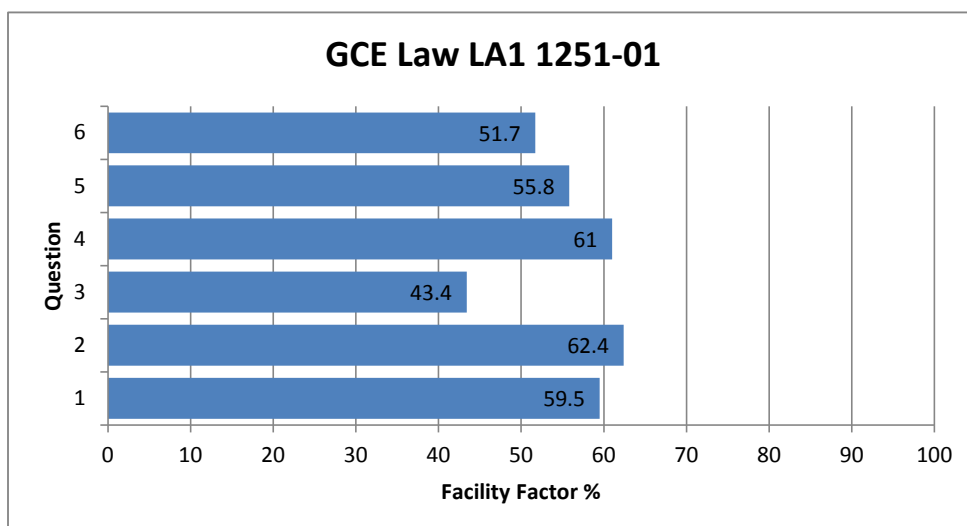
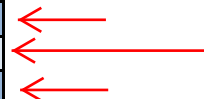


GCE Law LA1 1251-01

All Candidates' performance across questions

Question Title	N	Mean	S D	Max Mark	F F	Attempt %
1	259	14.9	5.7	25	59.5	12.2
2	1231	15.6	5.3	25	62.4	58.1
3	419	10.8	4.8	25	43.4	19.8
4	1410	15.2	4.7	25	61	66.6
5	701	14	5.6	25	55.8	33.1
6	172	12.9	5.8	25	51.7	8.1



Answer two questions.

2. (a) Explain the development of equity. [14]
- (b) Discuss the impact of modern equity upon the development of the law in England and Wales. [11]

2 a) Equity is decisions based on fairness and was created due to hefty problems with common law (case law).

Common law, developed from customs, curia regis and circuits in 1154, had problems due to abolishment of writs. Writs are laws but when there were enough, judges started using precedent and no more writs were allowed to be created. This created problems in common law, it made it too technical, ~~was~~ very inflexible and the only remedy was damages (money).

Due to these problems, the Court of Chancery was created in 1345. This was the birth of equity. The court based its decisions on fairness, not common law and was to be used if common law gave an unjust result.

The Earl of Oxford's case stated that "equity prevails" meaning that it will always win over common law. This was confirmed in the Judicature Act later.

With Equity came four equitable maxims to guide the use of equity. They are as follows — "he who comes to equity must come with clean hands." This was established in D+C Builders v Rees where Mr and Mrs Rees wanted to use equity against the builders but because they had taken advantage of the builders and been unfair due to D+C's financial difficulty they could not use equity. The second maxim is "delay defeats equity." If a substantial amount of time has passed, equity can be used. This was seen in Int. Galleries v Leaf where a fake Constable painting had been sold to

Leaf, ~~a while ago~~ ~~and then~~ both parties thinking it was legitimate, and then years later realising it ^{was not} ~~was not~~. Leaf could not use equity due to the time ~~difference~~ delay.

The third maxim is that "equity looks to the intention, not the form." This was established in *Berry v Berry* where a deed had been altered by a contract, when a deed can only be altered by a deed. Equity looked to the intention of the alteration rather than the technicalities.

The final maxim is the most important, "you shall not suffer a wrong without a remedy." This gives the chance that equity can always make remedies when needed. The four equitable ~~guides~~ maxims were developed as guidelines for judges to use.

Along with the maxims, ~~there are also~~ ^{the popular ones} remedies ~~from main~~ remedies. ~~These are~~ Rectification; putting a mistake right as seen in *Cradlock v Hunt*, Injunctions; an order telling people what to do, ~~Rescission; the pre-contractual position and~~ and Rescission; reverting to the pre-contractual position.

Overall, Equity has developed over hundreds of years to deal with the problems of the common law. It has maxims and remedies to guide judges in its usage.

