Mark Scheme (Results)

June 2024

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

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

Edexcel and BTEC Qualifications

Question number	1(a) Describe the burden of proof in a criminal case. (2)	Marks
	Answer	
1(a)	**(1 AO1, 1AO2)** **One mark for an accurate explanatory point and one mark for an additional expansion/example up to a total of two marks.** • Burden of proof is – beyond reasonable doubt (1A01) • The burden of proof is on the prosecution. (1AO2) • Proof of guilt would be demonstrated by a unanimous / majority verdict. (1AO2)	**(2)**

Question number	(b) Explain these **two** criminal sanctions, and when they might be used- Conditional Discharge and Community Service Order. (6)	Marks
	Indicative content	
1(b)	**(2 AO1)**, **(2 AO2)**, **(2 AO3)** Responses are likely to include:- Conditional discharge • Used where court considers punishment not necessary • No penalty for the crime is imposed for a set conditional period up to 3 years • If the 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 when used Community service order • Court can combine any requirements necessary in such an order. • Sentence available for those 16+ • Mix and match restrictions and rehabilitation • Examples of restrictions are curfew, prohibited activity, exclusion order, residence orders • Examples of rehabilitation are mental health, drug or alcohol treatment orders • Attendance centre, unpaid work elements • Examples when used If answer only covers one sanction, then a maximum of 3 marks	**(6)**

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

Question number	(c) Assess how the aims of sentencing can be achieved through criminal sanctions. (12) **Indicative content**	Marks
1(c)	**(3 AO1), (3 AO2), (3 AO3), (3 AO4)** Responses are likely to include: Explanation of the aims of sentencing including: retribution, deterrence, rehabilitation, protection of the public, reparation, denunciation for example • Retribution 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. Sanction - Retribution – tariffs, and sentence required to be proportionate to the crime. • Deterrence –general or individual Aim is to reduce crime. Individual deterrence –to make sure the offender does not reoffend. General deterrence –to try to prevent others committing crime. Sanction - Deterrence – heavy fines or long sentences to deter others. • Rehabilitation Aim to reform offender and rehabilitate into society. Hope is behaviour will be influenced by sentence. Effect or impact of the theories on criminal sanctions imposed on offenders. Sanction – Rehabilitation – forward looking and positive aim in 20th century. Important for young offenders. Denunciation – Society expressing its disapproval – reinforces moral boundaries of acceptable behaviour. Often coincides with	**(12)**

protection of the public. – examples, are banning bad drivers from driving, sending to prison and long sentences, heavy fines for crimes blighting society, tagging

Problems / criticisms of impact / effect of theories for example

• 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.

Level 4 answers must include reference to at least 3 aims of sentencing.

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

Question number	(a) State the meaning of 'ratio decidendi' and 'obiter dicta'.	Marks
		(4)
	Answer	
2(a)	**(2 AO1), (2 AO2)**	**(4)**
	• One mark for stating the meaning of ratio decidendi and one mark for an example/or expansion up to two marks.	
	• One mark for stating the meaning of Obiter Dicta and one mark for an example/or expansion up to two marks.	
	• Ratio decidendi is the reason given in the judgement for a decision in a court case (1)	
	• Decisions of judges in higher courts bind lower courts (1)	
	• Civil court hierarchy used to illustrate point above (1)	
	• Criminal court hierarchy described/used to illustrate (1)	
	• Obiter Dicta is things 'said by the way' (1)	
	• Other things said in the judgement but not the reason given for the judgement (1)	
	• Not binding, could be persuasive (1)	
	If answer only covers one term, then a maximum of 2 marks	

Question number	(b) Explain how judicial precedent operates in the court hierarchy.	Marks
		(6)
	Answer	
2(b)	**(2 AO1), (2 AO2), (2 AO3)**	**(6)**
	Responses are likely to include:	
	• Jurisdiction of first instance courts, criminal and civil and how this is bound by higher courts, and judicial precedent	
	• Appeal courts, grounds for appeal, leapfrog and reasons	
	• Case law as illustration of workings of judicial precedent, e.g., Young v Bristol Aeroplane	
	Level 3 answers will require case examples.	
	An explanation with case law of either civil or criminal courts can be awarded a level 3.	

