confinement and failure to provide work and benefits cannot be allowed as a person has a right to liberty and to provide for themselves and their family ▪ Inhuman treatment by deporting someone to a country where they may be tortured cannot be allowed as freedom from torture is a fundamental right in a civilised country ▪ Any other relevant comment 		<p>Credit should be given for both breadth and depth</p> <p>(maximum 6 marks)</p>

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