Pearson Edexcel

Examiners' Report
Principal Examiner Feedback

Summer 2019

Pearson Edexcel International Advanced Level In Law (YLA1)
Paper 1: Underlying Principles of Law and English Legal System

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Introduction

This was the fifth paper in this 2015 new specification for **International A-Level Law**. The new Paper 1 contains 5 questions of 20 marks each. There is no question choice on the paper, candidates are required to answer all questions. The format of the paper is that the first two questions consist of short to medium response questions, the next two questions consist of multi-part, problem-solving questions and the last question on the paper is a problem-solving question. The paper is worth 50% of the total International A-Level raw marks. The subject content for the paper is selected from the nature, purpose of and liability in Law, and the sources of English law, its enforcement and administration.
Most candidates attempted all questions, although some candidates omitted to answer **Questions 2(c), 4(b) and 4(c).** This would appear to be because of lack of knowledge, rather than time issues.

Candidates are advised to read the whole paper before starting, as there were instances of repetition of information. Interpretation of questions and their command words need to be improved upon. Candidates must remember that each part of a question is marked in isolation, so if the correct information for part a of a question is put wrongly in the answer to part b of that question rather than in part a, no marks will be awarded for that information. That does not mean that candidates should put all they know on a topic down three times for each section of a question.

Candidates are also advised to ensure that their handwriting is legible and remains so for the entire paper. It is appreciated that candidates are rushing to complete the paper in a limited time, but legibility is important. Trying to decipher handwriting was somewhat of a problem this year.

General issues

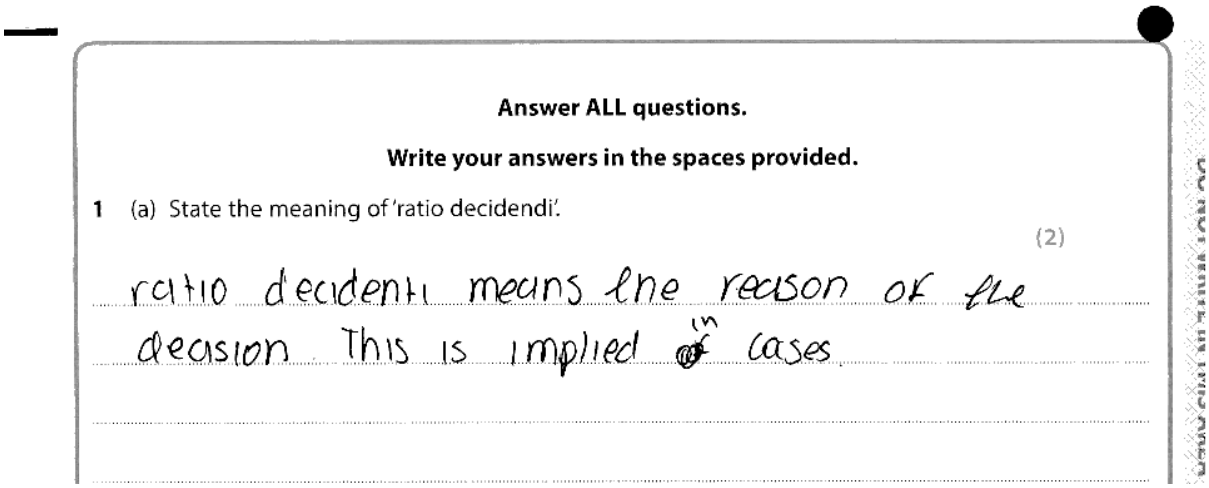
Questions carrying 2 or 4 marks are asking candidates for points- based answers which means they could receive a mark for every correct accurate point made in answering the question. Space provided for answers should inform candidates of the length of the required response. Command words such as **'State'**, **'Describe'** or **'Explain'**, gain marks for providing knowledge, description or explanation and providing examples for exemplification of specific legal concepts.

Questions worth 6, 10,12,14 or 20 marks are asking candidates to provide an explanation, assessment, analysis or evaluation of a given legal concept or issue using a combination of appropriate legal knowledge together with an assessment of the issue. Candidates answers are awarded a mark based on the level of response they display.

Questions asking for **'Analyse'** require candidates to weigh up a legal issue with accurate knowledge supported by authorities or legal theories and to display developed reasoning and balance. Questions asking for **'Evaluation'** additionally require a balanced and justified conclusion based on this reasoning.

Question 1a: (2 Marks)
This question is a points-based one where the candidate needs to state the meaning of **'ratio decidendi'.**

Many candidates could only **EITHER** state the meaning OR give an example. This meant they were awarded 1 mark rather than 2, **as in the example below.**



Answer ALL questions.

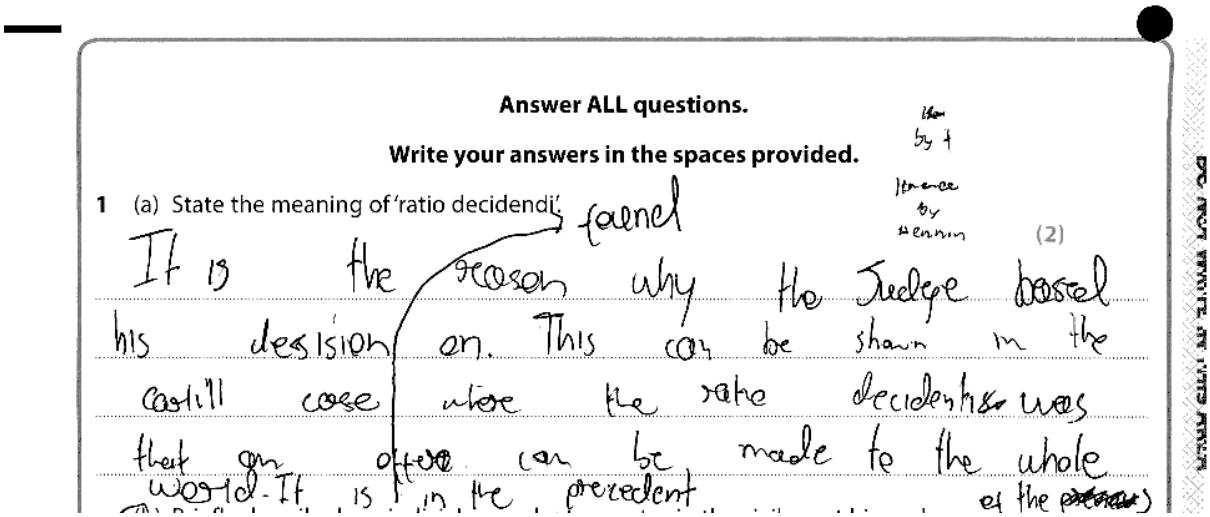
Write your answers in the spaces provided.

