



Mark Scheme (Results)

Summer 2022

Pearson Edexcel International Advanced
Level in Law (YLA1)

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

Question number	1(a) Describe two types of delegated legislation. Answer	Marks
1(a)	<p style="text-align: center;">(2 AO1, 2AO2)</p> <p>One mark for describing each type of delegated legislation, and one mark for giving an example of each, up to a total of four marks.</p> <ul style="list-style-type: none"> • Statutory instruments – law made by government ministers with delegated powers under the authority of primary legislation (enabling Acts) (1), example. (1) • By-laws – made by local authority and other bodies, e.g. public corporations, to cover matters within their own area, they require authority of enabling Act or government minister (1) example. (1) • Orders in Council – the Queen and Privy Council, can make laws when parliament is not sitting for use in emergencies (1) example. (1) 	(4)

Question number	(b) Analyse the disadvantages of delegated legislation. Indicative content	Marks
1(b)	<p style="text-align: center;">(2 AO1), (2 AO2), (2 AO3)</p> <ul style="list-style-type: none"> • Takes law making away from the democratically elected House of Commons. • Non-elected people making law except for by-laws. • Little control over these non-elected people by Parliament. • Sub-delegation – where the law-making authority is handed down another level, such as civil servants. • Such a large amount of delegated legislation that it is difficult to find out what the current law is. • Lack of publicity for delegated legislation as much made in private, rather than in public in Parliament. • Obscure wording used as in Acts of Parliament, and this leads to difficulty in understanding what the law is. • Examples to illustrate the above points. 	(6)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3-4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
Level 3	5-6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.</p>

Question number	(c) Assess how Parliament controls delegated legislation. Indicative content	Marks
1(c)	<p style="text-align: center;">(2 AO1), (2 AO2), (3 AO3), (3 AO4)</p> <p>Responses on Parliament's control are likely to include assessment of:</p> <ul style="list-style-type: none"> • Initial control with the enabling act setting out the parameters. • Delegated Powers Scrutiny Committee in the Lords to consider whether the provisions of any bills delegated legislative power inappropriately- reports findings before Committee stage of a bill but has no power to amend bills. • As there is no general provision that the regulations made under an enabling act have to be laid before Parliament for MPs to consider them so only a few require this. • Small number of statutory instruments will be subject to an affirmative resolution – so will not become law unless specifically approved by Parliament e.g. The Police and Criminal Evidence Act 1984. However, this procedure does not allow amendment, only approval or withdrawal. • Most other statutory instruments will be subject to a negative resolution which means it will become law unless rejected by Parliament within 40 days. • More effective check is the Joint Select Committee on Statutory Instruments. It reviews all statutory instruments and draws attention to both houses to points requiring further consideration, examples include imposition of a charge or tax, retrospective effect, beyond the powers, unclear or defective. However, committee can only report back, not actually make changes. <p>Examples to illustrate the above points.</p>	(10)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
Level 2	3-4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
Level 3	5-6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
Level 4	7-10	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant and legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	(a) Describe the burden of proof required to prove guilt in a criminal case. Answer	Marks
2(a)	<p style="text-align: center;">(1 AO1), (1 AO2)</p> <p>One mark for an accurate explanatory point (1 AO1), and one mark for a linked expansion/example (1 AO2).</p> <ul style="list-style-type: none"> • Burden of proof is – beyond reasonable doubt (1 AO1) • The burden of proof is on the prosecution (1 AO2) • Proof of guilt would be demonstrated by a unanimous or majority verdict (1 AO2). 	(2)

Question number	(b) Explain the following two criminal sanctions: Suspended prison sentence Conditional discharge Answer	Marks
2(b)	<p style="text-align: center;">(2 AO1), (2 AO2), (2 AO3)</p> <p>Responses to include:</p> <p>Suspended prison sentence</p> <ul style="list-style-type: none"> • Adult sentence – over 18 • Sentence does not take effect immediately • Court fix a time for the suspension – up to two years • If no further offence during the suspended period, the sentence is not served. If a further offence is committed then the original sentence is ‘activated’. • Examples needed for maximum marks <p>Conditional discharge</p> <ul style="list-style-type: none"> • Used where court considers punishment not necessary • No penalty for the crime is imposed for a set conditional period up to 3 years • If offender reoffends during the time limit of the conditional period, the court can impose another sentence in place of the conditional discharge as well as sentencing for the new offence. • Examples needed for maximum marks <p>If answer only covers one sanction then a maximum of 3 marks</p>	(6)

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Level 1	1-2	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p>
Level 2	3-4	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p>
Level 3	5-6	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented in a consistent and balanced manner and supported by appropriate legal authorities.</p>

