

MARK SCHEME for the May/June 2008 question paper

9084 LAW	
9084/01	Paper 1, maximum raw mark 75

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began.

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 must be read in conjunction with the question papers and the report on the examination.

- CIE will not enter into discussions or correspondence in connection with these mark schemes.

CIE is publishing the mark schemes for the May/June 2008 question papers for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level syllabuses and some Ordinary Level syllabuses.

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- 1 Candidates need to identify the two possible bases of appeal i.e. against conviction and against sentence.

Appeal from the Youth Court lies to the Crown Court as of right, notice having been lodged immediately after sentence or within 21 days.

Where the appeal is against conviction, re-hearing of the evidence before a judge and magistrates. Where against sentence only, some mention of mitigation would be welcome.

Advise him that he appeals at large and that there may be delays.

He can appeal to the Court of Appeal (Criminal Division) with leave of a single judge. Possible appeal to HL or ECJ should be considered.

A maximum of 18 should be awarded if the answer confines itself to appeal against sentence only.

Maximum of 15 if no discussion of Youth Court trials but is otherwise a competent discussion of criminal appeals.

- 2 The quotation gives candidates plenty of points to consider and the more methodical and alert will use this as a framework for their argument. Age, race, class and representativeness should all be discussed critically, along with details of the selection and function of magistrates. A clear conclusion should be reached. Some credit to be given for material on the criminal jurisdiction of magistrates. Reward any constructive discussion of alternatives to the present system.

- 3 Some credit should be given for the usual historical account of equity and its origins and early development. Critical consideration of the various maxims and remedies and their moral impact on the law is pretty essential here. Illustration by way of decided cases should be rewarded, as should discussion of the beneficial impact of modern equity, from High Trees through Davis v Johnson and Anton Piller Orders, Mareva Injunctions and their less romantic-sounding successors.

Max. 18 for a purely historical discussion – and it would have to be very good indeed!

Max. 21 where the answer fails to include supporting case law or consideration of the maxims of equity.

- 4 This straightforward question requires an analysis of the hierarchy of the courts and of the extent to which decisions are binding on subsequent cases. There is a clear need for illustration from decided cases. Some sort of critical evaluation of whether obsolete or unjust decisions continue to haunt the higher courts is required. Answers which merely plod through the hierarchy should not reach the highest two bands. Maximum of 18 where the answer does not include illustration from decided cases.

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- 5** A clear factual account is required here! Once charged, the custody sergeant will consider the question of bailing Bonnie to a court date or keeping her in custody overnight.

First appearance before the magistrates. Plea before venue.

Theft should be identified as an either way offence and the two possible routes for the case discussed, viz.

- (i) Trial before magistrates; preliminaries; the trial process
- (ii) Election of trial by jury. Committal to the Crown Court. Trial before judge and jury.

Any realisation that the magistrates are unlikely in the extreme to consider the matter unsuitable for summary trial would be excellent and should be rewarded accordingly.

Critical discussion of the advantages and disadvantages of the two venues and perhaps discussion of the matters of bail and of delay and expense would lift any answer into the higher bands.

Max. 6 marks for matters including pre-arrival at police station and procedures prior to charge. Some credit should be given to Article 6 Human Rights Act 1998, specifically the right to a fair trial.

- 6** Candidates should discuss the two routes to professional status via a law degree or other plus conversion course and the subsequent vocational training. Better answers would offer some measure of critical comparison. Shortcomings of the system should be considered e.g. all those Inns of Court dinners; the astronomical expense; the shortage of decent training contracts; the need for an early decision.

Candidates should then look at recent extensions of rights of audience to solicitors and employed barristers and the recent proliferation of institutions offering vocational training. Some sort of conclusion should be reached. Maximum of 18 marks for answers which do not address the more recent reforms.