1 (a) State the meaning of 'ratio decidendi'.

(2)

ratio decidenti means the reason of the decision This is implied in cases

However, the example below, although rather difficult to read, scored 2.



Answer ALL questions.

Write your answers in the spaces provided.

1 (a) State the meaning of 'ratio decidendi'.

(2)

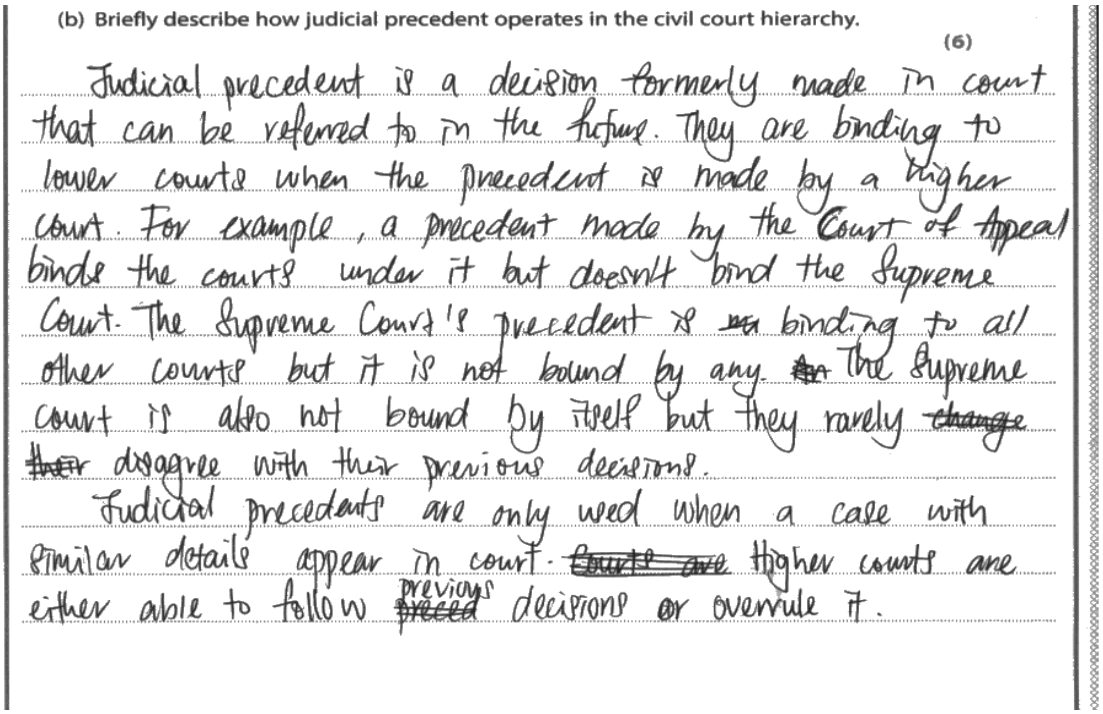
It is the reason why the Judge based his decision on. This can be shown in the Donoghue case where the ratio decidendi was that an offence can be made to the whole world. It is in the precedent

Q1(b): (6 Marks)
This was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptors.

The command word in this question was **'Briefly describe'.** Candidates were required in their description to demonstrate understanding of how Judicial Precedent operates in the civil court system and illustrate this by providing examples.

Candidates' answers often just attempted to describe the terms **'ratio'** and **'obiter'**, and to say that higher courts bind lower courts. These answers were usually very simplistic. Some answers contained nothing about the hierarchy but wrote about different types of precedent.
For **level 1** candidates were only able to provide isolated elements of knowledge and understanding of the hierarchy.
For **level 2** candidates provided several elements of knowledge supported an attempt at some illustration
For **level 3** candidates demonstrated detailed understanding supported by relevant application and authorities.

The example below was a top of band 2 answer. If it had included a case example it could have been band 3.



(b) Briefly describe how judicial precedent operates in the civil court hierarchy.

(6)

Judicial precedent is a decision formerly made in court that can be referred to in the future. They are binding to lower courts when the precedent is made by a higher court. For example, a precedent made by the Court of Appeal binds the courts under it but doesn't bind the Supreme Court. The Supreme Court's precedent is ~~an~~ binding to all other courts but it is not bound by any. ~~An~~ The Supreme court is also not bound by itself but they rarely ~~change their~~ disagree with their previous decisions.

Judicial precedents are only used when a case with similar details appear in court. ~~Courts are~~ Higher courts are either able to follow ~~preced~~ previous decisions or overrule it.

Question 1(c): (12 Marks)
This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptors.

The command word in this question was **'Assess'**, which was looking for an extended answer, weighing up the advantages and disadvantages of the doctrine of judicial precedent. This should have included a balanced assessment, with some illustration. All too often responses were just in a brief numbered list, with vague points such as **'certainty'** or **'rigidness'** given without any expansion or illustration.

For **level 1** candidates gave isolated elements of knowledge.

For **level 2** candidates demonstrated some understanding and began to make connections.
For **level 3** candidates demonstrated accurate understanding and attempts application using examples.
For **level 4** candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application.

The example **below is a top of band 3 answer**. If some illustration or examples had been given it would have been top band.

Examiner tip
Try and identify the key issues/cases to enhance your mark. This will mean your answers will be more concise and focused.

Examiner comments
The answer below scored 9 - top of band 3. It assesses the position but needs illustration to be in the top band.