Question number	<p>(c) Assess the impact the theories of retribution, deterrence and rehabilitation have on the sentencing of criminals.</p> <p>Indicative content</p>	Marks
2(c)	<p style="text-align: center;">(3 AO1), (3 AO2), (3 AO3), (3 AO4)</p> <p>Responses to include:</p> <p>Explanation of the aims of the theories of retribution, deterrence and rehabilitation</p> <ul style="list-style-type: none"> • Retribution <ul style="list-style-type: none"> Offender needs to be punished. It does not try to reduce crime in society or try to alter the future behaviour of the offender. 'Eye for an eye'. Idea expressed by Kant. • Deterrence <ul style="list-style-type: none"> Aim is to reduce crime. Individual deterrence (to make sure the offender does not reoffend) General deterrence (to try to prevent others committing crime). • Rehabilitation <ul style="list-style-type: none"> Aim to reform offender and rehabilitate into society. Hope is behaviour will be influenced by sentence. <p>Effect or impact of the theories on criminal sanctions imposed on offenders.</p> <ul style="list-style-type: none"> • Retribution – tariffs, and sentence required to be proportionate to the crime • Deterrence – heavy fines or long sentences to deter others • Rehabilitation – forward looking and positive aim in 21st century. Important for young offenders. <p>Problems/criticisms of impact/effect of theories</p> <ul style="list-style-type: none"> • Retribution –does not allow for mitigating factors and can be unjust • Deterrence –does not stop offenders acting on spur of moment, or under influence of drugs or alcohol • Rehabilitation – individualised sentence, but criticism that it leads to inconsistency in sentencing. <p>Level 4 answers must include reference to all 3 theories</p>	(12)

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	0	A completely inaccurate response.
Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to address competing arguments based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to gauge the validity of competing arguments based on interpretations of the law.</p>
Level 3	7-9	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.</p>
Level 4	10-12	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.</p>

Question number	<p>Solicitors and Barristers are two types of lawyers in the legal profession of England and Wales.</p> <p>(a) Describe the role of a barrister.</p> <p>Answer</p>	Marks
3(a)	<p>(2 AO1)</p> <p>Barristers – Up to two marks for describing the barrister’s role</p> <ul style="list-style-type: none"> • Barristers are specialists who group together in Chambers, not usually in offices on the high street and are self-employed (1 AO1). • In most parts of the country they are not as accessible to the general public for advice (1 AO1) • They provide advice or briefs to clients, usually via a referral by solicitors and then represent the client in court (1 AO1). 	(2)

Question number	<p>(b) Explain two ways that the role of a solicitor differs from that of a barrister.</p> <p>Answer</p>	Marks
3(b)	<p>(2 AO1), (2 AO2)</p> <p>Solicitors – Up to two marks for explaining the solicitor’s role (2 AO1), and two marks for expansion/example (2 AO2).</p> <ul style="list-style-type: none"> • Provide advice on all legal matters directly to clients (1 AO1) and are the first point of contact (1 AO1) like a GP is for medical matters (1 AO1) <p>AND two of:</p> <ul style="list-style-type: none"> • Solicitor firms available on every high street/online (1 AO2) • Provide general advice and staff duty solicitor rota for help when a person detained at police station (1 AO2) • Usually restricted to representing clients in lower courts (1 AO2) • More common to instruct solicitor (general advice) first and then be referred to appropriate specialist barrister (1 AO1), as barristers can appear to represent clients in all courts (1 AO2). • Or other appropriate examples 	(4)

Question number	(b) Evaluate the advantages and disadvantages of having these two separate legal professions. Indicative content	Marks
3(c)	<p style="text-align: center;">(2 AO1), (2 AO2), (4 AO3), (6 AO4)</p> <p>Responses to include:</p> <ul style="list-style-type: none"> • Different training required for both • Regulation and professional bodies • The Royal Commission on Legal Services in 1979 (the Benson Commission) • The Marre Committee (set up by the Bar Council and Law Society) in 1988 and recent surveys • Rights of audience Courts and Legal Services Act 1990 and the Access to Justice Act 1999 • Availability of training places for both professions, selecting route and cost to trainees • Availability of employment/pupillage on qualification • Duplicating work • Cost to clients • Independence of the Bar and cab-rank rule • Alternative business structures - Legal Services Act 2007 • Legal Education and Training Review (LETR) • Awareness of current proposals 	(14)

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Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7-10	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11-14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	(a) Describe the role of the Law Commission. Answer	Marks
4(a)	<p style="text-align: center;">(1 AO1), (1 AO2)</p> <p>One mark for providing an accurate description of the law commission (1 AO1), and one mark for an example of their influence for expansion (1 AO2).</p> <p>Description of the role of the Law Commission could include: Membership of the Commission and its aims (1 AO1) how it chooses and investigates an issue (1 AO1)</p> <p>AND</p> <ul style="list-style-type: none"> • its role in codifying law, e.g. Offences against the Person Act 1861 (1 AO2). • its role in consolidating law, e.g. Powers of Criminal Courts (Sentencing) Act 2000. (1 AO2). • its role in recommending the repeal of old law, e.g. removal of double jeopardy rule. (1 AO2). 	(2)

