



# Examiners' Report

## Principal Examiner Feedback

October 2020

Pearson Edexcel International Advanced  
level In Law (YLA1/01)

Paper 1: Underlying Principles of Law and  
the English Legal System

## **Introduction**

This was the seventh paper in this 2015 new specification for IAL Law. As there was no examination in the summer, there was a large number of entries for this November paper compared to last year.

The new 2015 style Paper 1 contains 5 questions of 20 marks each. There is no question choice on the paper, candidates are required to answer all questions. The format of the paper is that the first four questions consist of short to medium multi-part questions and the last question on the paper is a problem-solving question worth 20 marks.

The paper is worth 50% of the total IAL raw marks. The subject content for the paper is selected from the nature, purpose of and liability in Law, and the sources of English law, its enforcement and administration.

Most candidates attempted all questions, although some candidates omitted to answer questions 2c, 3a, b and c. This would appear to be because of lack of knowledge, rather than time issues, as most candidates managed to complete question 5, the question with 20 marks, at the end of the paper.

Candidates are advised to read the whole paper before starting, as there were instances of repetition of information, particularly 1b and 1c.

Interpretation of questions and their command words need to be improved upon. Candidates must remember that each part of a question is marked in isolation, so if the correct information for part a of a question is put wrongly in the answer to part b of that question rather than in part a, no marks will be awarded for that information. That does not mean that candidates should put all they know on a topic down three times for each section of a question.

Candidates are also advised to ensure that their handwriting is legible and remains so for the entire paper. It is appreciated that candidates are rushing to complete the paper in a limited time, but legibility is important. Trying to decipher handwriting was still somewhat of a problem in this session.

## **General issues**

Questions carrying 2 or 4 marks are asking candidates for points- based answers which means they could receive a mark for every correct and accurate point made in answering the question. Space provided for answers should inform candidates of the length of the required response. Command words such as 'State', 'Describe' or 'Explain', gain marks for providing knowledge, description or explanation and providing examples for exemplification of specific legal concepts.

Questions worth 6, 10,12,14 or 20 marks are asking candidates to provide an explanation, assessment, analysis or evaluation of a given legal concept or issue using a combination of appropriate legal knowledge together with an assessment of the issue. Candidates answers are awarded a mark based on the level of response they display.

Questions asking for 'Analyse' require candidates to weigh up a legal issue with accurate knowledge supported by authorities or legal theories and to display developed reasoning and balance. Questions asking for 'Evaluation' additionally require a balanced and justified conclusion based on this reasoning.

### Question 1a: (4 Marks)

This question is a points-based one where the candidate needs to state the meaning of two separate legal terms. Two marks were available for each term. One for the meaning of the Latin phrase and the other for an explanation/example.

The examples below were awarded full marks of 4.

**Write your answers in the spaces provided.**

1 (a) State the meaning of:

(i) ***stare decisis*** (2)

Stare decisis is the legal principle the court is obligated to use for stability and predictability of the law. It also means 'standing by what is decided'. The court looks to previous rulings (precedents) and finds the ratio decidendi in the case to apply to the case before them.

(ii) ***obiter dicta***. (2)

Obiter dicta is a 'by the way' statement that is persuasive rather than binding. The statement or words said by the judge may be persuasive but it does not have an effect on the decision made.

Answer ALL questions.

Write your answers in the spaces provided.

1 (a) State the meaning of:

(i) *stare decisis*

(2)

Stare decisis means stand by the decided. It ~~and~~ refers to the doctrine of judicial precedent. When judges give decision/judgement of a case, they need to follow cases that have similar facts and follow the rule of stare decisis.

(ii) *obiter dicta*.

(2)

While giving a judgement, judges might ~~state~~ make statements that are not the legal principle of the case, ~~obiter~~ they are called obiter dicta, meaning, said by the way. obiter dicta is not binding on other cases.

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### Question 1b: (6 Marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptors.

The command word in this question was 'Explain'. Candidates were required in their answer to explain the impact of the 1966 Practice Statement on the development of judicial precedent in England and Wales.

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Candidates' answers often just stated that the statement had a big impact without any explanation, or just missed out the question completely. Others stated the advantages and disadvantages of judicial precedent and then repeated this answer in part c. Very few answers were detailed or backed up by appropriate case law. Answers were usually very simplistic, so this question was not answered as well as anticipated.

