

GCSE

Law

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

General Certificate of Secondary Education

Mark Scheme for June 2017

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

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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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"> • It helps to protect individual freedoms/liberties by giving people rights when they are charged with criminal offences • It helps to regulate relationships between people so there is fairness and equality • It sets standards, particularly for those who owe responsibilities to other people • It provides remedies for wrongs suffered so that people can be compensated in civil law and those who break the criminal law can be punished <p>Credit any other relevant response.</p>	3	<p>1 mark for each correct reason identified</p> <p>Do not credit 'maintain law and order' (or similar e.g. 'Law helps to create <u>public order</u> by setting limits of what is acceptable') since this is the example in the stem of the question.</p>

Question		Answer	Mark	Guidance
	(b)	<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • In criminal cases the person ultimately starting the case is known as the prosecution or prosecutor • Following a police investigation the Crown Prosecution Service decide whether to conduct a case on behalf of the State • There may be other State or private agencies whom may start a criminal case for example Customs and Excise or the RSPCA etc • In civil cases the person who starts the case is called a claimant (before 1999 known as a plaintiff) • The claimant takes it upon themselves to start the proceedings in court • This is usually with the help of a solicitor or barrister but the claimant could act for themselves. <p>Credit any other relevant response</p>	3	<p>Candidates will be rewarded as follows:</p> <p>3 marks – develops a explanation on the relevant differences 2 marks – explains one relevant difference with some elaboration 1 mark - explains a relevant difference 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>
2	(a)	<p>Candidates will identify any of the following:</p> <ul style="list-style-type: none"> • A Green Paper • A White Paper • A Bill 	3	<p>1 mark for each correct document identified</p> <p>Credit any specific and accurate definition</p>
	(b)	<p>Candidates will insert Higher, Similar and Binding in this order.</p>	3	<p>1 mark for each correct word identified</p>

Question	Answer	Mark	Guidance
(c) (i)	<p>Candidates will explain any three of the following:</p> <ul style="list-style-type: none"> • Since there are many stages in passing an Act of Parliament it can take considerable time to pass legislation • The language used in many Acts of Parliament is complex or obscure • Sometimes the language is overly elaborate as the Act has to cover many situations or eventualities • Being part of the European Union (EU) has seen the Government's ability to pass laws independently being partially removed where it conflicts with existing or subsequent EU laws • The structure of Acts can sometimes prove illogical and consequently difficult to find the right law • There may be more than one Act dealing with an issue and would therefore need to be read together or amended by further legislation • There is sometimes no clear connection between Acts so finding the law on a specific subject can be difficult • There is the possibility of a lack of publicity over the passing of an Act of Parliament so laws are passed without public notice. <p>Credit any other relevant response.</p>	3	1 mark for each correct problem given

Question	Answer	Mark	Guidance
(c) (ii)	<p>Candidates will explain:</p> <p>Statutory Instruments:</p> <ul style="list-style-type: none"> • These are laws made by Government Ministers • Ministers in specific Government departments are authorised to pass laws under areas they are responsible e.g. Health, Education etc • Expert civil servants are used to write the contents of the statutory instruments • They can be very short documents amending a specific item of law, or can be quite long and detailed • They are used to fill in consequent details of Acts of Parliament at a later date • This is a major way of passing laws with around 3000 statutory instruments passed each year • Authorisation to pass laws using statutory instruments is normally given by the Parent Act e.g. Police and Criminal Evidence Act 1984. <p>Credit any other relevant response.</p> <p>Bylaws:</p> <ul style="list-style-type: none"> • These laws are usually made by local authorities/local councils • These are local laws that have local impact and not national impact • They are mainly to do with road traffic control but can be used for many issues to control local crime and disorder for example banning alcohol consumption on certain streets or public parks • They can also be passed by public bodies or 	6	<p>For <u>each</u> type of delegated legislation explained:</p> <p>3 marks – develops a explanation on one or more relevant points 2 marks – explains one relevant point with some elaboration 1 mark - explains a relevant point or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Credit candidates who use a real example in such situations.</p> <p>Credit any discussion of the Legislative and Regulatory Reform Act 2006</p>

Question	Answer	Mark	Guidance
	<p>corporations to help run their businesses efficiently e.g. Network Rail or London Underground</p> <ul style="list-style-type: none"> • They are authorised by a Parent Act passed by the Government or European legislation. <p>Credit any other relevant response.</p>		

