

**To be taken only between ... and ... 2012**

**AS GCE LAW**

**G151/01/I: English Legal System**

Candidates answer on the Answer Booklet

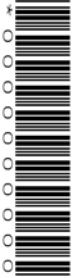
**OCR Supplied Materials:**

- 16-page Answer Booklet

**Duration: 2 hours**

**Other Materials Required:**

None



**INSTRUCTIONS TO CANDIDATES**

- Write your name, centre number and candidate number in the spaces provided on the Answer Booklet. Please write clearly and in capital letters.
- Use black ink. HB Pencil may be used for graphs and diagrams only.
- Answer **four** questions, **at least** two from Section A and **at least** one from Section B.
- Read each question carefully. Make sure you know what you have to do before starting your answer.
- If additional space is required, you should use pages 23 and 24 of the Answer Booklet. If you use additional sheets of paper, fasten these securely to the Answer Booklet.
- Do **not** write in bar codes.

**INFORMATION FOR CANDIDATES**

- The number of marks is given in brackets [ ] at the end of each question or part question.
- The total number of marks for this paper is **120**.
- Candidates are reminded of the need to write in continuous prose, where appropriate. Your written communication (QWC) including your use of appropriate legal terminology will be assessed in parts (a) and (c)(ii). These questions are marked with an asterisk (\*).
- This document consists of **10** pages. Any blank pages are indicated.



Answer **four** questions.

Answer **at least** two from Section A and **at least** one from Section B.

### SECTION A

Answer **at least** two questions from this section.

- 1 Write your answers to Question **1(a)** and **(b)\*** starting on page 2.
- (a)** Describe the sentences available for **adult** offenders. [18]
- (b)\*** Discuss the advantages **and** disadvantages of custodial sentences. [12]
- 2 Write your answers to Question **2(a)** and **(b)\*** starting on page 5.
- (a)** Explain the role of juries in **both** criminal cases **and** civil cases. [18]
- (b)\*** Discuss the arguments for abolishing juries. [12]
- 3 Write your answers to Question **3(a)** and **(b)\*** starting on page 8.
- (a)** Describe the current system for granting or refusing bail. [18]
- (b)\*** Discuss whether the criteria used by the police or the courts when granting or refusing bail are satisfactory. [12]
- 4 Write your answers to Question **4(a)** and **(b)\*** starting on page 11.
- (a)** Describe the different methods of Alternative Dispute Resolution available to deal with civil disputes. [18]
- (b)\*** Discuss the advantages **and** disadvantages of using Alternative Dispute Resolution. [12]
- 5 Write your answers to Question **5(a)** and **(b)\*** starting on page 14.
- (a)** Outline the theory of the separation of powers, illustrating your answer with examples. [18]
- (b)\*** Discuss the ways in which judges' independence is maintained. [12]

**SECTION B**

Answer **at least** one question from this section.

**6** Write your answers to Question **6(a)** and **(b)\*** starting on page 17.

**(a)** Describe the powers the police have to stop and search an individual on the street. **[18]**

Tyrone, aged 16, has missed the last bus and has to walk home. It is 2am and a police officer driving past in a police car sees Tyrone and stops. The police officer tells Tyrone to empty his pockets and Tyrone refuses. The police officer then grabs Tyrone's shoulder, pushes him into the police car and takes him to the local police station.

**(b)\*** Advise Tyrone on whether the police officer acted lawfully with regard to stop and search and the arrest. **[12]**

**7** Write your answers to Question **7(a)** and **(b)\*** starting on page 20.

**(a)** Describe the types of public funding available for advice and representation in a criminal case. **[18]**

**(b)\*** Jane is a bank clerk and has been arrested on suspicion of stealing £10 000 from her employer.

Explain to Jane what problems she might encounter with the public funding of her defence. **[12]**

SPECIMEN

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**OXFORD CAMBRIDGE AND RSA EXAMINATIONS**

**Advanced Subsidiary GCE**

**LAW**

**G151MS**

Unit G151: English Legal System

**Specimen Mark Scheme**

This mark scheme must be used in conjunction with the Advanced Subsidiary GCE Law Assessment Grid.

When using the mark scheme the points made are merely those that a well-prepared candidate would be likely to make. The cases cited in the scheme are not prescriptive and credit must be given for any relevant examples given. Similarly, candidates who make unexpected points, perhaps approaching the question from an unusual point of view, must be credited with all that is relevant. Candidates can score in the top bands without citing all the points suggested in the scheme. Answers, which contain no relevant material at all, will receive no marks. Reward grammar, spelling and punctuation.