Question number	<p>(b) Explain what influence the Law Commission has in relation to Parliament</p> <p>Answer</p>	Marks
4(b)	<p style="text-align: center;">(2 AO1), (2 AO2)</p> <p>Two marks for providing points of influence/non-influence (2 AO1), and two marks for examples/expansion of these points (2 AO2).</p> <p>Responses are likely to include:</p> <p>Influence of the Law Commission could include:</p> <ul style="list-style-type: none"> • Commissioners have considerable legal expertise • Reports are well informed and researched, based on considerable evidence • Law Commission is independent and non-political • Draft laws are presented with their report. • Only a small percentage of reports are accepted and acted on by Parliament • Lack of power – there is no obligation to consult the Law Commission before any new law is introduced • Investigations can be lengthy • Several areas of law are investigated at one time • Investigations may not be completely thorough. • Any other relevant examples 	(4)

Question number	(c) Evaluate the influence of the media and pressure groups on Parliamentary law making. Indicative content	Marks
4(c)	<p style="text-align: center;">2 AO1), (2 AO2), (4 AO3), (6 AO4)</p> <p>Responses are likely to include:</p> <p>Description of media as an influence could include:</p> <ul style="list-style-type: none"> • What is meant by media – radio, TV, Press, Internet, Social Media • how media can influence Parliament such as campaigns, articles, features, specific events • when they can influence –Hillsborough or as part of a regular campaign e.g. immigration, EU membership • effect of influence no change in law or eventual change in the law, e.g. Dangerous Dogs Act 1991 and recent amendment <p>Advantages of media could include:</p> <ul style="list-style-type: none"> • They raise issues of public concern with decision makers • They can support pressure groups • They can raise public awareness of an issue • They can generate public support <p>Disadvantages of the media could include:</p> <ul style="list-style-type: none"> • Creating a panic and causing ‘knee jerk’ legislation • They may represent a small percentage of the population • They may not be able to effectively influence parliament • Ownership of the media source and possible bias <p>Pressure groups as an influence could include:</p> <ul style="list-style-type: none"> • meaning of pressure group, including reference to the different types of group (insider and outsider, sectional and cause groups) • when and whom they can influence – insider groups involved in the drafting of a bill and consulted by minister or civil servants; sectional groups only likely to be consulted when legislation is being drafted that affects their group of members • how they influence - consultation may be arranged following lobbying, direct action such as strikes or demonstrations likely to be used by outsider or cause groups who may not be consulted in law making process • effect of influence by campaigns such as Snowdrop, or Fathers4Justice. • Conclusion, weighing up the evidence 	(14)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-3	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	4-6	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	7-10	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	11-14	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>

Question number	Evaluate whether the arguments for the abolition of the jury in England and Wales are more persuasive than those for its continued use. Indicative content	Marks
5	<p style="text-align: center;">(2 AO1), (2 AO2), (8 AO3), (8 AO4)</p> <p>Responses to include:</p> <p>Discussion for the abolition of the jury could include:</p> <ul style="list-style-type: none"> • return of perverse verdicts • compulsory, so reluctant to be there • burden on employers of absentee staff through jury service • influence / pressure from outside or inside jury • pressure from media publicity • complex issues / lack of understanding, ability to follow • reaching the verdict - issues and problems • cost of jury trial <p>Discussion for the continued use of the jury could include:</p> <ul style="list-style-type: none"> • cross section of community • wide variety of views / backgrounds/ ages • local knowledge • trial by peers • number of jurors on jury • burden of proof and need for unanimous / majority verdict • guidance and direction of judge on legal issues <p>A conclusion that could include:</p> <ul style="list-style-type: none"> • discussion of and connections made between abolition and continued use • contrasting and comparing abolition and continued use • weighing up the validity and significance of each • effective justification to support the conclusion reached 	(20)

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1-4	<p>Isolated elements of knowledge and understanding are demonstrated.</p> <p>Application of knowledge and understanding is not appropriately related to the given context.</p> <p>Reasoning may be attempted, but the support of legal authorities may be absent.</p> <p>There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 2	5-8	<p>Elements of knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are applied appropriately to the given legal situation.</p> <p>Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.</p> <p>There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.</p>
Level 3	9-14	<p>Accurate knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.</p> <p>Evaluation attempts to contrast the validity and significance of competing arguments, which may include unbalanced comparisons, possible outcomes and conclusions based on valid interpretations of the law.</p>
Level 4	15-20	<p>Accurate and thorough knowledge and understanding are demonstrated.</p> <p>Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.</p> <p>Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.</p> <p>Evaluation shows a full awareness of the validity and significance of competing arguments, leading to balanced comparisons, possible outcomes and effective conclusions based on justified interpretations of the law.</p>