(c) Assess the advantages **and** disadvantages of the doctrine of judicial precedent. **(12)**

The first advantages of judicial precedent is consistency. This is because the similar fact of the case can be refer to the precedent established by prior decision. Therefore, the retire, there is a consistency of the judgement for those who come to the law. secondly, the advantages of judicial precedent is time saving. The lawyers only have to apply the binding precedent to the case with the similar fact. This will be very time saving as the case don't have to be stand all over again in the court. The third advantage is flexibilty, this is said so as it is flexible for judges to apply the law based on the situation.

The disadvantages of judicial precedent is volume and complexity. This is because there are many precedent are being made therefore it is very difficult for lawyers to search for the ratio by prior decision. Secondly, the judicial precedent is rigid as the principle of it is to follow the precedent established by prior decision. This will cause the bad law to pepertual for a long period of time until some powerful judges come in to amendent. Thirdly, the judicial precedent will promote lazyness of the judge. This is because judge only has to apply the precedent to the case and no even make his own opinion towards the case. Lastly, the disadvantage of judicial precedent is unconstitutional. Parliament should be the only law making body. As now judges can make their precedent, this has infringing the seperation of power and undermine the perliamentary sovereignty.

Q2(a): (4 Marks)
This question is a points-based one where the candidate needs to state any four stages that a bill must pass through to become an act of parliament.

The command word is **'state'** which only requires knowledge, therefore an example for each stage was all that was required, not an explanation of each stage. Also stages prior to the bill were not required, nor was it necessary to get the stages in the correct order.

Therefore, **the example below scored full marks.**

2 (a) State any **four** stages a bill must pass through to become an Act of Parliament.

(4)

First stage We have the first reading, then the second reading, then the committee stage then the third reading and Royal Assent

DO NOT WRITE IN THIS

Whereas the example below only scored 2 marks.

2 (a) State any **four** stages a bill must pass through to become an Act of Parliament.

(4)

(1) Green paper

(2) White paper

(3) 1st reading

(4) 2nd reading

Q2(b): (6 Marks)
This question was marked using a level- of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word here is **'analyse'** which requires candidates to weigh up the effectiveness of any ONE of the three statutory rules given, with accurate knowledge supported by authorities or legal theories and to display developed reasoning and balance.

For **level 1** candidates were only able to provide isolated elements of knowledge.
For **level 2** candidates provided elements of knowledge and understanding.
For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Candidates did well on this question**. Below is an example of a top band answer.**

(b) Analyse the effectiveness of any **one** of the following rules of statutory interpretation:

- Literal rule
- Golden rule
- Mischief rule.

(6)

The Mischief rule under the literal approach is known as the most effective and strongest rule among all. To ~~be~~ truly interpret statutes, there are four principles to be followed as given in the Heydon's Case. ① What is the common law before passage of the Act, ② What is the mischief which is not provided ~~in~~ by the common law, ③ What did the Parliament do to resolve the defect and ④ What is the true reason of Parliament giving the remedy. The Mischief rule ~~is~~ was stated in the Law Commission's report as a 'rather satisfactory approach' among all the rules in literal approach. The Mischief rule helps ~~is~~ in filling loopholes of law, but at the same time it also encourages prejudices when judges are free to include their opinion in interpreting statutes. It creates an infringement in separation of power.

Q2(c): (10 Marks)
This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was **'Assess',** which was looking for an extended answer, weighing up the advantages and disadvantages of parliamentary law making. This should have included a balanced assessment with examples of statutes to illustrate both advantages and disadvantages.

For **level 1** candidates gave isolated elements of knowledge.
For **level 2** candidates demonstrated some understanding and began to make connections.
For **level 3** candidates demonstrated accurate understanding and attempt application using examples.
For **level 4** candidates demonstrated thorough and accurate understanding, logical chains of reasoning and good application.

The assessment in many candidates' answers was very simplistic, often unbalanced and without any examples or authorities for justification. Again, it

was common to see a brief numbered list with generic statements such as **'slow process'**, or **'democratic'**, but with no illustration.

Below is an example of a top band answer.

Examiner tip
For an assess question there needs to be a balance between displaying a thorough understanding and application of the question topic and the need to show analysis and skills.

Examiner comments
This scored 8 - band 4 marks. It assesses advantages and disadvantages and provides examples / illustration to points made.

(c) Assess the advantages **and** disadvantages of parliamentary law making.

(10)

In the English legal system, it is considered that law making is the prerogative of parliament. Parliament comprises of the house of commons and the house of lords and the monarch. Law making by them leads to a number of advantages. Firstly, since Parliament is considered to be a supreme law making body within the UK. They have powers such as granting independence to dependants stated in the Nigeria independence Act. Thus when they pass a law, it is more likely to be followed extensively and obeyed by the public since there is accountability. Secondly, house of Commons comprises of MPs who are democratically elected. This suggests that any laws passed by them is more likely to reflect the views and feelings of the general public. for instance, the Abortion Act 1967 stirred from a private member bill which reflected the changing views of the society. In addition, bills suggested by the parliament undergoes from a number of stages from first reading to second reading, committee stage, report stage, third reading, house of lords and finally to the queen. This ensures precision and constant check and balance. Moreover, the bill, throughout the process of becoming an Act is debated upon, which implies that it is looked through different views and perspectives before finally becoming a law, thus ensuring a diverse and effective law.