*This mark scheme contains indicative content but it is not exhaustive or prescriptive. It should be used alongside the matrix of levels of assessment and live exemplar standardisation scripts (which cover a range of responses identifying where within a level of assessment a particular response lies). Examiners are required to use the indicative content of the mark schemes **only** in conjunction with the matrix of levels of assessment as informed by actual responses in the standardisation scripts. Examiners should not be drawn prescriptively and quantitatively to the content of the mark scheme when marking candidates' responses and should follow the specific guidance provided by the Principal Examiner in terms of breadth and depth of responses. Appropriate credit will be given for non-standard answers.*

SECTION A		
Question Number	Answer	Max Mark
1(a)	<p>Describe the sentences available for <u>adult</u> offenders.</p> <p><b>Mark Levels      AO1</b></p> <p>Level 4            15-18</p> <p>Level 3            11-14</p> <p>Level 2            6-10</p> <p>Level 1            1-5</p> <p>Potential answers <b>MAY</b> include:</p> <p><b>Assessment Objective 1</b></p> <p>Demonstrate knowledge of the sentences available to the courts under the Powers of Criminal Courts (Sentencing) Act 2000 and the Criminal Justice Act 2003:</p> <ul style="list-style-type: none"> <li>• Custodial sentences: <ul style="list-style-type: none"> <li>life or term of years;</li> <li>can be discretionary or mandatory with minimum sentences for certain crimes e.g. firearms offences;</li> <li>new indeterminate sentence for public protection;</li> <li>extended sentences for certain violent or sexual offences;</li> <li>custody plus – short period of custody followed by longer period on licence;</li> <li>intermittent custody – sentence between 26 and 51 weeks must serve 14-90 days in custody;</li> <li>custody minus – type of suspended sentence.</li> </ul> </li> <li>• Community sentences: <ul style="list-style-type: none"> <li>new generic ‘community order’ under Criminal Justice Act 2003 which can include a range of requirements: <ul style="list-style-type: none"> <li>unpaid work requirement – unpaid work in the community (40-300 hours);</li> <li>supervision requirement – the offender is put under the supervision of a probation officer;</li> <li>drug treatment and testing requirement;</li> <li>curfew requirement – for a certain number of hours a day the offender has to be in a specific place (may include electronic tagging).</li> </ul> </li> </ul> </li> <li>• Fines – will depend upon the defendant’s ability to pay.</li> <li>• Conditional discharge for a period up to 3 years on condition offender does not re-offend during that period.</li> <li>• Absolute discharge.</li> </ul> <p><i>Mention of other sentences or possible community requirements will be credited. Credit will also be given for details of sentences.</i></p>	<b>[18]</b>

SECTION A [continued]																	
Question Number	Answer	Max Mark															
1(b)	<p>Discuss the advantages <u>and</u> disadvantages of custodial sentences.</p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b></p> <ul style="list-style-type: none"> <li>• Protects the public from dangerous criminals as they cannot commit crime while in prison – most offenders only in prison for a limited period so this has limited effect.</li> <li>• It is also claimed that prison offers opportunities to rehabilitate offenders – this does happen in some prisons such as Long Lartin but is limited due to lack of funds and overcrowding.</li> <li>• Prison should only be used where really necessary as stated in the Criminal Justice Act 2003 – many who are in prison however should be dealt with elsewhere e.g. mentally ill, children, drug offenders, trivial shoplifters and those who have failed to pay fines.</li> <li>• Prisons are very expensive £24,000 per year per prisoner and lead to other social expenses e.g. family breakdown and unemployment.</li> <li>• Prison punishes innocent as well as guilty as the families of prisoners suffer stigma and financial difficulties as well as relationship breakdown.</li> <li>• Prison conditions are very poor in many prisons which lead to an increased risk of suicide.</li> <li>• Prison population has increased by more than 50% in last ten years and is much higher than any other European country.</li> </ul> <p><b>Assessment Objective 3</b></p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	
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	<b>Total marks</b>	<b>[12]</b> <b>[30]</b>															