The example below was level 2.

(b) Explain the impact of the 1966 Practice Statement on the development of judicial precedent in England and Wales. (6)

The 1966 Practice Statement applies only to the Supreme Court. It allows the Supreme Court to depart from its previous decision and overrule ~~based on~~ at its own discretion. This helps the the Supreme Court to exercise flexibility, modernisation, correction in injustice, change in social conditions

The Supreme Court, is allowed, at its own will and when it feels right to depart from a previous decision.

**Examiner tip**

Try and use case law to enhance your mark. This will mean your answers will be more concise and focused and it would have improved this answer and the mark

**Question 1c: (10 Marks)**

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptors.

The command word in this question was 'Assess', which was looking for an extended answer, weighing up and balancing the advantages and disadvantages of judicial precedent with some illustrations and cases. All too often responses were just a brief numbered list and therefore contained no assessment. This was

surprising, as this topic is a straightforward one and it was thought it would enable candidates to achieve high marks.

Candidates must answer the question set and not turn it into the question they want to see or have prepared for. A couple of candidates decided to write about the Golden and Literal rule and consequently scored no marks and wasted valuable exam time.

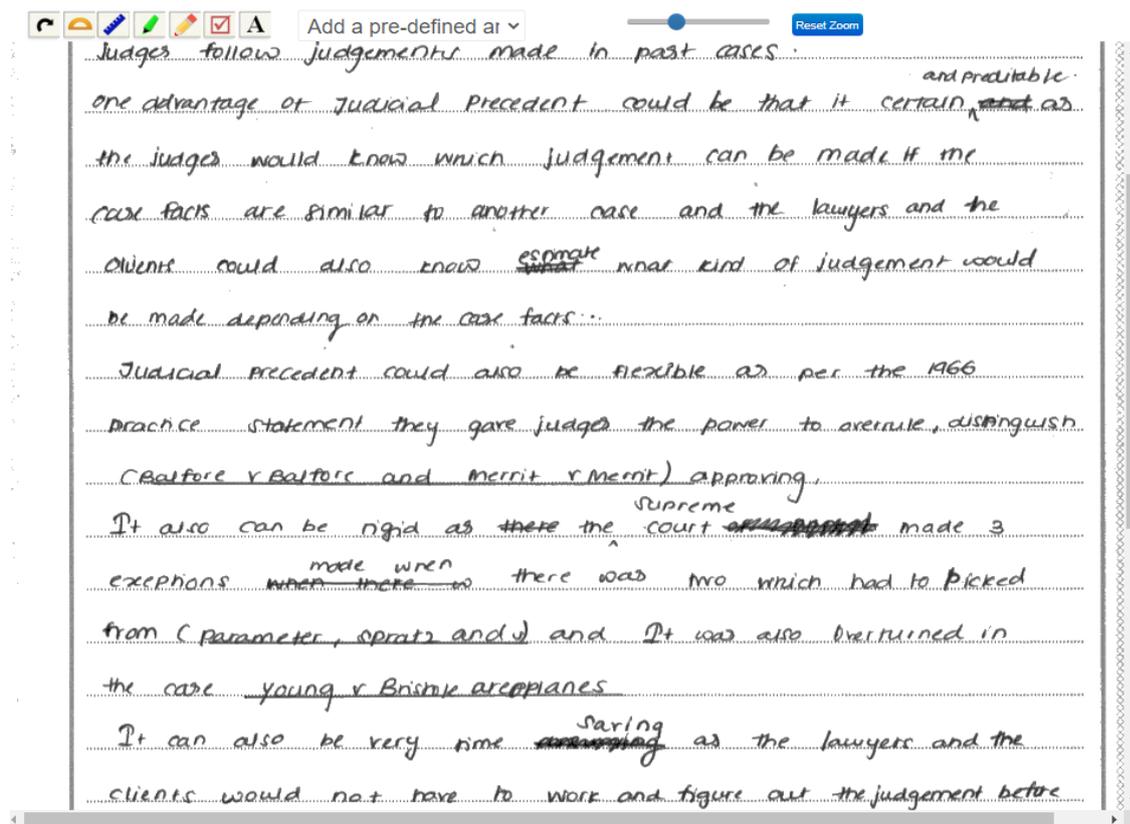
For level 1 candidates gave isolated elements of knowledge.

