

GCSE

Law

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

General Certificate of Secondary Education

Mark Scheme for June 2014

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.














All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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1. These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	Expandable vertical wavy line
	Not answered question
	Level 1
	Level 2
	Level 3
	Benefit of Doubt
	Cross
	Unclear
	Repeat
	Tick
	Vague
	Omission mark

2. Subject-specific Marking Instructions

The quality of written communication is assessed in question 4(d).

Blank answer spaces


To be sure you have not missed any candidate responses you must check every page of the question paper and annotate any blank answer spaces with the following annotation:



Additional Objects

You must also check any additional pages (shown as Additional Objects) which the candidate has chosen to use.

Before you begin marking, use the Linking Tool, to 'link' any additional page(s) to the relevant question(s) and mark the response as normal.

All additional pages must be annotated with the  stamp, so it is clear to centres that the additional pages have been viewed by the marker.

MARK SCHEME

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • That a citizen can only be stopped and searched if the police have reasonable grounds that they are carrying stolen or prohibited items. • That if the police officer is not in uniform, they must provide documentary evidence to prove they are a police officer eg a warrant card/police badge number. • The police officer must inform the citizen of their name, the name of the police station they are attached to and the reason for the stop and search or what they are expecting to find. • That a citizen can only be asked to remove their outer coat, jacket or gloves during a stop and search. • That the police officer must make a written report as to why the stop and search was carried out as soon as possible • That the police cannot stop and search a suspect on the basis of their race, age, appearance or because they have a previous conviction. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct identification.</p> <p>Don't award a mark for a response that simply repeats the question.</p> <p>(Maximum 3 marks)</p>

Question		Answer	Mark	Guidance						
1	(b)	<p>Candidates will successfully match any or all of the following:</p> <table style="margin-left: 40px;"> <tr> <td>A</td> <td>2</td> </tr> <tr> <td>B</td> <td>1</td> </tr> <tr> <td>C</td> <td>3</td> </tr> </table>	A	2	B	1	C	3	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each correct number identified.</p> <p>(Maximum 3 marks)</p>
A	2									
B	1									
C	3									

Question		Answer	Mark	Guidance
2	(a)	<p>Candidates will explain any of the following:</p> <p><u>First reading:</u></p> <ul style="list-style-type: none"> • This is the first stage of a bill's passage through the House of Commons and is where the name of the bill and its purpose is read out; • It is usually a formality and will take place without any need for a debate; • The first reading of a bill can take place at any time in a parliamentary session; • The bill is published as a House of Commons paper for the first time. <p><u>Second reading:</u></p> <ul style="list-style-type: none"> • This is the first opportunity for MPs to debate the main principles of the bill; • Generally the Government minister or MP responsible for the bill opens the second reading debate; • The debate continues with other Opposition MPs and the government's backbench MPs giving their opinions; • At the end of the debate, the Commons decides whether the bill should be given its second reading by voting and therefore deciding if it can proceed to the next stage. 	3	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for identification 1 mark for explanation 1 mark for further development</p> <p>(Maximum 3 marks)</p> <p>Credit will not be given for Green and White Paper or Royal Assent.</p> <p>Candidates can be credited with both breadth and depth.</p>

Question	Answer	Mark	Guidance
	<p><u>Committee stage:</u></p> <ul style="list-style-type: none"> • This is where a detailed examination of the bill takes place; • The Committee is made up of up to 50 MPs from all political parties; • The MPs are generally chosen from those with specific expertise or interest in the bill's subject area; • Any Amendments proposed by the Committee MPs to the bill will be published and debated in the next stage. <p><u>Report stage:</u></p> <ul style="list-style-type: none"> • This stage gives MPs an opportunity, in the House of Commons, to consider any amendments to a Bill which has been examined and proposed in the committee stage. • This allows the involvement of all MPs and can spread over several days. • All MPs can suggest amendments to the Bill or new clauses they think should be added. <p><u>Third reading:</u></p> <ul style="list-style-type: none"> • This is the final chance for the Commons to debate the contents of a Bill. • It usually takes place immediately after report stage as the next item of business on the same day; • This stage is usually short, and limited to what is actually in the Bill; 		

Question			Answer	Mark	Guidance
			<ul style="list-style-type: none"> Amendments cannot be made to a Bill at third reading in the Commons. At the end of the debate, the House votes on whether to approve the Bill. <p>Credit any other relevant response.</p>		