2.b) Equity is fairness. Established in the court of chancery, 1345, due to problems in the common law, it bases the decisions ~~it~~ on fairness.

It has four maxims that guide judges on how to use it. These are, "he who comes to equity must come with clean hands", "delay defeats equity", "equity looks to the intention,

not the form" and "equity shall not suffer a wrong without a remedy." This last maxim is particularly important to the impact of modern equity in English and Welsh Law. Because, under this maxim, new remedies can always be created. ~~This was~~

Equity is used in many ways today. For example, ~~an~~ a modern equitable remedy is a freezing order. In a divorce case, a judge can freeze a person's assets to ~~prevent them from~~ assist the case in a fair and just manner.

Mortgages, borrowing money to buy a house, is a popular and probably the most used equitable remedy in modern times. Mortgages are based on fairness and trust.

Another modern equitable remedy is a super-injunction. It was famously used by Ryan Giggs, a ^{popular} ~~famous~~ footballer, where he banned ~~the media~~ newspapers from using his name and talking about him after a scandal. It was also used ~~in~~ in Douglas v OK! Magazine after OK! Magazine published photos of Catherine Zeta-Jones and Michael Douglas' wedding despite them selling their photos to Hello! magazine. The court ruled that they couldn't use equity though as they were already going to publish them in a magazine.

Because there will always be problems in the common law equity is always necessary and will always make an impact.

In conclusion, equity has a huge impact in modern times in divorce cases, buying a house or even celebrities' personal (and not-so-personal) lives. Due to its ability to always create remedies, ~~the~~ "Equity" as ~~said~~ said by Lord Denning, "is not past child-bearing age." This demonstrates its impact in modern times and times to come.

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2a Equity developed due to the problems that was found in the common law. Common law, which is also known as case law is law that is primarily made by judges. Equity means fairness and developed under common law became inherently unfair, which was not holding up the criminal justice system

Common law ~~was~~ began to develop in 1066 when William the Conqueror found that he could not simply give a country without a national law system, which were based on morals of a community were not sufficient according to William and set out to create a common law for all. William in 1066 created the curia regis which is also known as the King's Court. He sent his judges to travel the country solving disputes among the people of England and Wales.

In 1154-81 Henry II divided the country into circuits. Judges were sent to the ~~circuits~~ circuits to resolve disputes on behalf of Henry II. The circuit judges would choose the best customs that ~~had~~ had been found and took them back to Westminster for the aim to create a 'common law' for all.

In 1258, the barons of Oxford stopped Henry from being made consecutively

this made the system of common law inherently dysfunctional. Those who wanted a case to be heard, had to find a similar writ to ~~the~~^{their} case and resolve it from precedent (past decisions). The people of the country became fed up that they could not have his case heard and that the only remedy available were damages. People began to petition to the king who took the concerns to the Chancellor. The Chancellor was known as the 'keeper of the king's conscience' as the decisions he made were not based on precedent, but fairness. This was the birth of equity.

In 1345, the Court of Chancery began to operate. This was a court that was based solely on equity. ~~At~~ However, conflict began when the two courts of common law and equity came to a different decision. Lord Brixton (sic) explained that 'equity varied with the length of the Chancellor's foot'.

Then in 1615, to resolve the disputes among the common law and equity, the Earl of Oxford's case stated that where the two conflict equity must prevail. This was formalised within Section 25 of the Judicature Act 1872 which highlighted that equity shall prevail wherever there is conflict.

Equity offered written maxims and more remedies that would compensate the plaintiff.

The maxims are as follows:

"He who comes to equity must come with clean hands". This was illustrated in the case of *Dand C Builders LTD v Rees* (1969) where under common law, part payment is not full payment however under equity the plaintiff can use estoppel to not have to pay the rest. Lord Denning ~~the~~ refused to use the ~~max~~ equitable remedy of estoppel as the Rees had not come with clean hands.

"Delay defeats equity" was illustrated in *Heat v International Galleries* (1950) where the ~~plaintiff~~ parties believed ~~the~~ a painting to be by Constable. The plaintiff realised ~~the~~ five years later that it was a fake and wanted the remedy of rescission. This was not granted as there was a delay of ~~the~~ five years.

"Equity looks to the intention and not the form". This was shown in the case of *Berry v Berry* (1929) where the parties changed a deed with a simple contract. Under common law however, a deed must be altered by another deed. ~~the parties~~ The parties both intended for the deed to be altered, therefore equity looked to the intention and not the form.

As mentioned above, equity created new remedies such as injunctions, specific

Performance, Rescission and Rectification. These significantly developed equity as they not only allowed damages to compensate the plaintiff but others, to compensate the plaintiff more effectively.