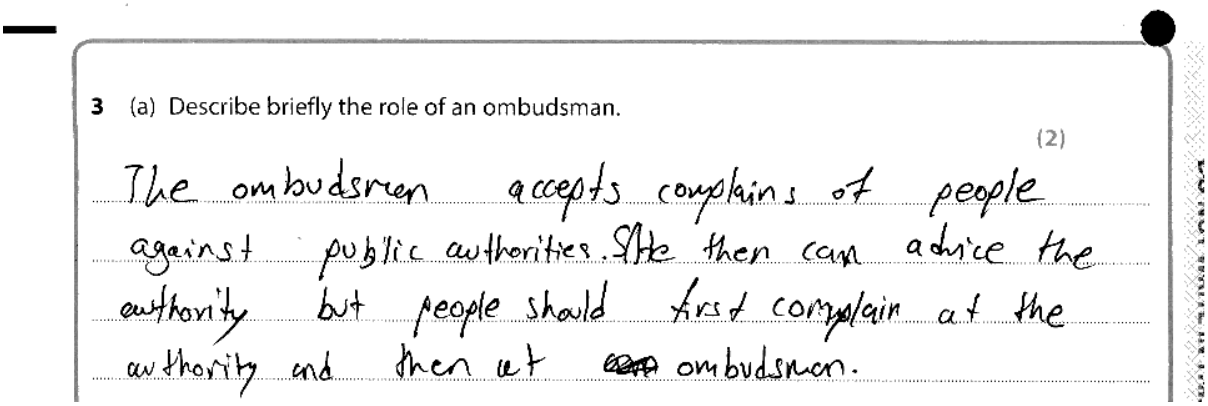
However, the problem with Parliament law making is that they have neither the time nor the detailed view to pass various laws. The process is also very cumbersome and stressful. It is also argued that members of the Parliament lives a very different life than most people of the society due to which they are not suitable representatives and as a result cannot make laws which will benefit the society. They are also said to lack technical and local knowledge. Furthermore, it is not possible for the parliament to foresee every future needs of the society, due to which law making by the parliament is criticised. In conclusion, despite the drawbacks, the benefits may be higher since UK law is based on Parliament Sovereignty.

(Total for Question 2 = 20 marks)

Q3(a): (2 Marks)

The command word is **'describe briefly'** which requires candidates to provide an accurate description of the role of an ombudsman. One mark is awarded for the definition of a role and a further mark for expansion or example. The question was not done very well on the whole.

The example below was given 2 marks.

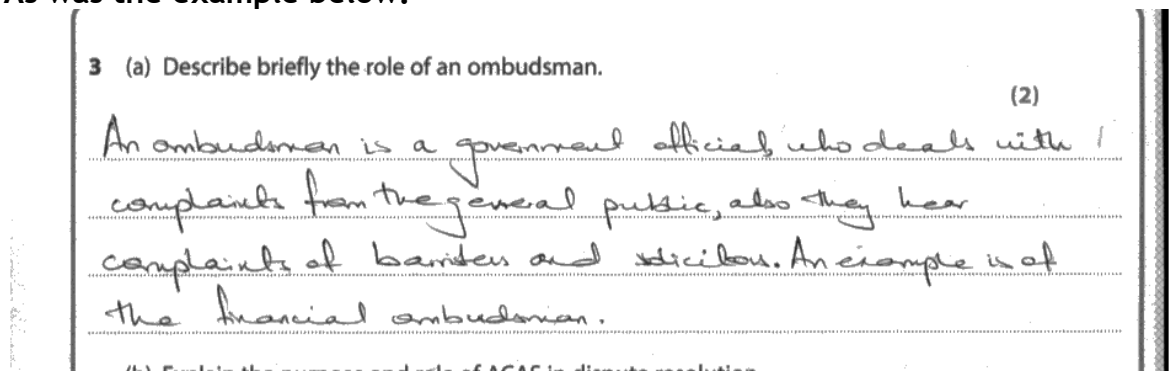


3 (a) Describe briefly the role of an ombudsman.

(2)

The ombudsmen accepts complains of people against public authorities. She then can advice the authority but people should first complain at the authority and then at ~~the~~ ombudsman.

As was the example below.



3 (a) Describe briefly the role of an ombudsman.

(2)

An ombudsman is a governmental official who deals with complaints from the general public, also they hear complaints of banks and solicitors. An example is of the financial ombudsman.

Q3(b): (4 Marks)

The command word in this question was **'Explain',** which was looking for a detailed answer explaining the purpose and the role of ACAS in dispute resolution.

This question is a points-based one where the candidate needed to explain the purpose for 2 marks and the role for 2 marks.

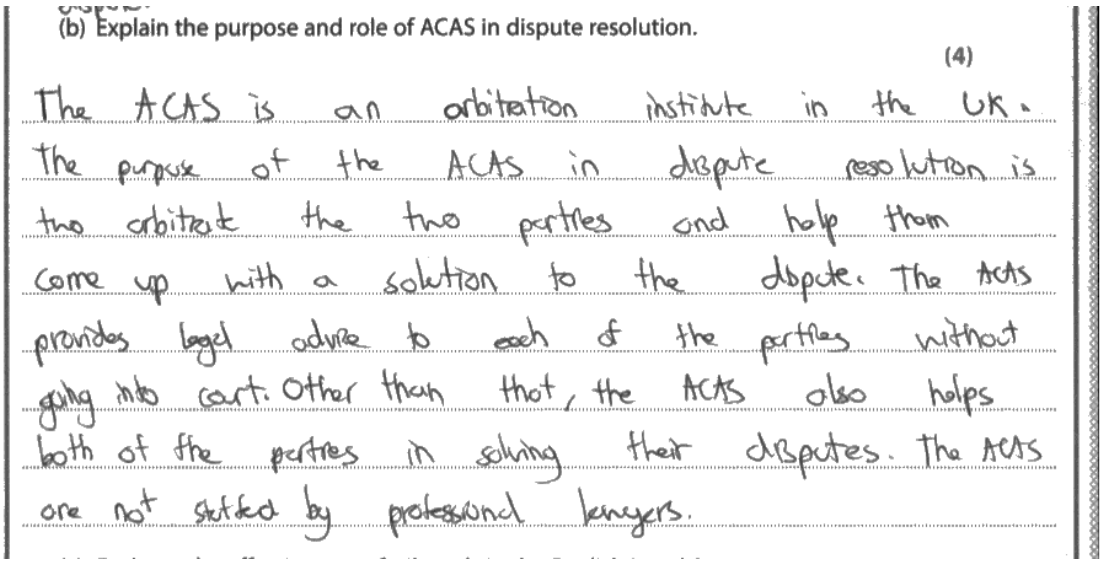
This question was very badly answered. Indeed, a number of candidates omitted the question completely. **The answer below was given 4 marks.**

(b) Explain the purpose and role of ACAS in dispute resolution.