For level 2 candidates demonstrated some understanding and began to make connections.

For level 3 candidates demonstrated accurate understanding and attempts application using examples.

For level 4 candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application.

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The answer here was at the top of the level 3 band

### Question 2a: (2 Marks)

This question is a points-based one where the candidate needs to describe the burden of proof in a civil case.

The command word is 'describe' which requires for one mark the correct naming of the burden of proof and then another one mark for an additional example / explanation.

This question was not answered well as a lot of candidates were muddled and gave the criminal burden of proof or missed the question out altogether. There was also a lot of confusion with terminology with candidates referring to both prosecution and defendant, very few used the word claimant.

Below is a good example of a response to this question.

(a) Describe the burden of proof in a civil court case.

(2)

The burden of proof in a civil court case lies in the balance of probabilities by the claimant who brings the case up to court.

### Question 2b: (4 Marks)

This question is a points-based one where the candidate needs to explain two differences between tort and contract.

The command word here is 'explain' which requires candidates to explain differences. This could be a definition of both contract and tort together with an example of each to gain the full four marks.

Candidates did not do well on this question, often providing muddled answers.

An example of what would have gained 4 marks is as follows:

*a contract is a legally binding agreement made between two or more people. To be binding it requires offer, acceptance, intention capacity and consideration. A tort is a*

*civil wrong done by one person to another. It can be to a person or their property and includes negligence, nuisance, trespass and defamation.'*

The example below gained 2 marks.

Contract law deals with money or  
breach of any business relation and in  
contract law there needs to be an intention to create  
relation  
B. Tort law usually deals with  
defamation and other intangible items  
but in tort law it's not necessary to  
create legal relation

### Question 2c: (14 Marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Evaluate', which was looking for an extended answer on the purpose of the remedies available to resolve civil disputes and when they may best be used. Candidates were expected to illustrate their answers and justify an argument and their conclusion.

For **level 1** candidates gave isolated elements of knowledge.

For **level 2** candidates demonstrated some understanding and began to make connections.

For **level 3** candidates demonstrated accurate understanding and attempt application using examples.

For **level 4** candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application.

This question was omitted by many and many others completely misread the question and wrongly thought it was about alternative dispute resolution. A wide variety of wrong answers were also seen. These included answers on criminal remedies/sanctions, the hierarchy of the courts and tribunals. Therefore, many candidates gained no marks on this question.

Below is an example of an answer that was awarded marks at the top of level 3.

(c) Evaluate the purpose of the remedies available to resolve civil disputes and when they may best be used.

(14)

Equitable remedies are those that a claimant must ask for and only then he can get it. There are various equitable remedies available under the law to resolve civil dispute.

Finally, there is ~~injunctio~~ specific performance. Here, the court orders the defendant to perform the work under the contract. <sup>[Contract]</sup> For example, the purpose of this remedy is that the ~~defendant~~ <sup>parties</sup> performs their contractual obligations and no one makes a loss. However, the problem with this remedy is that the defendant may not listen to the court which can result in a contempt of court. Another remedy is injunction where the court prohibits the defendant from doing ~~it~~ <sup>[anything]</sup> something that cause a loss to the defendant. This are generally useful in ~~case of tort~~ <sup>cases</sup> related to trespass. However, the defendant can argue here saying that this was a necessity and restricting could have caused him more loss. Another remedy is rescission, where the parties are put back to their ~~contractual~~ <sup>[pre-contractual]</sup> precontractual position. These are generally awarded in case of misrepresentation where the contract seems to be unfair for both the parties. However, since "unfair" is an objective term, this remedy is therefore difficult to give. There is then rectification where the judge court can to change the ~~written~~ <sup>terms</sup> of the contract.

to the parties. For instance, general damages are awarded where the damages cannot be calculated specifically. For example, future nursing cost, pain and sufferings etc. On the hand, special damages are those that ~~cannot~~<sup>can</sup> be calculated specifically for example: a damage to a car after a crash. Exemplary damages are those <sup>that are</sup> intended to punish the defendant. For example, they are awarded in case of tort where the defendant ~~is not~~ intended to incur more money compared to the compensation payable. Nominal damages are a small amount of money that is awarded to the claimant to indicate that they won the case are usually given <sup>in tort related cases</sup>.

