

Mark Scheme for June 2011

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of pupils of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, OCR Nationals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

It is also responsible for developing new specifications to meet national requirements and the needs of students and teachers. OCR is a not-for-profit organisation; any surplus made is invested back into the establishment to help towards the development of qualifications and support which keep pace with the changing needs of today's society.

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.

© OCR 2011

Any enquiries about publications should be addressed to:

OCR Publications
PO Box 5050
Annesley
NOTTINGHAM
NG15 0DL

Telephone: 0870 770 6622
Facsimile: 01223 552610
E-mail: publications@ocr.org.uk

Question Paper	CBT	Answer	Mark	Additional Guidance
1	1	Assessment Objective 1 A = The County Court B = Queen's Bench Division of the High Court C = Chancery Division of the High Court	3	
2	2	Assessment Objective 2 Small claims track	1	
3	3	Assessment Objective 1 False	1	
4		Assessment Objective 1 True	1	
5		Assessment Objective 1 False	1	
6	4	Assessment Objective 2 The tort of negligence	1	
7		Assessment Objective 2 Fast track and County Court	1	

Question Paper	CBT	Answer	Mark	Additional Guidance
8	5	<p>Assessment Objective 3</p> <p>Typical comments might include:</p> <ul style="list-style-type: none"> • There is more co-operation between parties • Judges are now in charge of how cases are managed rather than being manipulated by lawyers in the sole interests of their clients • The system is slowly moving to a less adversarial style • Active judges now identify issues much earlier rather than coming up during the case and causing more delay which has increased early settlements • There has been a drop in the number of cases reaching the civil courts, costs are being kept down by case management and the trial is shorter once they get there • Effect of the introduction of small claims court 	3	<p>0 marks = no response or nothing worthy of credit</p> <p>Level 1 = 1 mark Any valid basic point</p> <p>Level 2 = 2 marks More than one basic point or a single point with some development</p> <p>Level 3 = 3 marks More than one developed point or a single developed point with one or more limited points</p> <p>NB: A bare list of points lacks the development for L2 and will be capped at 1 mark</p> <p>Maximum 3 marks</p>
9	6	<p>Assessment Objective 2</p> <p>CFA or 'No Win – No Fee'</p>	1	
10		<p>Assessment Objective 2</p> <p>After the Event (insurance)</p>	1	Accept 'after the incident'
11	7	<p>Assessment Objective 2</p> <p>Criminal Defence Service</p>	1	
12	8	<p>Assessment Objective 2</p> <p>3</p>	1	

Question Paper	CBT	Answer	Mark	Additional Guidance
13	9	Assessment Objective 2 4	1	
14	10	Assessment Objective 2 1	1	
15	11	Assessment Objective 2 Merits testing	1	
16	12	Assessment Objective 2 Employment	1	Accept 'industrial' or 'work' Do not accept 'trades'
17	13	Assessment Objective 3 Typical comments might include: <ul style="list-style-type: none"> • Quicker – Compared to the civil courts, tribunals are quicker in terms of both allocation and the trial itself • Cheaper – No lawyers (usually) means no legal costs as parties normally represent themselves • Expertise – One of the key features of tribunals is the subject specific knowledge and expertise the lay members bring • Relieves Pressure – Without tribunals the civil courts would be overwhelmed with cases • Privacy – Tribunal proceedings tend to enjoy more freedom from press intrusion than the civil courts 	3	0 marks = no response or nothing worthy of credit Level 1 = 1 mark Any valid basic point Level 2 = 2 marks More than one basic point or a single point with some development Level 3 = 3 marks More than one developed point or a single developed point with one or more limited points NB: 1 mark cap for appropriate use of source based advantage (formality, protection of welfare rights & ability to appeal decisions) as the question asks for 'other' advantages Maximum 3 marks

Question Paper	CBT	Answer	Mark	Additional Guidance
18	14	Assessment Objective 1 Barrister	1	
19		Assessment Objective 1 Legal Executive	1	
20		Assessment Objective 1 Barrister	1	
21		Assessment Objective 1 Solicitor	1	
22		Assessment Objective 1 Solicitor	1	
23	15	Assessment Objective 1 12	1	
24	16	Assessment Objective 1 37	1	
25	17	Assessment Objective 1 110	1	