SECTION A [continued]		
Question Number	Answer	Max Mark
2(a)	<p>Explain the role of juries in <u>both</u> criminal cases and <u>civil</u> cases.</p> <p><b>Mark Levels      AO1</b></p> <p>Level 4            15-18</p> <p>Level 3            11-14</p> <p>Level 2            6-10</p> <p>Level 1            1-5</p> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 1</b></p> <p>Demonstrate knowledge of the role of juries in criminal cases:</p> <ul style="list-style-type: none"> <li>• Only sit in Crown Court; identify that juries only sit on limited cases.</li> <li>• Hear indictable offences and some either way offences where defendant pleads not guilty.</li> <li>• They listen to evidence and decide whether defendant is guilty or not guilty using the judge's definition of the law, usually unanimous (but may be majority).</li> <li>• May be directed by judge to find the defendant not guilty.</li> <li>• Identify that the jury's role is to bring layman's viewpoint to case.</li> </ul> <p>Demonstrate knowledge of the role of juries in civil cases:</p> <ul style="list-style-type: none"> <li>• Sit in High Court and occasionally in County Court.</li> <li>• Claimant has right to jury trial in cases of defamation, false imprisonment, malicious prosecution and (civil) fraud although judge can refuse if it is an unsuitable case and claimant can ask to be tried by a judge.</li> <li>• Decide both liability and amount of award.</li> </ul>	[18]



SECTION A [continued]																	
Question Number	Answer	Max Mark															
2(b)	<p><b>Discuss the arguments for abolishing juries.</b></p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b> Discuss arguments for abolishing juries:</p> <ul style="list-style-type: none"> <li>• No selection, no minimum educational standards (Naman PC).</li> <li>• Too many people opt out, may be the more competent.</li> <li>• Trials may be too difficult to understand, 10% jurors admit having difficulty understanding case.</li> <li>• 12 too many for productive discussion.</li> <li>• Time consuming and costly.</li> <li>• Inconvenient for jurors, who may also lose money.</li> <li>• Research shows doubts about 5% of jury convictions.</li> <li>• Possibility of bias, more dubious convictions when minority ethnic defendant.</li> <li>• Possibility of media influence (West, Taylor, Huntley).</li> <li>• No way of knowing whether a reasoned decision was reached (Young).</li> </ul> <p><i>Credit knowledge of Auld report and changes in the Criminal Justice Act 2003.</i></p> <p><b>Assessment Objective 3</b> <i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i> <i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	
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SECTION A [continued]		
Question Number	Answer	Max Mark
3(a)	<p><b>Describe the current system for granting or refusing bail.</b></p> <p><b>Mark Levels      AO1</b></p> <p>Level 4            15-18</p> <p>Level 3            11-14</p> <p>Level 2            6-10</p> <p>Level 1            1-5</p> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 1</b></p> <p>Identify that bail enables a defendant to remain at liberty until the next stage of their case.</p> <p>Show a clear understanding that both police and magistrates can grant bail. Show a clear understanding of the powers of the magistrates' court.</p> <p>Demonstrate a clear understanding of unconditional and conditional bail, and the types of conditions that may be imposed on a defendant including sureties.</p> <p>Demonstrate a clear understanding of the Bail Act 1976 and subsequent amendments in the Bail (Amendment) Act 1993 and the Crime and Disorder Act 1998:</p> <ul style="list-style-type: none"> <li>• General right to bail.</li> <li>• Reasons for refusing bail e.g. failure to surrender to custody, likely to commit further offences or interfere with the course of justice.</li> <li>• Factors to be taken into account including: nature and seriousness of offence, antecedents of defendant, previous bail record, strength of evidence against defendant.</li> <li>• Bail only granted in exceptional circumstances for murder, attempted murder, manslaughter, rape or attempted rape if the defendant has already served a custodial sentence for such a crime.</li> </ul> <p><i>Candidates may also mention the process involved in making renewed applications and an appeal against a rejected bail application by the defendant but it is not necessary for full marks.</i></p>	

[18]