(Total for Question 2 = 20 marks)

### Question 3a: (4 Marks)

This question is a points-based question.

The command word is 'explain' which requires candidates to differentiate between European Regulations and Directives. One mark is awarded for the definition/description of each and another for an example or explanation. Surprisingly, the question was not done as well as it has been when it has appeared in a previous paper.

A good example is shown below.

3 (a) Explain the difference between **European Regulations** and **Directives**.

(4)

Regulations are those that are directly ~~pe~~ applicable on the member states. For example: Regulation 2027/97 of EC implies that no ~~taxes~~ amount would be charged on air carries in cases of death or injury of a passenger. Whereas a directive ~~is~~ is not directly applicable on member states. Instead the members should take reasonable measures and incorporate them into their national law within a specified period.

### Question 3b: (6 Marks)

This question was marked using a level- of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word here is 'analyse' which requires candidates to consider the role of the European Court of Justice (ECJ) in settling disputes.

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Candidates did not do well on this question. There were a lot of confused and vague answers. Additionally, there was a lot of confusion between the role of this court (ECJ) and that of the European Court of Human Rights (ECHR). Many candidates left the answer to this question blank.

Below is a level 2 answer.

(b) Analyse the role of the European Court of Justice in settling disputes. (6)

European Court of ~~disputes~~ <sup>Justice</sup> is the highest court in all of Europe. It looks over countries to see if they abide by the rules ~~of~~ given by ~~the~~ EC. And also settles disputes in member states by acting as an impartial judge. Countries in disputes can be brought to the ECJ for settlement and the decision given by ECJ must be followed. Details reports of disputes and ~~ag~~ areas of disagreement must be presented. ECJ will come up with settlements favouring both parties on ~~a~~ consideration for both parties.

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### Question 3c: (10 Marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Assess', which was looking for an extended answer with discussion, assessment and examples of the role, composition and importance of the European Commission in the law-making process.

Candidates were expected to provide some detail and knowledge about the role, and composition of the court before assessing its importance. This should have considered advantages and disadvantages and then justifying their argument as to importance.

The question was done badly. Knowledge was poor. Some candidates confused the word 'commission' with 'committee' and thought this was a question on the stages that a bill goes through to become a statute, others omitted it completely.

For **level 1** candidates demonstrated isolated elements of knowledge

For **level 2** candidates demonstrated some elements of understanding and began to apply their knowledge to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples or authorities and attempted to balance reasoning and provide an assessment.

For **level 4** candidates demonstrated thorough and accurate understanding and an awareness of competing arguments of the strengths and weaknesses with balanced interpretations, reasoning and a sound assessment.

The answer below is an example of a top band answer.

(c) Assess the role, composition and importance of the European Commission in the law-making process.

(10) Q03c

European Commission is based in Brussels, Belgium is one the ~~the~~ Senior most Executive branch. It consists of 28 members to form a cabinet. The swear allegiance to ~~to~~ EU (European Union) that they will only represent EU and not their country. A president is selected at random. Their ~~main~~ <sup>function</sup> is to design strategies for the EU ~~or to~~ and to draft legislations, make rules and legislation and represent EU in trade negotiations. (Art. 17 TFEU)

The powers and function is more clearly specified in (Art. 17(1) TFEU). The form the "general interest" of the European Union. The ~~refer~~ make proposals for most of the legislations which in fact mostly becomes ~~breathes~~ ~~an~~ directives and regulation.

The promote healthy competition of trade between the countries. The have the power to enforce law against the member States who are not complying with the obligations set by the EU.