In conclusion, the development of equity has had a significant impact on the law of England ~~and~~ and Wales. Rather than a technical piece of law that does not necessarily bring justice, equity developed to bring ~~the~~ fairness.

2b Equity was ~~developed~~ is not just a 13th/14th Century phenomenon. Equity, once developed in 1345, is still developing in the 21st Century to bring fairness ~~about~~ in the law of England and Wales. Modern Equity has had a significant impact upon the development of the law in England and Wales.

Equity acted as a patchwork to work out the inherent problems that were evident in the common law. Rather than just the remedy of damages, Equity established remedies that would be able to compensate plaintiffs more effectively.

Specific Performance is one of the equitable remedies that has significantly impacted the development on the law of England and Wales. Specific Performance is used in limited circumstances however, when the judge feels that the

Plaintiff would not be compensated, they can order that the contract should be carried out as it was originally intended. This occurred in the case of *Wolverhampton v Emms*.

Another remedy is that of rescission which aims to take the parties as-far-as possible to the pre contractual position. For example, the buyer would have to return the goods and the seller the price that it was bought for. This happened in the case of ~~Grist~~ *Grist v Bailey*.

Rectification is another remedy that equity created. It means that if the parties both intended something however it was not correctly written on a document, the document should be rectified. This occurred in the case of *Caddoch v Hunt*.

~~Another~~ One last remedy of the traditional equitable remedies is that of Injunction, which can be mandatory, prohibitory or interlocutory. These examples of where injunction occurred is in the case of *Kennedy v Thompson* and *Warner Bros v Nelson*. The latter ~~was~~ was stopped from racing boats on a river at a certain time and the former prohibited actress Bette Davis from producing another film with another company.

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More recent equitable remedies include the Marek Injunction which is the order that assets are frozen. This has clearly impacted the development of the law in England and Wales significantly. Not only but also the Anton Piller order which is known as the search order. It is clear that both of these new modern equitable remedies have impacted the development of the law in England and Wales.

Modern equity is also found in the 'deserted wife's' remedy. This allows for a wife who has been unfortunately deserted to get compensated through a small sum of money. Clearly this ~~has~~ has had a significant impact on the law of England and Wales as before, it would have been impossible for a deserted wife to receive any money. Now with modern equity it is available.

Modern equity has also been found in mortgages. The law on equity and mortgages, what mortgages are based on, ~~that~~ is extremely complex however it is clear to say that nearly the majority have a mortgage today meaning that the development of ~~England~~ the law in England and Wales has been significantly impacted.

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The last modern equitable remedy which has impacted the law of England and Wales is that of specific injunctions which take the form of an injunction however, none is to know about ~~the~~ what someone has had an injunction about. This occurred in the case of Rixon v. Giggs who had an affair with his brother's wife. ~~As a~~ A member of Parliament used his parliamentary privilege to release the information. Therefore, modern equity has impacted the law significantly.

In conclusion, it is clear that ^{modern} equity has significantly impacted the development of the law in England and ~~Wales~~ Wales through the forms of the 'decrees' with remedies and specific injunctions.

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In conclusion, it is clear that ^{modern} equity has significantly impacted the development of the law in England and ~~Wales~~ Wales through the forms of the 'deducted with remedy' and specific injunctions.



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When William I conquered England in 1066 he found there was no law common to the whole country. Simply different sets of rules which varied from area to area. He wanted to create an 'English law' that applied to the whole country. However in order to achieve this he needed control of the whole country.

He began to take control with the introduction of the feudal system. It stated that all of the land in the country belonged to him. His supporters were rewarded with land and jobs. He also made himself or an adviser available to any landholder with a dispute who couldn't seek redress from their lord. 'Curia regis' defines the set of rules he made applicable to the whole country in order of settling issues. This practice eventually developed into what we call common law.

There were however issues with the common law for example the only remedy available were damages. While monetary compensation is usually sufficient it does not resolve the issues. If you had been promised that you could buy a piece of land and made arrangements with the knowledge you would own the land but then the landowner refused to sell damages may not be enough to satisfy the issues you may incur.

Another issue was that prior to the 13th century you could only take a case to court if there was an existing writ. This caused many issues; if no existing writ for your case you could not take it to court. The people were dissatisfied and petitioned to the King.

The King dealt with complaints until they became too numerous, at which point, he delegated power to his Lord Chancery, where no existing writ was available the Lord Chancery made decisions on what he thought fair and equitable. He developed a large body of principles which eventually developed into equity.