SECTION A [continued]																	
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3(b)	<p><b>Discuss whether the criteria used by the police or the courts when granting or refusing bail are satisfactory.</b></p> <table border="0"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b></p> <p>Identify that bail enables a defendant to remain at liberty until the next stage of their case and comment on the need to balance the rights of the individual to remain at liberty prior to their trial and the right of the public to be protected from offenders.</p> <ul style="list-style-type: none"> <li>• Comment on the general right to bail.</li> <li>• Comment on the reasons for refusing bail e.g. failure to surrender to custody, likely to commit further offences or interfere with the course of justice.</li> <li>• Comment on the factors to be taken into account including: nature and seriousness of offence, antecedents of defendant, previous bail record, strength of evidence against defendant.</li> <li>• Comment on whether bail should only granted in exceptional circumstances for murder, attempted murder, manslaughter, rape or attempted rape if the defendant has already served a custodial sentence for such a crime.</li> </ul> <p><b>Assessment Objective 3</b></p> <ul style="list-style-type: none"> <li>• <i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></li> </ul> <p><i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	
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SECTION A [continued]		
Question Number	Answer	Max Mark
4(a)	<p><b>Describe the different methods of Alternative Dispute Resolution available to deal with civil disputes.</b></p> <p><b>Mark Levels      AO1</b></p> <p>Level 4              15-18</p> <p>Level 3              11-14</p> <p>Level 2              6-10</p> <p>Level 1              1-5</p> <p>Potential answers <b>MAY</b> include:</p> <p><b>Assessment Objective 1</b></p> <ul style="list-style-type: none"> <li>• Mediation – neutral person helps parties reach a compromise solution; mediator does not offer an opinion.</li> <li>• Conciliation – conciliator goes beyond mediation in that they have the power to suggest grounds for compromise or a settlement.</li> <li>• Mediation and conciliation both allow the parties to have control over the resolution process as they can withdraw at any time and a resolution to the dispute cannot be imposed on them as they must agree to it.</li> <li>• Arbitration – both parties voluntarily agree to let their dispute be left to the judgment of an arbitrator or a panel of arbitrators who is neutral. Agreements to arbitration are governed by the Arbitration Act 1996 and are usually in writing. Agreement to go to arbitration can be made before a dispute arises (usually by a <i>Scott v Avery</i> clause in a contract). Agreement will either name an arbitrator or provide a method for choosing one. A court may also appoint an arbitrator. The parties agree the procedure for hearings and this ranges from a 'paper' arbitration to a formal court-like hearing. Arbitration decisions are binding on the parties and can be enforced by the courts if necessary. An award by an arbitrator can be challenged in the courts for serious irregularity in the proceedings or on a point of law.</li> </ul> <p><i>Candidates will be rewarded for mention of negotiation but it is not necessary for full marks. Mention of the Centre for Dispute Resolution or any other service available for mediation or conciliation will also be rewarded but is not necessary for full marks.</i></p> <p><i>Credit will be given for any other relevant details.</i></p>	[18]

SECTION A [continued]																	
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4(b)	<p><b>Discuss the advantages <u>and</u> disadvantages of using Alternative Dispute Resolution.</b></p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b> Discuss the advantages of ADR such as:</p> <ul style="list-style-type: none"> <li>• The relative cheapness.</li> <li>• Speed.</li> <li>• The control of the parties over the way a dispute is resolved rather than handing over control to the courts.</li> <li>• The avoidance of bad feeling between the parties.</li> <li>• Privacy.</li> <li>• Able to continue business relationships.</li> <li>• Use of experts in arbitration.</li> </ul> <p>Discuss disadvantages such as:</p> <ul style="list-style-type: none"> <li>• More likely to settle for less using ADR than might be obtained by going to court.</li> </ul> <p>Comment that the courts encourage the use of ADR under the Woolf reforms and may even stay court proceedings to allow ADR to be tried.</p> <p><i>Demonstrate knowledge of research into courts or ADR e.g. Baldwin/Genn. (These may be cited by some candidates but are not required for maximum marks.)</i></p> <p><b>Assessment Objective 3</b> <i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i> <i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	
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	<b>Total marks</b>	<b>[12]</b> <b>[30]</b>															

SECTION A [continued]		
Question Number	Answer	Max Mark
5(a)	<p><b>Outline the theory of the separation of powers, illustrating your answer with examples.</b></p> <p><b>Mark Levels      AO1</b></p> <p>Level 4            15-18</p> <p>Level 3            11-14</p> <p>Level 2            6-10</p> <p>Level 1            1-5</p> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 1</b></p> <p>Demonstrate knowledge of the three arms of the state:</p> <ul style="list-style-type: none"> <li>• Legislature: makes law, Parliament and Queen.</li> <li>• Executive: put laws into effect and administer nation's affairs, Ministers (and their departments).</li> <li>• Judiciary: interpret and enforce law, judges.</li> </ul> <p>Demonstrate clear understanding of theory:</p> <ul style="list-style-type: none"> <li>• The three arms must be kept independent of each other.</li> <li>• This means that each can exercise control over the other two.</li> <li>• Without this separation it is easier for one person or a small group to take complete control (e.g. Zimbabwe).</li> </ul> <p>Illustrate with some examples e.g.</p> <p>Independence of judiciary:</p> <ul style="list-style-type: none"> <li>• Security of tenure of judiciary (Act of Settlement).</li> <li>• Judges try to implement intention of Parliament in Statutory Interpretation.</li> <li>• Judges cannot question legality of legislation.</li> </ul> <p>Exercise of controls:</p> <ul style="list-style-type: none"> <li>• Judiciary provide check on executive through judicial review.</li> <li>• Executive provide check on higher judiciary, senior judges selected by Prime Minister.</li> <li>• Judiciary can be thought to limit legislature through statutory interpretation e.g. golden rule – judges may decide a literal interpretation would lead to an absurd or obnoxious result and give a different interpretation.</li> <li>• Legislature controls terms of judges' employment, e.g. pay, retirement age.</li> <li>• Legislature can amend law if minister has been held to be acting <i>ultra vires</i>.</li> </ul>	[18]