(4)

This is The Advisory Conciliation and Arbitration services is found in the process of conciliation in ADR, and has a role in settling disputes which have may gone instead to the employment tribunal. When a ~~dispute~~ complaint is presented in the employment tribunal about equal pay or sex discrimination the a copy of it it's sent to the conciliator and he will try to solve the ~~dispute~~ before it goes to the employment tribunal.

The answer below scored 2 marks.



(b) Explain the purpose and role of ACAS in dispute resolution.

(4)

The ACAS is an arbitration institute in the UK. The purpose of the ACAS in dispute resolution is the arbitrate the two parties and help them come up with a solution to the dispute. The ACAS provides legal advice to each of the parties without going into court. Other than that, the ACAS also helps both of the parties in solving their disputes. The ACAS are not staffed by professional lawyers.

Question 3(c): (14 Marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was **'Evaluate'**, which was looking for an extended answer with examples of the effectiveness of tribunals in the English Legal System.

Candidates were expected to set provide some detail and knowledge about the structure, composition and purpose of tribunals before explaining their advantages and disadvantages and drawing on evidence to then justify their argument as to their effectiveness. Candidates needed to weigh up the relevant issues and provide a conclusion.

Most candidates made general statements or comments about the composition and purpose rather than providing an evaluation and conclusion.

For **level 1** candidates demonstrated isolated elements of knowledge
For **level 2** candidates demonstrated some elements of understanding and began to apply their knowledge to the question.
For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples or authorities and attempted to balance reasoning and evaluate with a conclusion.
For **level 4** candidates demonstrated thorough and accurate understanding and an awareness of competing arguments of the strengths and weaknesses with balanced interpretations, reasoning and a sound conclusion.

The answer below is an example of top band two/bottom band 3.

Examiner tip
Make sure you read and understand the command word in a question and the marks allocated. Check your answer regularly to make sure you stick rigidly to this.

(14)

In the english legal system, the tribunal sits as a panel comprising of one tribunal chairman and 2 lay persons who possesses the relevant expertise of the dispute or case at ~~han~~ for judgement. Tribunal is another way of ~~rett~~ outside court settlement that aims to maintain a positive relationship between parties after the dispute ~~in~~ is resolved.

The tribunal/ works in favour of the courts since it relieves the courts from heavy workload, ~~especially~~ including areas ~~of any~~ ~~case~~ of law regarding asylum and mental health. This means that ~~tribunals work by~~ the tribunal panel works by way of an adjudicator in court, whereby evidence is listened and judged upon themselves. Due to this, tribunals are ~~not~~ often described to be

effective and highly opt for in the commercial sector ~~such as~~ since the decisions given by the panel are ~~to~~ legally enforceable. Moreover, ~~the tribun~~ being comprised of ~~to~~ by members possessing ~~to highly~~ highly specialised expertise in the ~~the dispu law s~~, tribunals would be more effective than ~~the~~ judges in courts since they have the knowledge of the technical details regarding the laws ~~of dispute~~ arising in dispute. ~~Similar to court proceeds~~ Proceedings led by tribunals are also cheaper and shorter than normal trial proceedings in court, thus, would be more effective ~~in to as man force~~ more people in society would be able to have access to it.

However, tribunals may not be effective since parties ~~who~~ are unable to obtain legal aid from the state as opposed to ~~the ability to do so in if they~~ if the parties are tried in courts. This may cause ~~partie~~ either or both parties to be at a financial imbalance of which may lead to justice not properly served. Other than that, ~~thi~~ re although the members of a tribunal ~~panel~~ panel is of high expertise and ~~is big~~, meaning that they are specialised, it is still a possibility for the tribunal chairman to influence the decision ~~of~~ of the other 2 lay persons. ~~This would result~~ Such a judgement ~~of~~ that is not of high impartiality is not effective. ~~Moreover~~ Also, parties of a dispute may prefer a ~~con~~ settlement of which is confidential. However, ~~tribunal~~ resolving disputes by way of tribunal cannot satisfy that condition since tribunal hearings are open to public.

Overall, resolving disputes by way of tribunal is effective since it is formal, cost effective and can reach an early settlement unlike litigation. ~~Dito~~ However, the tribunal's powers are limited when it comes to awarding damages or ~~serving~~ penalties.

as representatives are involved

(Total for Question 3 = 20 marks)

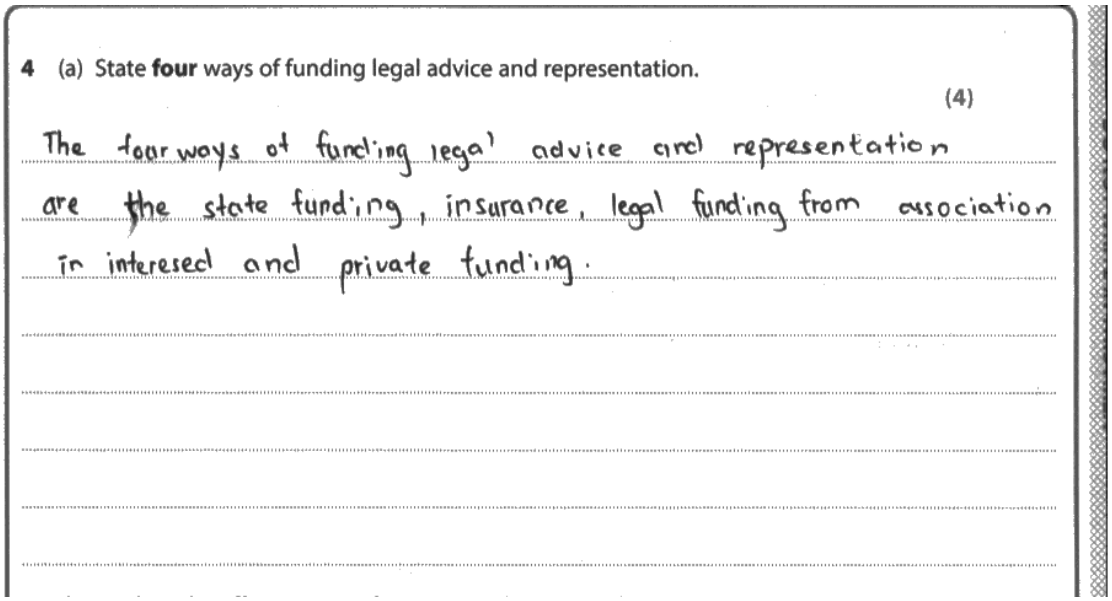
Q4(a): (4 marks)

The command word is **'state'** which requires candidates to show knowledge and provide an example for four ways of funding legal advice and representation.