However there were still problems, now people struggled to accept equity as it was considered too flexible and lacking in certainty. An important case in the acceptance of equity was the Earl of Oxford's case in 1615 where it was decided that if ever common law and equity were in conflict, equity would prevail.

Equity has had a huge impact on law in England

in Wales and fills many gaps in the common law, making the whole system fairer and more just. Equity has been described as "The gloss on common law" and "common law's safety valve" as it allows the result people actually want as opposed to simply monetary compensation in the form of damages. Some cases however require both common law and equitable remedies, this was realized much earlier but it was not until the Judicature Acts of 1873 and 1875 that the courts finally merged. They are still very different systems but you can have your case heard in one court.

25 After the development of the common law in England under William I many issues arose when it became obvious damages were not always a suitable remedy. Equity has been described as "common law's safety valve" as when there is a problem that it can't solve equity provides a suitable remedy. Equity has developed along with new remedies to satisfy new situations. In order for the system to remain fair equitable remedies will only be satisfied if maxims are satisfied.

There are four main equitable remedies. The first being an injunction this can be used to prevent someone doing something or ordering them to do it, for example you can be ordered by the court to stop playing loud music after a certain hour if it is causing your neighbours a disturbance or distress.

Specific performance is another remedy, used to order someone to follow a contract. It can be used if the seller of a house is agreed and at the last minute one party wants to back out. If any party still wants the deal to go ahead it must be sold.

Rectification is used to alter the words in a contract or document in order to reflect the true intentions of the parties to it, regardless of if the contract has been signed or not.

The last main remedy of equity is rescission; which restores parties to the position they were in before a contract was signed. For example if you had bought a car but later found it didn't work, if the seller didn't specify that it did work you couldn't ask for your money back, however under rescission the money could be

returned to the buyer and the car to the seller.

In order for these remedies to be applied certain maxims must be satisfied. The first being 'Equity looks to the intention and not the form' as used in *Berry v Berry*. Another maxim is 'He who comes to equity must come with clean hands'. This was used in the case of *D & C Builders v Rees*. The Rees's deemed the builders work to be below their standard so, along with the knowledge of the builders poor financial situation, paid them a reduced fee. As a result of their situation the builders accepted the money but later sued for the remainder of the bill. The Rees wanted the use of equitable estoppel to be applied in order to make the acceptance of the lower payment binding. However as they had not come to equity with clean hands by taking advantage of the builders money issues the remedy was not applied.

Keir v Ingham is an example for the last maxim 'Delay defeats equity'. The claimant brought a promise he believed to be genuine only to find out five years later that it was in fact not. He wanted his money back however the court deemed five years to be an unreasonable amount of time. The time considered unreasonable is decided differently based on the case.

Lord Denning described equity as 'not just child bearing age'. Equity has shown it can develop along with the times with the introduction of promissory estoppel. This stops a person enforcing their legal rights if they had promised not to do so. In the case of *Central London Housing Trust v High Trees Flats* were leased at a reduced rent rate of 50% due to the economic climate after the war. After five years the flats were full and the owner asked for the last 3/4 rent to be paid at the full rate. The tenants argued that the reduced rate was for the whole term however the promise of reduced rent was intended until the flats were full which applied to the last 3/4 of the years rent so the tenants had to pay. But under promissory estoppel the owner couldn't ask for the last five years rent to be paid at the normal rate as he had promised not to do so.

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In conclusion, Equity has shown it can develop along with the times and create new remedies in order to solve new issues. The remedies available address the actual problem rather than just awarding damages. The measures ensure neither party is treated unfairly so as a result of equity the law is a much fairer and more just system.

2a

When William I conquered England in 1066 he found there was no law common to the whole country. Simply different sets of rules which varied from area to area. He wanted to create an 'English law' that applied to the whole country. However in order to achieve this he needed control of the whole country.

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However there were still problems, now people struggled to accept equity as it was considered so flexible and lacking in certainty. An important one in the acceptance of equity was the Earl of Oxford's case in 1615 where it was decided that if ever common law and equity were in conflict, equity would prevail.

Equity has had a huge impact on law in England

in Wales and fills many gaps in the common law, making the whole system fairer and more just. Equity has been described as "The gloss on common law" and "common law's safety valve" as it allows the result people actually want as opposed to simply monetary compensation in the form of damages. Some cases however require both common law and equitable remedies, this was realized much earlier but it was not until the Judicature Acts of 1873 and 1875 that the courts finally merged. They are still very different systems but you can have your case heard in one court.