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

Question number	(c) Assess the advantages and disadvantages of the doctrine of judicial precedent. (10) **Indicative content**	Marks
2(c)	**(1 AO1), (1 AO2), (4 AO3), (4 AO4)** **Responses to include:** Responses are likely to include: Advantages of precedent: • The system provides detailed rules for later cases • The system is flexible as it deals with new situations as they arise, or updates out-of-date rules as in R v R and/or Herrington • It deals with real, as opposed to theoretical cases • It is just as judges are impartial and base their decisions on legal rules • Reporting of cases, so publicity • It is authoritative due to the numbers and experience of the judges in the Supreme Court and Court of Appeal. • It provides certainty and saves time Disadvantages of precedent: • The system is rigid and bad decisions are difficult to change • Courts must be careful not to interfere with supremacy of Parliament • The system causes uncertainty for future users • In some appeal cases each judge may give a different reason for their decision which may result in difficulty for later judges/lawyers identifying the ratio of a case • The nature of law making is undemocratic as a judge's role can be said to be applying law passed by Parliament rather than making law • Precedent depends on a case coming to court, which may be a lottery based on funding and the lawyer's advice • The system results in large numbers of precedents made and then there is difficulty of finding a relevant one • It produces retrospective decisions. Credit will be given to other valid points. Level 4 responses will require balanced advantages and disadvantages.	**(10)**

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	1–2	Isolated elements of knowledge and understanding are demonstrated.
		Application of knowledge and understanding is not appropriately related to the given context.
		Reasoning may be attempted, but the support of legal authorities may be absent.
		There may be an incomplete attempt to address competing arguments based on interpretations of the law.
Level 2	3-4	Elements of knowledge and understanding are demonstrated.
		Knowledge and understanding are applied appropriately to the given legal situation.
		Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
		There is an attempt to gauge the validity of competing arguments based on interpretations of the law.
Level 3	5-7	Accurate knowledge and understanding are demonstrated.
		Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.
		Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.
		The response attempts to contrast the validity and significance of competing arguments, which may include comparisons, based on valid interpretations of the law.
Level 4	8-10	Accurate and thorough knowledge and understanding are demonstrated.
		Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.
		Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.
		The response shows an awareness of the validity and significance of competing arguments, leading to balanced comparisons based on justified interpretations of the law.

Question number	(a) Describe the role of an ombudsman in legal proceedings. (2) Answer	Marks
3(a)	**(1 AO1, 1 A02)** • One mark for explaining the meaning of the role, and one mark for further explanation / example up to a maximum of 2 marks. • Someone who has been appointed to investigate complaints about companies and organisations. (1 AO1). • Examples include the energy, communications, consumer sectors (1 AO2) • It is a way of trying to resolve a complaint without going to court. (1 AO1). • But you must complain to the organisation first before you make a complaint to the ombudsman. (1 AO2) • Also, it is independent, free of charge and impartial. (1 AO2).	**(2)**

Question number	((b) State **four** ways of funding legal advice and representation. (4) Answer	Marks
3(b)	**(2 AO1), (2 AO2)** One mark for each accurate statement of a way of funding legal advice and representation up to a maximum of 4 • Insurance – premiums paid in advance, often on car or home policies, costly addition to policy, well before any issue arises (1) • State funding (1) o Civil – only if in public interest to fund need merits for actual representation in court. Not available for tribunals, or personal injury. o Criminal – only for those on low incomes, must be in interests of justice for defendant to be represented. Means and merits. Limited choice of lawyer, but free advice at police stations. • Conditional fees - need to find solicitor willing to act, uplift on fee and additional cap on success (1) • Trade union Membership/CAB (1) • Pro bono (1) • Self financing (1).	**(4)**

Question number	(c) Assess the advantages and disadvantages of the different sources and funding available for advice and representation in court cases. (14) **Indicative content**	Marks
3(c)	**(2 AO1), (2 AO2), (4 AO3), (6 AO4)** **Responses to include:** Responses are likely to include correct explanation and demonstration of knowledge and understanding of: • Sources of advice, Citizens' Advice, Trade Union, Solicitor • Sources of representation – Solicitor / Barrister • Payment / cost/ funding available • Insurance • State funding • Conditional fees • Trade Union Membership • Pro bono • Both the advantages and disadvantages of the above sources of advice and representation in civil cases should be considered • A conclusion, weighing up and balancing the evidence should be reached.	**(14)**

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	**1–3**	Isolated elements of knowledge and understanding are demonstrated.
		Application of knowledge and understanding is not appropriately related to the given context.
		Reasoning may be attempted, but the support of legal authorities may be absent.
		There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 2	**4-6**	Elements of knowledge and understanding are demonstrated.
		Knowledge and understanding are applied appropriately to the given legal situation.
		Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
		There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 3	**7–10**	Accurate knowledge and understanding are demonstrated.
		Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.
		Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced.
		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.
Level 4	**11-14**	Accurate and thorough knowledge and understanding are demonstrated.
		Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.
		Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.
		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.