Question			Answer	Mark	Guidance
2	(b)		<p>Candidates will insert:</p> <p>Union, Justice and Treaty <u>in this order.</u></p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct word identified in the correct order.</p> <p>(Maximum 3 marks)</p>

Question			Answer	Mark	Guidance
2	(c)	(i)	<p>Candidates will identify any three from the following types:</p> <ul style="list-style-type: none"> Orders in Council Statutory Instrument Bylaw European Regulation. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct type identified.</p> <p>(Maximum 3 marks)</p>

Question		Answer	Mark	Guidance
2	(c) (ii)	<p>Candidates will explain any two of the following:</p> <ul style="list-style-type: none"> • Lack of control: Explain that even although Parliament allows other bodies to pass laws, they still require a degree of control. This happens in the form of Parliament and the courts, but it is argued that this is not enough and it is difficult to keep track of it all. • Undemocratic: Explain that since the finalising of the laws through delegated legislation is not made by Parliament but by generally unelected people, this means that they have a say in how we lead our lives eg civil servants. Many would argue this goes against democracy and having an elected Parliament. • Overused: Explain that it is arguable that since delegated legislation is not scrutinised in as much detail as statute, then bodies can use this form of lawmaking 'through the back door' and avoid the Parliamentary process of scrutiny. • Difficult or obscure language used: Explain that if obscure wording or language is used, then the understanding or interpretation of delegated legislation can be difficult or lead to results that were not intended. <p>Credit any other relevant response.</p>	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>For <u>each</u> reason explained:</p> <p>3 marks – develops a explanation on one relevant issue. 2 marks – explains one relevant issue with some elaboration. 1 mark - explains a relevant issue or makes any valid point. 0 marks - no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each problem discussed.</p> <p>(Maximum for question: 6 marks)</p>

Question		Answer	Mark	Guidance
2	(d)	<p>Candidates will discuss any of the following:</p> <ul style="list-style-type: none"> • This is a useful alternative to the Government introducing a bill. • It is proposed in Parliament by any Member of Parliament or Lord from any political party who aren't government ministers. • It means that controversial areas of law can be passed without the Government taking the initiative e.g. The Abortion Act. The bill still has to go through all the set stages of the parliamentary process and can be scrutinised in the same way other bills. • They are passed in three ways in the House of Commons: ballot, ten minute rule or presentation. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 3</p> <p>Credit should be given to both breadth and depth:</p> <p>3 marks – develops a discussion on one relevant issue. 2 marks – discusses one relevant issue with some elaboration. 1 mark - discusses a relevant issue or makes any valid point. 0 marks - no response or nothing worthy of credit.</p> <p>(Maximum 3 marks)</p> <p>Candidates can be credited with both breadth and depth</p>

Question		Answer	Mark	Guidance
3	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none">• Advice and assistance from a solicitor on criminal matters.• Free legal advice from a solicitor at a police station during questioning.• Pay the cost of a solicitor preparing a case and the initial representation for certain proceedings at the magistrates' or Crown Court.• Provision of full legal representation for a defence in criminal cases at all court levels.• Provides a duty solicitor to give free legal advice and representation at the magistrates' court. <p>Credit any other relevant response.</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each method of assistance identified.</p> <p>(maximum 3 marks)</p>

Question	Answer	Mark	Guidance
3 (b)	<p>Candidates will discuss any of the following for each situation (credit should be given for both breadth and depth):</p> <p><u>The defendant pleads not guilty:</u></p> <ul style="list-style-type: none"> • The prosecution will start the case by stating the charge and call witnesses who can be cross-examined by the defence. • At this point the defence can argue that there is insufficient evidence for a conviction. The judge can agree or disagree • If the judge disagrees then the defence presents their case, calling witnesses who can be cross-examined by the prosecution. • After this the prosecution and defence make their closing speeches. • The jury then make their decision as to whether the defendant is guilty or not guilty and the judge will sentence or release the defendant. <p><u>The defendant pleads guilty:</u></p> <ul style="list-style-type: none"> • If the defendant pleads guilty then a single judge will hear the facts and evidence of the case • The judge will consider any previous convictions or medical reports of the defendant • The judge will decide on the most appropriate sentence for the crime committed by the defendant. <p>Credit any other relevant response.</p>	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>Credit should be given to both breadth and depth:</p> <p>For <u>each</u> situation discussed:</p> <p>3 marks – develops a discussion on one relevant issue. 2 marks – discusses one relevant issue with some elaboration. 1 mark - discusses a relevant issue or makes any valid point. 0 marks - no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each situation discussed.</p> <p>(Maximum for question: 6 marks)</p>