Question	Answer	Mark	Guidance
(d)	<p>Candidates will discuss any of the following reasons:</p> <ul style="list-style-type: none"> • Individuals, businesses or local authorities can propose a Private Bill so that it gives them authority to pass laws to allow the more efficient running of their business, local authorities or organisations • This type of Bill only affects certain individuals, businesses or local authorities so the law is customised to meet the specific needs of those it legislates to help • They are publicised through newspaper adverts, trade publications or similar to that those who would be affected by the laws are informed • Any person or organisations who are opposed to the new laws proposed by a Private Bill can petition the Government to raise their objections. <p>Credit any other relevant explanation</p>	3	<p>3 marks – develops a discussion on one or more reasons for effectiveness with a developed discussion 2 marks – discusses one reason for effectiveness with some elaboration 1 mark - discusses a reason for effectiveness 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> <p>Credit candidates who use a real example in such situations.</p>

Question		Answer	Mark	Guidance
3	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • The police must inform the suspect of their name e.g. P.C Smith • The police must inform the suspect of the police station to which they are attached • The police must inform the suspect of the reason for the stop and search. 	3	<p>1 mark for each item identified</p> <p>The question requires stop and search under PACE.</p> <p>Credit if the police are not in uniform then police must prove to the suspect that they are police officers for example their warrant card.</p>

Question		Answer	Mark	Guidance
	(b) (i)	<p>Candidates will discuss any of the following:</p> <ul style="list-style-type: none"> • It is important that the police are allowed to do their job but they have to protect human rights for example, they cannot ask people to remove headgear in public as it may be worn for religious reasons – this protects the individual • It is important to have rules since if the Police and Criminal Evidence Act 1984 and the Codes of Practice did not exist it would be very hard to investigate crimes – this helps the police do their job • Having clear rules is important so it means that people can know what the police are allowed to do – this helps the individual and stops the police taking advantage • It is important that if the law is followed a conviction is unlikely to be appealed and this gives 	3	<p>3 marks – develops a discussion on the relevant reason 2 marks – discusses one relevant reason with some elaboration 1 mark - discusses a relevant reason 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
	<p>the law certainty – this is good for the individual as they know they deserved to be caught, it is good for the police as they know they did their job correctly and it is good for society as it shows us where the lines are and that the law can be trusted.</p> <p>Credit any other relevant response.</p>		

Question	Answer	Mark	Guidance
(b) (ii)	<p>Candidates will discuss any of the following facts on access to legal advice:</p> <ul style="list-style-type: none"> • This safeguard comes under s.58 of the Police and Criminal Evidence Act 1984 • They have the right, if requested, to access the legal advice at any time • Access must be made as soon as practically possible • Free legal advice from a duty solicitor • This may be in person or over the 'phone • However, the right to access legal advice can be delayed by a senior police officer if, for example, they believe it would interfere with the investigation of the offence involving the suspect • Nevertheless, the suspect must be allowed to consult a solicitor within 36 hours even if access is delayed • These rules under Police and Criminal Evidence Act 1984 do not apply to terrorist provisions. 	3	<p>3 marks – develops a discussion on the relevant fact or facts 2 marks – discusses one relevant fact with some elaboration 1 mark - discusses a fact or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>Note: simply rewording the question will not be credited.</p> <p>Credit should be given for both breadth and depth</p> <p>Credit any other relevant response.</p>

Question	Answer	Mark	Guidance						
(c)	Candidates will successfully match any or all of the following: <table border="1" data-bbox="692 323 1099 437" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">A</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">B</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">C</td> <td style="text-align: center;">1</td> </tr> </table>	A	4	B	3	C	1	3	1 mark for each correct number identified
A	4								
B	3								
C	1								
(d)	Candidates will explain any of the following: <p>Triable either way offence</p> <ul style="list-style-type: none"> • This type of offence can be tried in either the magistrates' court or the crown court • They are 'mid-range' offences such as theft or actual bodily harm • Much consideration as to which court the defendant's case is heard is decided on whether the defendant pleads guilty or not guilty • If the defendant pleads not guilty then the magistrates, using committal proceedings, can send the defendant to crown court for full trial under the Magistrates' Courts Act 1980 • It is possible that the magistrates could hear the trial and, if necessary, send the defendant to the crown court for sentencing if they felt their powers were insufficient • If the defendant pleads guilty then the magistrates can decide whether to hear the case and sentence or to send the case to crown court for trial. 	6	For <u>each</u> type of classification of offence explained: <p>3 marks – develops a explanation on one or more relevant points</p> <p>2 marks – explains one relevant point with some elaboration</p> <p>1 mark - explains a relevant point or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p> <p>Credit candidates who use a real example in such situations.</p> <p>(Maximum for each classification: 3 marks)</p>						

