

Specimen Paper Answers – Paper 1

Cambridge International AS & A Level Law 9084

For examination from 2023



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Introduction

These specimen answers have been produced by Cambridge ahead of the examination in 2023 to exemplify standards (high) for those teaching Cambridge International AS & A Level Law 9084. We have selected questions from Specimen Paper 1, Questions 5, 6(a) and 6(b).

The marks given are for guidance only and are accompanied by a brief commentary explaining the strengths and weaknesses of the answers. Comments are given to indicate where and why marks were awarded, and how additional marks could be obtained. There is also a list of common mistakes and guidance for candidates for each question.

The specimen materials are available to download from the [School Support Hub](#).

2023 Specimen Paper 01

2023 Specimen Paper Mark Scheme 01

Past exam resources and other teaching and learning resources are available from the [School Support Hub](#).

Details of the assessment

Paper 1 English Legal System

Written paper, 1 hour 30 minutes, 75 marks

Section A: five compulsory questions. There are four short answer questions and one extended answer question.

Section B: two essays from a choice of three. There are two parts to each essay.

Externally assessed

50% of the AS Level

25% of the A Level

Assessment objectives

AO1 Knowledge and understanding

- Demonstrate knowledge and understanding of legal concepts, principles and rules.
- Use statutes, cases, examples and legal terminology.

AO2 Analysis and application

- Analyse legal concepts, principles and rules.
- Apply legal concepts, principles and rules.

AO3 Evaluation

- Evaluate legal concepts, principles and rules
- Communicate legal argument coherently on the basis of evidence.

Assessment objectives as a percentage of Paper 1

AO1 Knowledge and understanding 45%

AO2 Analysis and application 30%

AO3 Evaluation 25%

Question 5

Discuss the advantages of parliamentary law making.

Specimen answer

There are many advantages in Parliament making law. Perhaps most obvious is that parliamentary law cannot be challenged by judges. They may make suggestions about potential reform, but they cannot change law made in this way. Parliament is able to debate proposed laws in some detail. This is because the process goes on for some time and this can allow for reflection before the law is finally made. The use of green and white papers before the bill enters Parliament has the advantage of allowing the public to be aware of the law which may be made.

During the law making process in the House of Commons there is a Committee Stage. This is where a smaller number of MPs are able to look at the proposed law in some detail. The committee is usually comprised of MPs who have expert knowledge or an interest in the area of proposed law. Therefore the quality of law making is improved.

In addition to this, the public are represented by elected Members of Parliament in the House of Commons. They are elected by the public and can represent issues of concern from their constituents. The House of Lords is unelected, however, there are life peers who are selected because of their expertise in various areas, which is good for law making. There have been life peers who are businessmen, politicians, educators and film producers. This all combines to improve the quality of law making. However, as they are unelected, their powers are limited. The Parliament Acts 1911 and 1949 allow laws to be passed despite the opposition of the House of Lords. The use of these acts is quite limited, but recent examples have been the Sexual Offences Act 2000 and the Hunting Act 2004.

Total marks awarded = 9 out of 10

Examiner comment

For AO2 (Analysis) this answer would be placed at the bottom of Level 3 and score 5 marks. For Level 3 the response must contain clearly reasoned analysis and effective use of relevant examples.

The response addresses three areas of commentary. Whilst there are more aspects of parliamentary law making which might be considered, this question is worth 10 marks and candidates should be advised to be aware of the time constraints when framing their answer. Each area covered is examined in some detail, highlighting the reasons for the advantage and illustrating their answer with relevant examples.

When discussing the green and white papers, there could be more analytical detail. In the final paragraph the response shows clear analysis of the role of the two houses, with excellent examination of the advantages associated with the composition of both the House of Commons and House of Lords. However,

in the second paragraph, the examination of the work of the committee stage is slightly limited, with no example given.

To reach to top of Level 3, the response could have provided examples of the work of the committee in more detail and included an examination of the advantages of the white paper stage.

For AO3 (Evaluation) this response would be placed at the top of Level 3 and score 4 marks. For Level 3 the response must be clearly focused evaluation developed with relevant evidence.

The response contains clearly focused evaluation of each area discussed. The analysis and evaluation are woven together in each area. This avoids a bald statement such as ‘this is good’ and clearly explains why each point is an advantage.

Common errors and general guidance for candidates

Information on common errors and general guidance for candidates will be available in the examiner report after the first exam series in 2023.

Question 6(a)

Describe the role of lay magistrates in both civil and criminal cases.

Specimen answer

The criminal role of the magistrate is the larger one. This court tries summary offences, decides whether the defendant is guilty or not guilty and sentences them. They also are the first court in both triable either way and indictable offences. In triable either way offences they make decisions on which court the case will be heard in, and for indictable offences they pass the case to the Crown court for trial. In addition to this they also deal with issues such as remand hearings, bail applications and the issuing of warrants. Some also sit in the Crown court with qualified judges to hear appeals.

The civil role is smaller. They deal with non-payment of council tax and television licences. They also sit in cases involving appeals from local authorities who have refused to issue licences for the sale of alcohol. There is also a special panel of magistrates who deal with family cases concerning protection order and adoption orders. This is governed by the Children Act 1989.