(Total for Question 3 = 20 marks) Q03\_Total

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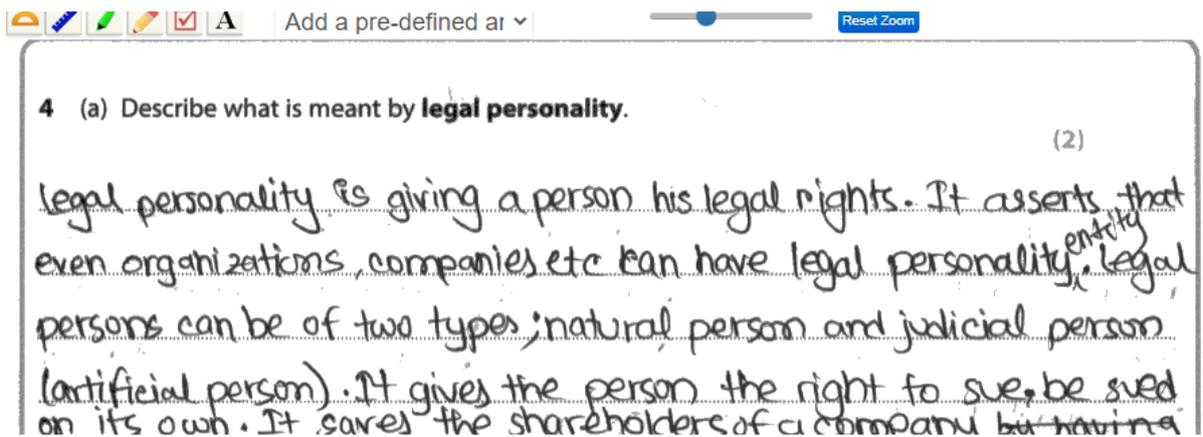
#### Question 4a: (2 marks)

The command word is 'Describe' which requires candidates to show knowledge and describe what is meant by 'legal personality'.

This question is a points-based one where candidates were expected to provide the meaning of the phrase, and then for the extra mark to provide an example.

The question was not done well.

Below is an example of an answer that scored 2 marks.



4 (a) Describe what is meant by **legal personality**. (2)

Legal personality is giving a person his legal rights. It asserts that even organizations, companies etc can have legal personality, legal persons can be of two types; natural person and judicial person (artificial person). It gives the person the right to sue, be sued on its own. It saves the shareholders of a company by having a

#### Question 4b: (6 marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word is 'analyse' which requires candidates consider the differences between rules and laws, by comparing the similarities and differences and illustrating these.

For **level 1** candidates were only able to provide isolated elements of knowledge.

For **level 2** candidates provided elements of knowledge and understanding.

For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

This question was answered well, although there were few actual examples or laws provided.

The example below scored full marks.



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on its own. It gives the shareholders of a company by having  
(b) Analyse the differences between rules and laws.

such as; school, club rules, ethics etc. (6)  
All laws are rules but all rules are not laws. Professor Austin stated that <sup>laws</sup> rules are commands from sovereign body that can be enforced by punishments by the state. Professor Hart stated that there are two types of rules; primary (needed for survival of human beings) and secondary (confers power rather than imposing duties). ~~But~~ laws are enacted by formal bodies, whereas rules do not have any formal body to be made by. Laws ~~is~~ must be followed or else there will be sanctions but rules may or may not be followed as breach of rules do not impose sanctions. Laws can be immediately put in effect or removed but rules cannot be. Laws involve the presence of the state but rules do not.

Laws are followed due to fear and internalisation <sup>following/breach of</sup> but rules do not contain any fear or internalisation. Olivecrona states that fear is a great motivator. Professor Dworkin states that laws are part of a rich principle which directs argument in one direction, but does not give a decision. Laws are enforced in the statute breach of which will result in punishment by Crown Prosecution Service, police etc. but rules are not enforced. Laws must be consistent but rules do not need to be. Emile Durkheim, a French sociologist states that laws play a huge role in social cohesion (keeping the society together). ~~But~~ Max Weber states that laws are required to maintain order in society.

#### **Question 4c: (10 marks)**

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was 'Assess', which was looking for an extended answer using examples. The question required a balanced assessment of the relationship of the theory of legal positivism in relation to law making.

Many candidates provided good answers to this question and made use of theorists and case law. Some however just wrote about law and morality / Hart and Devlin rather than focussing on the question.

For **level 1** candidates demonstrated isolated elements of knowledge

For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.

For **level 4** candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied authorities.

The example below scored top of band 2.

John Austin was a 19th century British legal philosopher who formulated the first systematic alternative ways to natural law theory of law and utilitarian approaches to law. Austin's particular theory is often called "the command theory of law" which states that law is a command which is backed by a sanction of threat in the event of non-compliance.

Professor Hart was a British legal philosopher who divided rules into secondary and primary rules and argued that the existence of secondary rule is a mark of developed legal system. Primary rules are those which any society needs in order to survive, primary rules confer power rather than imposing duties and the types of primary rules are

- a) Rules of adjudication
- b) Rules of change

Aquinas is a ~~not~~ natural law theorist who considers what is good and bad is a rational nature of humans, thus good and evil are both objective and universal.