SECTION A [continued]																	
Question Number	Answer	Max Mark															
5(b)	<p><b>Discuss the ways in which judges' independence is maintained.</b></p> <table border="0"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b> Discuss some of the ways in which judges' independence is maintained:</p> <ul style="list-style-type: none"> <li>• Senior judges can only be dismissed with great difficulty.</li> <li>• Judges free to make politically unpopular decisions.</li> <li>• Some financial independence.</li> <li>• Grounds for appeal if a judge has an interest in a case (e.g. Pinochet).</li> <li>• Judges cannot be sued for what is said in court.</li> <li>• Judges cannot become MPs and are expected to remain silent on political issues.</li> <li>• Law Lords by convention only take part in debates which affect the law.</li> <li>• Ethos of the judiciary is an emphasis on independence.</li> <li>• Judges careful not to encroach on public policy matters they believe to be for Parliament to decide.</li> <li>• Judges careful in statutory interpretation to carry out purpose of parliament.</li> </ul> <p><i>Credit any reference to how the appointments process may impact on independence.</i></p> <p><b>Assessment Objective 3</b> <i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i> <i>Reward grammar, spelling and punctuation.</i></p> <p style="text-align: right;"><b>Total marks</b></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	<p><b>[12]</b></p> <p><b>[30]</b></p>
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SECTION B		
Question Number	Answer	Max Mark
6	Tyrone, aged 16, has missed the last bus and has to walk home. It is 2am and a police officer driving past in a police car sees Tyrone and stops. The police officer tells Tyrone to empty his pockets and Tyrone refuses. The police officer then grabs Tyrone's shoulder, pushes him into the police car and takes him to the local police station.	
6(a)	<p>Describe the powers the police have to stop and search an individual on the street.</p> <p><b>Mark Levels      AO1</b></p> <p>Level 4              15-18</p> <p>Level 3              11-14</p> <p>Level 2              6-10</p> <p>Level 1              1-5</p> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 1</b></p> <p>Demonstrate good knowledge of the relevant sections of PACE: Stop and search:</p> <ul style="list-style-type: none"> <li>• S.1 PACE – police officer has right to stop and search a person in a public place if there are reasonable grounds for suspecting that the person is in possession of stolen goods or prohibited articles.</li> <li>• Police officer must give his name, station and the reason for the search.</li> <li>• Officer can request that the suspect removes outer coat, jacket and gloves.</li> <li>• Written report must be produced for all searches.</li> <li>• Code of Practice A gives guidance on the use of this power and meaning of reasonable suspicion.</li> <li>• Right to stop and search without reasonable suspicion in a specified area for 24 hours in anticipation of violence under S60 Criminal Justice and Public Order Act 1994.</li> <li>• Other rights to stop and search under Misuse of Drugs Act, Prevention of Terrorism Act.</li> </ul>	[18]