Question number	(a) Describe briefly the role of the Law Commission. (2) **Answer**	Marks
4(a)	**(1 AO1)**, **(1 AO2)** **One mark for providing an accurate description of the law commission (1 AO1), and one mark for an example of their influence (1 AO2).** 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) AND • 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	(b) Explain briefly the influence of the media on Parliamentary law making. (4) **Answer**	Marks
4(b)	**(2 AO1)**, **(2 AO2)** **Description of media as an influence could include:** • 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.	**(4)**

Question number	(c) Assess the impact of external influences on Parliamentary law making. (14) **Indicative content**	Marks
4(c)	**2 (AO1), (2 AO2), (4 AO3), (6 AO4)** **Responses are likely to include:** **Advantages of the Law Commission could include:** • 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. **Disadvantages of the Law Commission could include:** • 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. **Advantages of media could include:** • 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 **Disadvantages of the media could include:** • 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 **Pressure groups as an influence could include:** • meaning of pressure group, including reference to the different types of groups (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	(14)

| | | groups who may not be consulted in law making process
• effect of influence by campaigns such as Snowdrop, or Fathers4Justice.
Credit will be given to other valid points such as lobbying.
Conclusion, weighing up the evidence
Candidate should consider two or more influences for band 4 marks. | |

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		Application of knowledge and understanding is not appropriately related to the given context.
		Reasoning may be attempted, but the support of legal authorities may be absent.
		There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 2	**4–6**	Elements of knowledge and understanding are demonstrated.
		Knowledge and understanding are applied appropriately to the given legal situation.
		Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately.
		There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 3	**7–10**	Accurate knowledge and understanding are demonstrated.
		Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation.
		Logical chains of reasoning are presented, but connections and support of legal authorities may be inconsistent or unbalanced.
		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.
Level 4	**11–14**	Accurate and thorough knowledge and understanding are demonstrated.
		Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation.
		Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities.
		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.

Question number	Evaluate the use and effectiveness of lay people in the English legal system.	Marks
	(20)	
	Indicative content	
5	**(2 AO1), (2 AO2), (8 AO3), (8 AO4)**	**(20)**

Responses to include:
Explanation of requirements for jury selection, and their role
- could include:
- age, electoral role, numbers, exceptions/ exemptions
- courts in which used
- listen to evidence, cross examination and summing up by
- prosecution and defence
- listen to judge's summing up of evidence and legal
- directions
- role – to decide on facts and give verdict
- secret discussion, unanimous & majority verdicts
- public announcement of verdict

Discussion of disadvantages of use of jurors could include:
- return of perverse verdicts
- compulsory, so reluctant to be there
- 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

Discussion of advantages of use of jury could include:
- cross section of community
- wide variety of views / backgrounds/ ages
- local knowledge
- trial by peers

Explanation of requirements for magistrates' selection, and their role could include:
- qualification –respond to advert/put self forward, age
- live/work within area
- selection – interviews by local advisory committee
- required qualities
- appointment – balance and requirements of bench

- background checks, appointment by Lord Chancellor

Discussion of advantages of use of lay magistrates could include:

- local knowledge

- volunteering, so want to do role

- panel of three

- inexpensive system, and they deal with many

  cases, freeing up Crown courts

- given training

- variety of penalties, but only able to give fines, or short

  prison sentences

Discussion of disadvantages of use of lay magistrates could include:

- perverse/inconsistent sentencing

- feelings of possible bias towards police/prosecution

- make up of panel and selection issues

- influence by clerk or within panel

- complexity of issues

- Reference to examples such as Lord Devlin's view, Quakers Penn 1670, Clive Ponting, Kronlid, Stephen Young, Home Office reports, Magna Carta.

- Discussion could also include civil and Coroners' courts

- Conclusion with justification.

  Credit will be given to other valid points.

  Both the jury and magistrates must be included for band 4 marks.

Level	Mark	Descriptor
	0	A completely inaccurate response.
Level 1	**1–4**	Isolated elements of knowledge and understanding are demonstrated. Application of knowledge and understanding is not appropriately related to the given context. Reasoning may be attempted, but the support of legal authorities may be absent. There may be an incomplete attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 2	**5–8**	Elements of knowledge and understanding are demonstrated. Knowledge and understanding are applied appropriately to the given legal situation. Chains of reasoning are attempted but connections are incomplete or inaccurate, and support of legal authorities may be applied inappropriately. There is an attempt to raise possible outcomes and conclusions based on interpretations of the law.
Level 3	**9–14**	Accurate knowledge and understanding are demonstrated. Knowledge and understanding are supported by relevant legal authorities and legal theories and applied to the given legal situation. Logical chains of reasoning are presented, but connections and/or unbalanced support of legal authorities may be inconsistent or unbalanced. 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.
Level 4	**15–20**	Accurate and thorough knowledge and understanding are demonstrated. Knowledge and understanding are supported throughout by relevant legal authorities and legal theories and applied to the given legal situation. Well-developed and logical chains of reasoning, showing a thorough understanding of the strengths and weaknesses in different legal authorities. 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.