This question is a points-based one where candidates were expected to provide 4 examples.

There was some confusion and some candidates answered the question wrongly, thinking it was about alternative dispute resolution (ADR).

Below is an example of an answer that scored 4 marks.

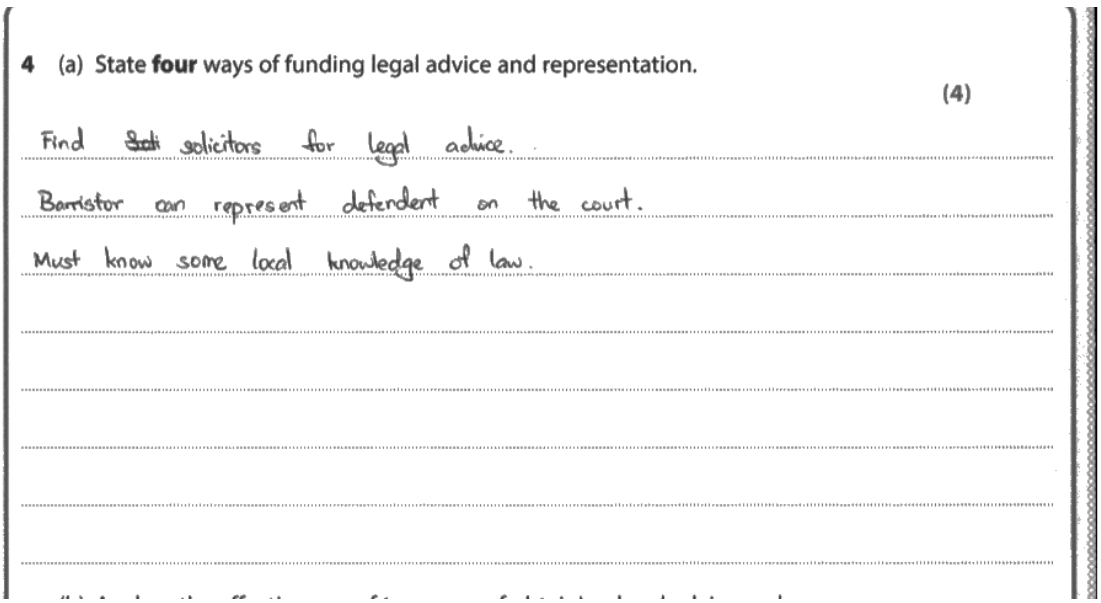


4 (a) State **four** ways of funding legal advice and representation.

(4)

The four ways of funding legal advice and representation are the state funding, insurance, legal funding from association in interesed and private funding.

The example below however scored no marks.



4 (a) State **four** ways of funding legal advice and representation.

(4)

Find ~~Stati~~ solicitors for legal advice.

Barristor can represent defendent on the court.

Must know some local knowledge of law.

Q4(b): (6 marks)
This question was marked using a level- of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was **'analyse'**, which was looking for candidates to weigh up the effectiveness of TWO ways of obtaining legal advice and representation to display developed reasoning and balance in a detailed answer with examples.

The question was badly answered. A lot of candidates gave answers solely based on alternative dispute resolution (ADR).
For **level 1** candidates were only able to provide isolated elements of knowledge.
For **level 2** candidates provided several elements of knowledge possibly supported by an example.
For **level 3** candidates demonstrated detailed understanding supported by relevant examples.

Below are two examples of a band 2 answer.

(b) Analyse the effectiveness of **two** ways of obtaining legal advice and representation.

(6)

The conditional agreement could be one of the most effective ways of ~~resolving~~ obtaining legal advice as it encourages the representative to work better harder and more efficiently, however ~~this~~ these ~~is~~ types of agreements are not often made when the ~~representative~~ client presents a weak case.
The goverment appointed representatives are always available ~~as~~ as long as the goverment can confirm that the client is not ~~debt~~ in a financial position to pay meaning it will not be available to everyone and the lawyers may be more reluctant to represent the client ~~as since~~ effectively they are not being paid by him.

[redacted]

(b) Analyse the effectiveness of **two** ways of obtaining legal advice and representation.

(6)

By obtaining legal advice and representation under legal aid, the costs are funded by state. Besides, it increases the access of justice. Due to this aid by AJA 1999, underprivileged applicants can now acquire legal services. Moreover, the 'no win no fee' agreement encourages the lawyers to fight for their clients. If the ~~the~~ applicants are funded by private bodies, all the ~~costs~~ legal costs can be excluded if proved that the applicant does not have any means to bear the expenses. ~~Other than that, the~~ However, there are some disadvantages brought by legal aid and private funding. First of all, applicants applying for the state funded legal aid may have issues taking claims as there is a budget allocated for the fund each year. The clients ~~from~~ applying from private funds may have issues with the choice of lawyer. It is restricted and clients can only go with what they provide.

Q4(c): (10 marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions.

The command word in this question was **'Assess'**, which was looking for an extended answer using examples. The question required a balanced assessment of the advantages and disadvantages of alternative dispute resolution (ADR). Many candidates did not even specify or explain what was meant by ADR and again merely listed generic points e.g. cheaper, quicker, without providing examples to illustrate that they actually had knowledge of the subject matter of the question.

For **level 1** candidates demonstrated isolated elements of knowledge
For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.
For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.
For **level 4** candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied authorities.

The example below scored in the top band.