Question			Answer	Mark	Guidance
3	(c)	(i)	<p>Candidates will successfully identify any or all of the following:</p> <p><i>Type of punishment</i> <i>Most appropriate aim of sentencing</i></p> <p><i>Heavy fine</i> Reparation</p> <p><i>Life sentence</i> Protection of the public</p> <p><i>Drug testing and treatment order</i> Rehabilitation</p>	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct aim of sentencing identified.</p> <p>(Maximum 3 marks)</p>

Question			Answer	Mark	Guidance
3	(c)	(ii)	<p><u>Custodial Sentence</u> Candidates will state any two factors from:</p> <ul style="list-style-type: none"> • Seriousness of the offence • a judge or magistrate will look at aggravating or mitigating factors • a judge or magistrate will look at the most appropriate aim(s) before sentencing the defendant • a prison sentence is reserved for those crimes the judge or magistrate feels is the only suitable form of punishment • a suspended prison sentence: serving your punishment in the community with certain restrictions attached to the sentence • determinative, indeterminate or life prison sentences. <p><u>Community Order</u> Candidates will state any two factors from:</p> <ul style="list-style-type: none"> • if the crime is less serious or a prison sentence is not suitable, a judge or a magistrate can issue a community order • it is designed to benefit the community as well as punish the defendant • a community order places requirements on the defendant. This could include unpaid work, or getting treatment for a drug addiction • that mitigating circumstances as well as the less serious nature of the crime are considered eg first time offenders • the different types of community sentences eg Community Payback, Job and Education Training and Treatment programmes. 	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>One mark for each factor stated. Maximum 2 marks for each type of sentence.</p> <p>(Maximum for question: 6 marks)</p>

Question	Answer	Mark	Guidance
	<p><u>Discharge</u> Candidates will state any two factors from:</p> <ul style="list-style-type: none">• the court finds you guilty but for certain reasons decides not to punish you further• they are used where the defendant has committed a low-level crime which the court feels inappropriate to punish in another way• that the court may feel that the experience or embarrassment of going to court is enough• either form of discharge: absolute – no further action is taken or conditional – no further action is taken unless the defendant commits a further crime. <p>Credit any other relevant response.</p>		

Question		Answer	Mark	Guidance
4	(a)	<p>Candidates will identify up to three of the following key qualities:</p> <ul style="list-style-type: none"> • Good character • Understanding and communication • Social awareness • Maturity and sound temperament • Sound judgement • Commitment and reliability. 	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each key quality identified.</p> <p>(Maximum 3 marks)</p>

Question		Answer	Mark	Guidance												
4	(b)	<p>Candidates will identify as follows:</p> <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;">Statement</th> <th style="text-align: center;">Qualified</th> <th style="text-align: center;">Unqualified</th> </tr> </thead> <tbody> <tr> <td style="padding-left: 40px;"><i>Anya is 32 years old and is a serving member of the Royal Air Force.</i></td> <td style="text-align: center; vertical-align: bottom;">✓</td> <td style="text-align: center; vertical-align: bottom;">Unqualified</td> </tr> <tr> <td style="padding-left: 40px;"><i>Charles is 45 years old and is deaf.</i></td> <td style="text-align: center; vertical-align: bottom;">✓</td> <td style="text-align: center; vertical-align: bottom;">Unqualified</td> </tr> <tr> <td style="padding-left: 40px;"><i>Boris is 60 years old and an undischarged bankrupt.</i></td> <td style="text-align: center; vertical-align: bottom;">✓</td> <td style="text-align: center; vertical-align: bottom;">Unqualified</td> </tr> </tbody> </table>	Statement	Qualified	Unqualified	<i>Anya is 32 years old and is a serving member of the Royal Air Force.</i>	✓	Unqualified	<i>Charles is 45 years old and is deaf.</i>	✓	Unqualified	<i>Boris is 60 years old and an undischarged bankrupt.</i>	✓	Unqualified	3	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct tick.</p> <p>(Maximum 3 marks)</p>
Statement	Qualified	Unqualified														
<i>Anya is 32 years old and is a serving member of the Royal Air Force.</i>	✓	Unqualified														
<i>Charles is 45 years old and is deaf.</i>	✓	Unqualified														
<i>Boris is 60 years old and an undischarged bankrupt.</i>	✓	Unqualified														