Total marks awarded = 9 out of 10

Examiner comment

For AO1 (Knowledge and understanding) this answer would be placed in the bottom of Level 4 and score 9 marks. To reach Level 4 the response must be accurate and detailed in most relevant areas. There must be thorough knowledge and understanding of the most appropriate legal concepts, principles and rules, key examples, cases and/or statutory authority, and legal terminology.

This response is accurate throughout. It covers both areas of the question, giving them equal weight and offering clear explanation of the appropriate legal concepts. In the criminal area it covers the areas in which Magistrates operate, using appropriate legal terminology throughout. When describing the civil role, the response is briefer, as the role here is smaller. However, the response covers the main areas here, and makes good use of appropriate authority.

To reach the top of the level, the response could have included the work of Magistrates in the Youth Court and might have given a fuller explanation of the role in dealing with a triable either way offence.

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Question 6(b)

Assess whether lay magistrates should be replaced by professional judges.

Specimen answer

It might be argued that lay magistrates should be replaced by qualified judges. It seems unusual to allow people with no formal legal training to play such an important part in the judicial system. However, it is not true that they have no training at all. Magistrates do have to go through quite an extensive training programme on appointment. This involves core training which is carried out over a period of time. Thus it is not accurate to say that they are totally untrained, and it could be argued that the training undergone, which is mostly on the job training, equips them well for their role.

*Magistrates are often criticised as being drawn from only one group of society rather than being a cross section. A report in 2000, *The Judiciary in the Magistrates' Courts*, indicated that around 40% of magistrates were retired (thus making them older) and mainly from professions rather than manual or office workers. This might also indicate that they are drawn from quite a narrow a group in society. In fact, statistics show that 57% are over 60. However, it should be noted that despite this, the professional judiciary are even less diverse and drawn from a similar age group, so the issue would not necessarily be solved by replacing magistrates with paid judges.*

Another issue is that magistrates display prosecution bias as they tend to believe the police too much. Magistrates are less likely to find people not guilty than those tried by a jury in the Crown Court.

*A real concern is the inconsistency in sentencing by magistrates. Statistics in the white paper, *Justice for All (2001)* showed that, for example, in Reading Magistrates' Court, only 3% were given custodial sentences for handling stolen goods, whilst in London, the figure was 48%. Similar differences can be seen in Cardiff where 38% of burglars received community sentences, compared with 66% in Leicester. It is hard to see why this might be and it is certainly possible that as qualified judges are usually led by sentencing guidelines from the Court of Appeal and the Sentencing Council, they may be more consistent in their sentencing. Inevitably, this raises issues of justice and fairness to the individual defendants in the case. This might well be a strong argument for replacing magistrates with qualified judges or at least improving training.*

Arguably, the use of the Justices' Clerk can counter any lack of legal knowledge on the part of the magistrates. The clerk is a legally qualified person in the court who can advise the magistrates on the law. Thus any gaps in legal knowledge can be filled by a trained person. However, it is important to note that Justices' Clerks have been criticised by becoming too involved in the decision of guilt. In R v Birmingham Magistrates ex p Ahmed, it was made clear that clerks should not retire with magistrates when they make their decision. Whilst it is right that magistrates should be the only ones to make a decision on guilt, it does mean that they are deprived of legal advice at this stage, and it might be better to have someone who had that legal knowledge themselves judging the case.

It would certainly be more expensive to replace magistrates with professional judges. A better solution might be to replace magistrates with District Judges (a type of qualified paid magistrate who sits alone). A recent report from the Magistrate's Association found that 98% of cases held by lay magistrates cost less than cases heard by District Judges.

Total marks awarded = 12 out of 15

Examiner comment

For AO2 (Analysis) this answer would be placed at the bottom of Level 3 and score 6 marks. For Level 3 the response must contain mostly focused and reasoned analysis throughout. The analysis must be supported by effective and well developed use of legal concepts, principles and rules, key examples, cases and/or statutory authority.

The first paragraph makes valid points concerning training and shows some analysis on this issue giving some detail to support the argument. However, this lacks depth of analytical detail. The second paragraph shows focused analysis on the composition of the Magistrates' court. This is supported by well-developed authority and example. The response makes a valid point in comparison with the professional judiciary but might have had even stronger analysis had it gone on to introduce the concept of trial by one's peers and compare this to trial by jury.

In the third paragraph, whilst the evaluative point is well made, there is little supporting analysis or evidence, showing a weaker element of the response. This could have been remedied by the inclusion of a case like Rv Bingham ex p Jowitt 1974. The statement concerning training could have contained more analysis on how training might improve this situation.

In the fourth paragraph on inconsistent sentencing, the response gives an effective analysis, well supported by examples and authority. It also draws on issues of fairness to individual defendants. This continues in the fifth paragraph concerning the use of the Justices' Clerk, showing clear reasoning and an ability to present both sides of the argument. In the final paragraph, again, the issue is well approached, but lacks evidence in support and a coherent conclusion.

Had the issues in the above paragraphs been addressed this would be a clear top of Level 3 answer.

For AO3 (Evaluation) this response would be placed at the bottom of Level 3 and score 6 marks. For Level 3 the response must be mostly focused and have reasoned evaluation of most of the relevant issues. The evaluation should be effectively supported by relevant material and there should be a coherent argument.

There is clear and focused evaluation in this response which is generally effectively supported by relevant material. It presents a generally balanced argument and is effectively supported, in the main, by relevant

material. However, the absence of the coherent drawing together all of the arguments, means that this does not quite reach the top of Level 3.

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