(c) Assess the advantages **and** disadvantages of alternative dispute resolution. (10)

Alternative dispute resolutions are a range of ~~measures~~ methods used by litigants before recourse to the courts is deemed necessary. There are a number of ~~AD~~ alternative dispute resolutions available.

There is arbitration whereby a dispute is referred to an arbitrator who makes an award based on either a hearing or submission by the parties in dispute. Mediation involves the appointment of a mediator who facilitates to encourage the discussion between parties in contention so that they can reach a solution. Conciliation is where the conciliator ~~party~~ proposes a solution for the parties in dispute before they reach a solution. There is also negociation which is a swift, cost effective method of resolving disputes.

The ADR provides an amicable platform for parties to resolve their dispute. Arbitration, mediation and negociation are quick, cheap and efficient. They do not follow a fixed framework, making it convenient for parties. It also saves time as there are not a plethora of ~~time~~ rules to follow. The ~~A~~ Arbitrators and mediators are often experts in technical matters, thus ~~offering~~ enabling them to reach a sensible conclusion. Also since both of them are held privately, it respects confidentiality. However, ~~these~~ it will be difficult ~~for~~ to ~~be~~ reach a conclusion if a ~~case~~ dispute haverts over difficult areas of law as ~~AR~~ they are not legal experts. In most cases parties might even find it hard to reach a solution since decisions are not binding. Moreover, ~~as~~ most of the cases are judged on ~~a~~ the basis of merits of the case, ~~and~~ there may be inconsistencies since doctrine of binding precedent does not apply.

Furthermore, Michael Zander stated that although alternative dispute resolutions are used by many litigants, they are still not a part of the court system. Professor Genn also pointed out that many people would opt to use these methods just to save time and money.

In conclusion, it is up to the litigants whether they feel that using alternative dispute resolution is ~~likely~~ more ~~likely~~ to produce a better outcome than using the civil courts or not, and will therefore vary from person to person depending on their choice.

(Total for Question 4 = 20 marks)

Examiner tip
Try and identify the key issues to enhance your mark. This will mean your answers will be more concise and focused.

Q 5: (20 marks)

This question was marked using a levels-of-response based mark scheme. The candidates' answers were assessed in their entirety and allocated a level based on where this best fitted the level descriptions. This is the question candidates need to spend some time on, due to the fact that there are no subsections to the question and therefore the total question marks of 20 are based around a single answer.

The command word in this question was **'Evaluate'**, which was looking for an extended answer. Candidates were expected to evaluate using decided case law, whether the concept of morality is certain and thereby enforceable. Candidates were expected to illustrate their answers and justify an argument and their conclusion.

Most candidates managed their time well to complete this last question on the paper, and it would appear that this a topic that is well known. However, some candidates did not use case law as required by the question, but obviously knew the theories and topic well. It is important to answer the question posed, not the one you want to answer, or have practised.

For **level 1** candidates demonstrated isolated elements of knowledge relating to law and morality
For **level 2** candidates demonstrated some understanding and began to apply their knowledge appropriately to the question.
For **level 3** candidates demonstrated accurate understanding of the question supported by relevant examples.
For **level 4** candidates demonstrated thorough and accurate understanding exemplified with appropriate, well explained and applied examples to reach a justified conclusion on the effectiveness of the case law on whether the concept of morality is certain and thereby enforceable.

The example below scored in the top band.

5 Using decided case law, evaluate whether the concept of morality is certain and thereby enforceable.

(20) (page 4)

Morality is a concept which is difficult to define as they are a reflection of social beliefs, traditions and behaviour. Public morality is the ethnic ~~re~~behaviours enforced by the society. This is concerned with areas such as abortion, sexual activities, ~~pers~~ homosexuality. Whereas, ~~Public~~ private morality is based on individuals as it was dictated by the 'Wolfenden report' which stated that individuals should be left to do what they please so as long as in doing so, they do not harm others. For some individuals morality and law should coincide, for instance for naturalist St. Thomas Aquinas sees ~~the~~ law as that dictated by god himself. For naturalists, only laws which conform to a basic moral code, seen as a form of higher law can be referred to as law and any ~~the~~ law which does not coincide with morality must be disobeyed. In many cases it has also been seen that gradually law was seen to adapt ideas of morality as well, like in R v R (1991). Here, previously it was considered that rape within marriage was not possible since when a woman marries, she gives irrevocable consent to sexual intercourse with her husband. However, in R v R it was decided that rape within marriage is an offence, since (Lord Keith stated that) the modern view of husband and wife as equal partners means that 'irrevocable consent' does not apply. Similarly in the 10 commandments given by Moses, some of

them were, Thou shant not kill, Thou shant not steal. That Harbotle the concept of murder and theft are morality Here morality is enforced. wrong and both are criminal offences as well. However there are also areas where a law is enforced which has no connection with Morality, like in both strict and people still have to follow it liability offences. No Morality dictates that the speed limit of a car in certain areas should not exceed 30mph, yet it is an offence. Moreover, in the late 1950's people were worried about what was perceived to be a decline in homosexuality. The Wolfenden report had initiated the Hart and Devlin debate, where Hart conceded that ~~individuals should be left to do~~ law should not intervene with the private lives of the citizens. However, Devlin argued that some form of morality was with the basic agreements of good and evil was necessary to keep society together. There were cases in which Devlins views were supported like in Shaw v DPP where, Mr Shaw was found to produce the 'ladies directory' which contained advertisements of prostitutes, featuring the sexual offences they practiced. Mr Shaw was convicted for disrupting Public morals. Likewise in (Knuller v DPP) defendant was held to disrupt Also in R v Gibson the defendant, who was an artist, public morality by publishing in 'International times' magazine invitation of sexual practices. exhibited earrings made from freeze-dried foetuses. once again he was convicted for outraging public decency. In addition, the appellants in R v Brown were homosexual men who had consensually participated in Sadomasochistic act and used stinging nettles heated wires, sandpaper, safety pins etc while doing so. This was done in private with everyone's consent and all of them were adults. Yet the House of Lords

(Total for Question 5 = 20 marks)

TOTAL FOR PAPER = 100 MARKS

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considered this a criminal offence, irrespective of whether it was done in public or not since it the act clearly ~~went against~~ breached public morals.