Question			Answer	Mark	Guidance
			<p>Indictable offence</p> <ul style="list-style-type: none"> • Here the full trial is held in crown court in front of a single judge • These are the most serious offences for example murder • They are tried, usually, in front of a jury; but they can, in certain circumstances, be tried by a single judge without a jury • A first hearing is dealt with in a magistrates' court • These offences carry heavy prison sentences and/or fines. <p>Credit any other relevant response.</p>		
4	(a)	(i)	<p>Candidates will tick the boxes as follows to obtain each mark:</p> <p>A – True</p> <p>B – False</p> <p>C - True</p>	3	1 mark for each correct tick
	(a)	(ii)	<p>Candidates, using an example, will define as follows:</p> <p>Mitigating factors:</p> <p>These are factors that the judge can take into account to reduce the sentence of the defendant.</p>	3	<p>1 mark for each correct definition</p> <p>Do not credit a candidate who simply rewords the factor. For example: a mitigating factor is a factor that mitigates a sentence.</p>

Question	Answer	Mark	Guidance
	<p>Aggravating factors:</p> <p>These are factors that the judge can take into account to increase the sentence of the defendant.</p> <p>Racially motivated factor:</p> <p>This is where the defendant deliberately and negatively targets a victim because of their race, nationality or ethnic background and, if proven and relevant to the crime, must be taken into account by increasing the sentence of the defendant.</p> <p>Credit any other relevant response.</p>		
(b)	<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • Magistrates are recruited and selected by a network of 47 local advisory committees • Candidates wishing to become magistrates can apply via the internet or by a paper-based application form • Character references are required and two interviews are held before the committees make or decline a recommendation of appointment • Before 2013 the Lord Chancellor appointed magistrates • After 2013 magistrates are appointed by the Lord Chief Justice who delegates the role to the Senior Presiding Judge for England and Wales. <p>Credit any other valid response.</p>	3	<p>For <u>each</u> response explaining the process:</p> <p>3 marks – develops an explanation on one or more relevant parts of the process</p> <p>2 marks – explains one or more relevant parts of the process with some elaboration</p> <p>1 mark - explains a relevant part of the process or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p>

Question	Answer	Mark	Guidance
(c)	<p>Candidates will explain any of the following:</p> <p>Helen must meet the basic jury qualifications:</p> <ul style="list-style-type: none"> • Helen must be at least 18 years old and under 75 on the day that she starts jury service (post December 2016) 18-70 will also be accepted; and • Helen must be registered on the electoral register and • Helen must have lived in the United Kingdom, Channel Islands or the Isle of Man for any period of a least 5 years since she was 13 years old 	3	<p>3 marks – develops an explanation on the relevant point 2 marks – explains one relevant point with some elaboration 1 mark - explain a relevant point or makes any valid point 0 marks - no response or nothing worthy of credit</p> <p>18-70 will be accepted</p> <p>Credit should be given for both breadth and depth</p>
(d)*	<p>Candidates will explain any two of the following reasons - one for magistrates and one for juries:</p> <p>Advantages of using magistrates:</p> <p>From a cross-section of the community - magistrates are selected from the local community and come from a wide variety of backgrounds, social classes and occupations as well as age. This is a much wider variety than professional judges.</p> <p>Cost - while there are some costs attached to using magistrates, such as expenses, they are in no way near the costs (for example salaries) for professional judges.</p> <p>Local knowledge - as magistrates are chosen from the local area, geographically they have greater understanding of local community issues and demands.</p> <p>Training - magistrates receive vigorous, regular training throughout their time serving on the bench.</p>	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 3 marks if only one reason discussed.</p> <p>Credit should be given for both breadth and depth</p>

		<p>Advice from the court - Each magistrates' Court Clerk will, when required, provide advice to the magistrates on matters involving the law and/or procedure.</p> <p>Three magistrates - since there are three magistrates who sit in court during a trial, there is less opportunity for a biased decision than if there was a single magistrate sitting alone.</p> <p>Few appeals - there are very few appeals from the magistrates' court. Very few cases appeal against the finding of guilt. This suggests magistrates are making the correct decision in the original trial.</p> <p>Disadvantages of using juries:</p> <p>Secrecy – the verdict is decided in the jury room away from the courtroom and media observation. There is no explanation for the verdict and the jury do not have to give a reason for their decision.</p> <p>Bias –some jurors may feel sympathetic or unsympathetic to a defendant for their own personal reasons and not look at the trial objectively.</p> <p>Media influence – some cases will attract a lot of attention from newspapers, television and online and as such could potentially influence a juror in making a decision. This is particularly possible in high profile cases meaning the defendant may not get a fair trial</p> <p>Lack of understanding – jurors have no legal training and may find some of the law or evidence difficult to understand. This could lead to a long trial as everything needs to be explained in simple terms or that jurors could be swayed by a competent advocate rather than the facts of the case.</p>		
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		<p>Expensive – the jury system is often criticised as being expensive, particularly the administrative burden in organising the trials. Businesses have to bear the cost of losing an employee for a period of time and time off can cause particular problems for the self-employed.</p> <p>Credit any other reasonable response.</p>		
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