Question Paper	CBT	Answer	Mark	Additional Guidance
26	18	<p>Assessment Objective 3</p> <p>Typical comments might include:</p> <ul style="list-style-type: none"> • Oligarchy (self-perpetuating elite) • Not representative of the society they serve • Able women and ethnic minorities are being 'excluded' by a self-replicating elite • Lack of training and broader experience (outside the bar) adds to problem • Judges are too old (compare to France where 'career' judges are much younger) • Establishment minded – will not make controversial decisions • At present there is minimal training on human awareness, sentencing and presiding over a court – generally expected to learn this on the job • Experienced advocates will have a great deal of experience of 'life' from their work in court • There is nothing to suggest alternatives would produce better judges • Selected from a 'known' pool who have shown ability • New Judicial Appointments Committee should create a judiciary that are more in touch • Superior judges: lack of transparency in appointment process, allegations of an old boy network, tend to be similar types • Any comment that shows understanding/appreciation that judges are out of touch including stories, reports, statistics, etc. 	9	<p>0 marks = no response or nothing worthy of credit</p> <p>Level 1 = 1–3 marks 3 bald points or one point with limited development</p> <p>Level 2 = 4–6 marks 3 limited points or two points with adequate development [low L2] to 3 adequate points [high L2]</p> <p>Level 3 = 7–9 marks 3 adequate points or one/two points with good development [low L3] to 3 developed points [high L3]</p> <p>NB: 3 mark cap for a bare list of points and a 6 mark cap for any response which does not have at least one WDP (well developed point) as these requirements meet the level descriptors</p> <p>Maximum 9 marks</p>
27	19	<p>Assessment Objective 2</p> <p>Human Restricted Liberty</p>	3	

Question Paper	CBT	Answer	Mark	Additional Guidance
28	20	<p>Assessment Objective 1</p> <p>Box 1 = 1998 Box 2 = 1948 Box 3 = 1966 Box 4 = 1950</p>	4	
29	21	<p>Assessment Objective 2</p> <p>Candidates may discuss any of the following:</p> <p>Methods of protecting fundamental freedoms:</p> <p>Statute Law: Magna Carta 1215 The Bill of Rights 1689 The Human Rights Act 1998 – if placed in context of question</p> <p>Common Law Entick v Carrington (1765) Bushell's Case (1670) Membership of the European Union</p> <p>Examples of protected freedoms include: Freedom of Expression Freedom of the Person Freedom of Association and Assembly Freedom of Thought, Belief and Religion Freedom of Information</p> <p>Credit any relevant case or anecdotal examples such as police powers/PACE</p>	6	<p>0 marks = no response or nothing worthy of credit</p> <p>Level one = 1–2 marks Limited discussion</p> <p>Level two = 3–4 marks Adequate discussion</p> <p>Level three = 5–6 marks Good discussion</p> <p>NB: lists of 'freedoms' in context capped at 3 marks regardless of how many more are cited and a bare list lifted from the source capped at 1 mark.</p> <p>NB: Accept UDHR & ECHR and supporting points when used in correct context</p> <p>Maximum 6 marks</p>

Question Paper	CBT	Answer	Mark	Additional Guidance
30	22	Assessment Objective 1 Freedom of Expression	1	
31		Assessment Objective 1 Freedom of Association and Assembly	1	
32		Assessment Objective 1 Freedom of Information	1	
33	23	Assessment Objective 1 True	1	
34	24	<p>Assessment Objective 3</p> <p>Typical comments might include:</p> <p>AGAINST:</p> <ul style="list-style-type: none"> • DNA testing, whilst better than fingerprinting, is fallible. Some environmental factors can adulterate DNA samples. • There is room for human error or fraud in comparing DNA samples from criminals with those found at the scene of the crime. • Criminals can 'plant' DNA at the scene of a crime. • There is a worry that deliberately, accidentally or by fraud – samples would be passed on to the private sector. If samples indicated predisposition to genetic disorders, illnesses, diseases, etc, this might affect things like life insurance and job opportunities. • Most violent crime is committed by someone known to the victim and DNA would be superfluous in these cases. • Taking a DNA sample from everyone is a waste of money as most people do not commit crime and the money would be better spent elsewhere (possibly in the criminal justice system). • There are ethical dilemmas in taking samples from certain groups for a national database – like children, babies, the mentally ill and elderly. • The starting point in a civilised society should be presumed law-abiding innocence not 'a nation of potential suspects'. • The more people there are on the database – the greater the chance of a false match. 	3	<p>0 marks = no response or nothing worthy of credit</p> <p>Level 1 = 1 mark Single limited point (or equivalent in less developed points)</p> <p>Level 2 = 2 marks Single adequate point (or equivalent in less developed points)</p> <p>Level 3 = 3 marks Single good point (or equivalent in less developed points)</p> <p>NB: A point which relies entirely on the source information (i.e. interferes with privacy, wrong to keep data on those who have been arrested/charged but not convicted) will be capped at 1 mark.</p> <p>Maximum 3 marks</p>

OCR (Oxford Cambridge and RSA Examinations)
1 Hills Road
Cambridge
CB1 2EU

OCR Customer Contact Centre

14 – 19 Qualifications (General)

Telephone: 01223 553998

Facsimile: 01223 552627

Email: general.qualifications@ocr.org.uk

www.ocr.org.uk

For staff training purposes and as part of our quality assurance programme your call may be recorded or monitored

Oxford Cambridge and RSA Examinations
is a Company Limited by Guarantee
Registered in England
Registered Office; 1 Hills Road, Cambridge, CB1 2EU
Registered Company Number: 3484466
OCR is an exempt Charity



OCR (Oxford Cambridge and RSA Examinations)
Head office
Telephone: 01223 552552
Facsimile: 01223 552553

© OCR 2011