SECTION B [continued]																	
Question Number	Answer	Max Mark															
6(b)	<p><b>Advise Tyrone on whether the police officer acted lawfully with regard to stop and search and the arrest.</b></p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b></p> <p>Identify that the only apparent reason for stopping Tyrone is that it is 2 am and Tyrone is young.</p> <p>Discuss whether this is sufficient for reasonable suspicion to stop and search under S.1 PACE or is it a breach of the Code of Practice?</p> <p>Point out that the police officer did not give a reason for the search and so it is likely that any search would be considered unlawful.</p> <p>Discuss whether the police officer has the power to arrest Tyrone commenting on the need to show that the officer had reasonable suspicion regarding the commission (past, present or future, of an arrestable offence).</p> <p>Apply the test in <i>Castorina</i> – were there facts which could lead an ordinary person to <i>suspect</i> that Tyrone was guilty of an arrestable offence?</p> <p>Point out that reasonable force can be used to make an arrest and discuss whether the actions of the police officer are likely to be considered reasonable force.</p> <p>Conclude that the police officer's actions were probably unlawful.</p> <p><b>Assessment Objective 3</b></p> <p><i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i></p> <p><i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	<p>[12]</p> <p><b>Total marks</b> [30]</p>
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Level 4	8-9	-															
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SECTION B [continued]		
Question Number	Answer	Max Mark
7	Jane is a bank clerk and has been arrested on suspicion of stealing £10 000 from her employer.	
7(a)	<p>Describe the types of public funding available for advice and representation in a criminal case.</p> <p><b>Mark Levels      AO1</b></p> <p>Level 4            15-18</p> <p>Level 3            11-14</p> <p>Level 2            6-10</p> <p>Level 1            1-5</p> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 1</b></p> <p>Demonstrate good knowledge the Criminal Defence Service:</p> <ul style="list-style-type: none"> <li>• Set up by the Legal Service Commission under the Access to Justice Act 1999 to provide legal help to people involved in criminal proceedings.</li> <li>• Legal help provided by contracted solicitors or salaried defenders.</li> <li>• The duty solicitor scheme at the police station. There is no means or merits test, covers advice at the police station.</li> <li>• The duty solicitor scheme at the Magistrates' court. There is no means or merits test, covers advice at the Magistrates' court, bail applications and representation if prison is a possibility for non-payment of fines.</li> <li>• Criminal legal funding for representation in court. Means and merits tests apply. <ul style="list-style-type: none"> <li>– Application made to court;</li> <li>– Merits tests based on the interests of justice;</li> <li>– Means test based on disposable income and capital – free with certain benefits or with a very low income otherwise pay a contribution;</li> <li>– Covers initial representation in the Magistrates' court and preparation for and representation in the Crown court and if necessary for Appeals.</li> </ul> </li> </ul>	[18]

SECTION B [continued]																	
Question Number	Answer	Max Mark															
7(b)	<p><b>Explain to Jane what problems she might encounter with the public funding of her defence.</b></p> <table border="1"> <thead> <tr> <th>Mark Levels</th> <th>AO2</th> <th>AO3</th> </tr> </thead> <tbody> <tr> <td>Level 4</td> <td>8-9</td> <td>-</td> </tr> <tr> <td>Level 3</td> <td>6-7</td> <td>3</td> </tr> <tr> <td>Level 2</td> <td>4-5</td> <td>2</td> </tr> <tr> <td>Level 1</td> <td>1-3</td> <td>1</td> </tr> </tbody> </table> <p>Potential answers <b>MAY</b>:</p> <p><b>Assessment Objective 2</b> Identify problems with each type of funding for Jane.</p> <ul style="list-style-type: none"> <li>• Duty solicitor scheme at the police station – the police discourage suspects from asking for a duty solicitor and the quality of advice in the past has been variable. This should have been improved with the use of the Criminal Defence Service.</li> <li>• At Magistrates' court limited coverage. May be used for Jane to apply for bail.</li> </ul> <p>Criminal Legal Funding:</p> <ul style="list-style-type: none"> <li>– Means test is set low – Jane would probably have to pay contributions;</li> <li>– Contributions may be beyond the means of some people including Jane;</li> <li>– Varying interpretations of the merits test;</li> <li>– Can appeal against a refusal of funding but need funding to appeal;</li> <li>– Limited choice of lawyer – Jane would have to accept the lawyer allocated to her;</li> <li>– Criminal Defence Service may lack impartiality.</li> </ul> <p><b>Assessment Objective 3</b> <i>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology.</i> <i>Reward grammar, spelling and punctuation.</i></p>	Mark Levels	AO2	AO3	Level 4	8-9	-	Level 3	6-7	3	Level 2	4-5	2	Level 1	1-3	1	[12]
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	<b>Paper Total</b>	<b>[120]</b>															

## AS GCE Law Levels of Assessment

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation to relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform <b>or</b> identify most of the relevant points of law in issue. Ability to develop clear arguments <b>or</b> apply points of law clearly to a given factual situation and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question <b>or</b> identify the main points of law in issue. Ability to develop arguments <b>or</b> apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question <b>or</b> identify some of the points of law in issue. A limited ability to produce arguments based on their material <b>or</b> limited ability to apply points of law to a given factual situation but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question <b>or</b> identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.