**Examiner tip**

Try to focus on the question with your answer and identify the key issues required to enhance your mark. This will mean your answers will be more concise and focused.

**Question 5: (20 marks)**

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions. This is the question candidates need to spend some time on, due to the fact that there are no subsections to the question and therefore the total question marks of 20 are based around a single answer.

The command word in this question was 'Evaluate', which was looking for an extended answer. Candidates were expected to evaluate using examples the relationship between the theories of punishment and the criminal sanction available to the court. Candidates were expected to illustrate their answers and justify an argument and their conclusion.

Most candidates managed their time well to complete this last question on the paper, and candidates found it a topic that they knew at least something about. So, although the really good answers were few and far between, most candidates managed to get marks in at least band 2. Some learners wasted time talking about arrest and process, detail on the different courts, then also on the different types of crime distinguishing summary and indictable in detail, rather than focussing on the question asked.

For **level 1** candidates demonstrated isolated elements of knowledge relating to law and morality

For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.

For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.

For **level 4** candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied examples to reach a justified conclusion on the effectiveness of the case law on whether the concept of morality is certain and thereby enforceable.

The example below was a reasonable top band 2/bottom level 3 answer.

5 Evaluate the relationship between the theories of punishment and the criminal sanctions available to the court. (20)

Punishments and sanction are necessary for a community to punish the criminals. Punishments are enforced for several reasons such as, punishment of offenders, reduction of crimes/offences by deterrence, reformation or rehabilitation of offenders, protection of public and lastly for the reparation of victims by the offenders.

There are various types of punishments implemented by law. Revenge is a type of punishment where the offender is to be accounted by punishment like imprisonment. In dethe the punishment of deterrence, the offender is punished and made sure to suffer a loss. Reparation is when the offender is to compensate to the victim, rectification is to repair any material that offender ~~damag~~ damaged, for ex: drawing on a wall which had graffiti drawn by the victim. Denunciation is condemning the offender for committing the offence, rehabilitation is when offender is put to refer for a reform so that he does not commit any further offences, he might be put in a parole. There are few kinds of theories of punishments as well; the deterrent theory, the preventive theory, the reformation and rehabilitation theory. The deterrent theory states that offenders should be taken revenge from as per 'Limb for limb' & 'Life for life' whatever the offender does, must be done to him as well. The praen-tive theory, however, states that the offenders should be

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imprisoned so that the criminals in society decreases and they will also not be able to commit further crimes. The rehabilitation and reformatory theory states that offender should be put in for a reform so that they don't commit further offences. First time offenders, juvenile offenders usually receive the help from this theory and do not commit further offences.

Moreover, the criminal sanctions imposed by courts are generally fines, imprisonment, community services and miscellaneous services, such as discharged. Imprisonment are an effective way to punish offenders but ordinary criminals suffer imprisonment by doing crimes with no intention or objective and high end criminals usually usually end up in jail again soon after release. Fines are a common sanction but there is a problem of fines not being paid properly. Adult prisoners are discharged from prison with residence curfew. Community services are an effective method of sanction and has various different kinds, such as, alcohol treatment service, curfew service, <sup>services</sup> order for mentally ill persons, foreign travel prohibition, activity order, non-activity order and many more. These are more preferable as prisons are very expensive. <sup>by Lord Chancellor</sup> A report in 2008 shows that £27,500 a year is spent after per prisoner which results in million pounds for 35 years. And various people are sent to prisons for small issues and there is a raise in taxpayer. These punishments and sanctions protect the society in various ways & also the public.

(Total for Question 5 = 20 marks)

TOTAL FOR PAPER = 100 MARKS



## Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- Read the questions and pay careful attention to what the command words are asking you to do. This will mean your answers will be more focused.
- Look at the marks allocated to the question and spend only the appropriate amount of time on the question based on the marks.
- In a question with several parts, read all the parts and decide what information to put in each part before starting part a.
- Use examples to illustrate definitions or points made in the short answer questions and additionally relevant case law and legislation to illustrate longer answers.
- Provide balanced answers when asked to provide advantages and disadvantages.
- Provide a conclusion for 'evaluate' questions.