Question		Answer	Mark	Guidance
4	(c)	<p>Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • That magistrates undergo mandatory initial training and then a continuous training programme which is approved by the Lord Chancellor. • A mentor is appointed for the first 12-18 months. • The initial training looks at the basics of the role of the magistrate before sitting in court with two experienced magistrates. • That the training is delivered locally by the Justices' Clerk or by a member of their team. • That over the first year core training is provided. This involves visits to penal institutions. They are also given self-study workbooks to complete. • A minimum of three court observations and a visit to a prison and a youth offender's institution. • There is consolidation training after about a year in the role. • Regular appraisals. • The update and continuation training throughout the magistrates' time on the bench which allows them to be kept up to date with legislation changes. <p>Credit any other valid response.</p>	6	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for identification 1 mark for explanation 1 mark for further development</p> <p>(Maximum 3 marks)</p> <p>Candidates can be credited with both breadth and depth</p> <p>Maximum 1 mark if the answer is a list – the question asks for an explanation.</p>

Question	Answer	Mark	Guidance
4 (d)*	<p>Candidates will discuss any two of the following benefits:</p> <p><u>Masood will be judged by a cross-section of his peers:</u></p> <ul style="list-style-type: none"> • The magistrates hearing Masood’s case will have been selected from his local community and will come from a wide variety of backgrounds, social classes and occupations as well as age; • There should also be a balance of gender as nearly 50% of magistrates are female when compared to less than 10% of professional judges in higher courts e.g. the crown court; • Also, and possibly most important to Masood, ethnic minorities are represented in greater numbers as magistrates when compared to professional judges e.g. in the crown court. <p><u>The cost of using the magistrates’ court to Masood:</u></p> <ul style="list-style-type: none"> • The cost of his case in the magistrates’ court is much cheaper to Masood than, for example, the cost of a crown court case. • Masood can represent himself or employ a solicitor in what would be most likely a much shorter trial carried out in a matter of hours, rather than in the crown court. • This is a clear benefit to him since his legal costs and potential fine will be smaller than in a higher court e.g. the crown court. <p><u>Masood can expect a prompt and swift trial:</u></p> <ul style="list-style-type: none"> • Masood’s trial will be heard within a short period of time, usually days after the alleged offence; • This means that he can hope for a quick outcome rather than having to wait for a long time before the trial is heard; 	6	<p>ASSESSMENT OBJECTIVE 3</p> <p>QWC is assessed in this question.</p> <p>For each benefit discussed (credit should be given for both breadth and depth):</p> <p>3 marks – develops a discussion on one relevant benefit. 2 marks – identifies one relevant benefit with some elaboration. 1 mark - identifies a relevant benefit or makes any valid point. 0 marks - no response or nothing worthy of credit.</p> <p>For each benefit discussed: maximum 3 marks.</p> <p>(Maximum for question: 6 marks)</p>

Question	Answer	Mark	Guidance
	<ul style="list-style-type: none"> • This avoids any undue suffering on his part or of the alleged victim and their families. <p><u>Masood can expect an appropriate sentence relative to his crime from the magistrates:</u></p> <ul style="list-style-type: none"> • The magistrates at Masood’s trial will have been chosen from the local area; • Geographically, therefore they have greater understanding of local community issues and demands; • Therefore this understanding can benefit the community, and reflected in the sentences that they will pass. if Masood is found guilty, <p><u>The magistrates themselves can use the advice/experience of the court:</u></p> <ul style="list-style-type: none"> • Although the magistrates are legally ‘untrained’, Masood will be confident that if any legal issues arise, the magistrates have the assistance of a Court Clerk; • The Court Clerk , when required, will provide advice to them on matters involving the law and/or procedure; • Masood will also be comforted that magistrates will always sit in groups of three. This means that there is always more experienced magistrates sitting with less experienced ones. <p><u>Numerical composition of the bench:</u></p> <ul style="list-style-type: none"> • There will be three magistrates who sit in court during his trial; • This means that more than one person will be giving consideration to his case; • There is less opportunity for a biased decision than if there was a single magistrate sitting alone. 		

Question	Answer	Mark	Guidance
	<p><u>Noticeably fewer appeals from magistrates' courts:</u></p> <ul style="list-style-type: none">• There are very few appeals from the magistrates' court when compared with the number of sentences passed in these courts;• Very few cases appeal against the finding of guilt. Those few cases that are appealed are mainly against the sentence passed. Less than half of these appeals are successful.• Masood is therefore more likely to be content with the outcome and unlikely to wish to take it any further. <p>Credit any other reasonable response.</p>		

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