On the other hand, Hart's views ~~was~~ were supported in the case of Gillick V West Norfolk where Mrs. Gillick ~~was objected~~ accused the health department to have given contraceptive advice to girls aged below 16, without parental advice and she argued that this encouraged underage sex. However, Mrs. Gillick lost the case as the house of lords stated that this was justified as it essentially ~~treated~~ dealt with health obligation. Similarly in Re A children (2000), there were two adjoining twins where baby A had to be killed in order to save baby B, since otherwise both would die. The court were declared that this was justified as it was a court of 'law' and not of 'morals'.

Thus based on the above examples it ~~can~~ may be said that there are areas where

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Morality is enforced and it clearly coincides with law. However, there are also areas where morality clearly does not apply. Therefore due to the fact that morality evolves as a natural feeling within the society, ~~and~~ changes with time and is likely to be ~~diff~~ different in form everyone, it may be concluded that morality is not 'always' certain and thereby not always enforceable.

—— x ——. [Conclusion]

Examiner comments
This scored 15 marks. It was a good answer, top band. It explained both law and morality well, their connections, theories and used case law to evaluate and come to a justified conclusion.

Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- Read the questions and pay careful attention to what the command words are asking you to do. This will mean your answers will be more focused.
- Look at the marks allocated to the question and spend only the appropriate amount of time on the question based on the marks.
- In a question with several parts, read all the parts and decide what information to put in each part before starting part a.
- Use examples to illustrate definitions or points made in the short answer questions and additionally relevant case law and legislation to illustrate longer answers.
- Provide balanced answers when asked to provide advantages and disadvantages.
- Provide a conclusion for 'evaluate' questions.

There was a pleasing increase in the entry figure for this new-look examination this year compared to 2018.
All the candidates answered the required three questions and few if any displayed signs of problems relating to time or rubric infringement.

Even though the examination has changed many candidates still tend to write about or describe the topics/characters/events listed in question parts c and d rather than focussing on the question posed.

The new style part d question gave the candidate topics on which to use in their answer together with a statement that they should also use information of their own. Unfortunately, few candidates did. It is hoped that following this, examination Centres will take note of the new style question and prepare future candidates to make good attempts to answer the question fully.

Comments on individual questions

Q1

Most candidates were able to score 2 marks for question 1b on the ways that Cyclone Bhola affected the local population in 1970.
Many candidates were able to describe or identify some of the reasons why Sheikh Mujibur Rahman became unpopular but answers gave little emphasis in the way of **explanation** of why.

As a result, many answers were limited to a level 2 mark.

The Canal Water Dispute was a well-known topic and along with the additional material of the Indian control of the headworks and the refugee issue, most candidates were able to make an attempt at explaining their answers. However, few candidates went beyond the topics stated in the question as requested.

As a result, the maximum mark achieved was usually limited at the top of level 3.

Q2

Question 2 was a popular question, which required candidates to answer questions on Bengal.

The achievements of Hussain Shahi usually attracted 2 marks but the question on why the Sufis gained so many converts to Islam was not so well done. It was clear that candidates had a good knowledge of Sufis and Sufism but the question was specific in asking for reasons on why the gained converts.

As a result, high marks were not forthcoming from a majority of candidates who merely described all they knew about Sufis.

There was a good knowledge regarding the Pala and Sena dynasties and in particular the achievements of Dharmapala and Laksmanasena. There was lots of description but mixed with genuine attempts to answer the question. However, few candidates went beyond these two individuals by using their own knowledge and as result a top level 3 mark was the maximum that candidates were achieving.

Q3

This was also a popular question on the Mughal Empire. Most candidates were able to identify the reasons why the East India Company became involved in the sub-continent with most candidates scoring up to 2 marks. A large number of candidates displayed good knowledge on the work of Sher Shah but fewer on his actual achievements.

As a result most answers were limited to a mark within level 2. Shaista Khan was also a well-known individual with many candidates able to consider the achievements of his military conquests together with his construction projects at home. However most candidates did not go further than these topics and as a result, again a mark at the top end of level 3 was the maximum achieved.

Q4

Candidates had to answer questions on Bengal under British rule. **Part 4b** on the features of Bengal Renaissance was well known with many maximum marks achieved. Attempts to answer **Question 4c** on the reasons why Lord Cornwallis introduced the Permanent Settlement were not well done and a low level 2 mark was a common one.

Clearly this was not a well-known topic. There were some good attempts to answer the question on the reasons for the War of Independence. The Greased Cartridge incident was very well known but supplementary topics including the sepoys discontent and the imposition of English as a foreign language were not covered well. There was scant evidence of using candidates' own knowledge to explain further reasons for the conflict and a top level 3 mark was the maximum achieved.

Q5

This was a popular question on the topic **'on the road to partition.'** However, the question was not answered well. Few candidates could state two terms of the Indian Councils Act of 1909 **Q5(b)** or why the Government of India Act of 1935 was a turning point in Hindu-Muslim relations **Q5(c)** As a result, marks achieved were not high.

Q5(d)
More surprisingly attempts to answer were poor. It was expected that a well-known topic as Congress Rule would have been a high scoring question but it seemed that few candidates were able to get to grips with it. Bande Matram, the nationalistic Hindu song and anti-Muslim riots were often ignored and irrelevant information was brought into candidates' answers. Even when candidates did address the topics given there was little explanation as to why these were disliked by Muslims.

Q6

This question asked candidates to answer questions on **'Bangladesh – the establishing the new country**.' Begum Rokeya

Q6(b) was well known and attracted 2 marks usually.

Most candidates knew of the work of General Ziaur Rahman and were able to explain why he brought about stability in Bangladesh. There were some top-level marks awarded for this question.

However, question **Q6(d)** on the contribution of Bangladesh to world organisations including the United Nations and the Commonwealth were not answered well.

It was clear that many candidates' knowledge of this topic was of sufficient depth to score highly and as a result marks were usually limited to level 2.