2b After the development of the common law in England under William I many issues arose when it became obvious damages were not always a suitable remedy. Equity has been described as "common law's safety valve" as when there is a problem that it can't solve equity provides a suitable remedy. Equity has developed along with new remedies to satisfy new situations. In order for the system to remain fair equitable remedies will only be satisfied if monetary ones are satisfied.

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Specific performance is another remedy, used to order someone to follow a contract. It can be used if the seller of a house is agreed and at the last minute one party wants to back out. If any party still wants the deal to go ahead it must be sold.

Rectification is used to alter the words in a contract or document in order to reflect the true intentions of the parties to it, regardless of if the contract has been signed or not.

The last main remedy of equity is rescission; which restores parties to the position they were in before a contract was signed. For example if you had bought a car but later found it didn't work, if the seller didn't specify that it did work you couldn't ask for your money back, however under rescission the money could be

returned to the buyer and the car to the seller.

In order for these remedies to be applied certain maxims must be satisfied. The first being 'Equity looks to the intention and not the form' as used in *Berry v Berry*. Another maxim is 'He who comes to equity must come with clean hands'. This was used in the case of *D & C Builders v Rees*. The Rees's deemed the builders work to be below their standard so, along with the knowledge of the builders poor financial situation, paid them a reduced fee. As a result of their situation the builders accepted the money but later sued for the remainder of the bill. The Rees wanted the use of equitable estoppel to be applied in order to make the acceptance of the lower payment binding, however as they had not come to equity with clean hands by taking advantage of the builders money issues the remedy was not applied.

Keir v Innternational Art Gallery is an example for the last maxim 'Delay defeats equity'. The claimant brought a painting he believed to be genuine only to find out five years later that it was in fact not. He wanted his money back however the court deemed five years to be an unreasonable amount of time. The time considered unreasonable is decided differently based on the case.

Lord Denning described equity as 'not just child bearing age'. Equity has shown it can develop along with the times with the introduction of promissory estoppel. This stops a person enforcing their legal rights if they had promised not to do so. In the case of *Central London Housing Trust v High Trees Flats* were leased at a reduced rent rate of 50% due to the economic climate after the war. After five years the flats were full and the owner asked for the last 3/4 rent to be paid at the full rate. The tenants argued that the reduced rate was for the whole term however the promise of reduced rent was intended until the flats were full which applied to the last 3/4 of the years rent so the tenants had to pay. But under promissory estoppel the owner couldn't ask for the last five years rent to be paid at the normal rate as he had promised not to do so.

In conclusion, Equity has shown it can develop along with the times and create new remedies in order to solve new issues. The remedies available solve the actual problem rather than just awarding damages. The measures ensure neither party is treated unfairly so as a result of equity the law is a much fairer and more just system.



11+1

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*Answer **two** questions.*

- 3.** *(a)* Explain the role of the Crown Prosecution Service. [14]
- (b)* Discuss the role of the Criminal Defence Service. [11]

3.62.

Prior to the establishment of the Crown Prosecution Service, the task of prosecuting defendants was carried out by the police. The Justice Report 1970 found police prosecution to be biased and that miscarriages of justice were the result. Following that, the Phillips Royal Commission 1978 ~~repn~~ suggested there should be a separate body to prosecute cases, thus the CPS was established by the Prosecution of Offences Act 1985.

The CPS has several roles, including preparing + presenting cases in court, reviewing cases before + after the trial and to work with + assist the police.

However, the main role of the CPS is to decide which cases to prosecute. To do this, the CPS use the Full Code Test, which is outlined in the Prosecution of Offences Act 1985, s10. The first part of this test is the Evidential stage, where it must be decided whether evidence is admissible (reliable) - e.g. DNA evidence, or inadmissible (unreliable) - e.g. blurred CCTV or testimony of a child. The next part of the test is the Public Interest test, which outlines common factors both for and against prosecution. Factors for prosecution include if the offence was carried out using a weapon, factors against prosecution include if the offence was carried out by mistake or genuine misunderstanding.

If both parts of the Full Code Test are not effective the CPS can implement the Threshold Test, which decides two main points - firstly, is there a reasonable amount of suspicion that the ~~def~~ suspect carried out the offence, and secondly if

there is a ^{realistic} ~~reasonable~~ prospect of conviction. There has been doubts over how effective the CPS has been in carrying out its ~~roles~~ various roles. The Glidewell Report 1998 found that 12% of cases were discontinued by the CPS, and that the ~~CP~~ relationship between the CPS and the police was hostile. Since the report the CPS have tried to deal with the issues found. In 2012, the number of discontinued cases had reduced to 9.6%, suggesting the CPS are dealing with cases more effectively. The 13 areas that the CPS operated in were further divided into 42 areas, and CPS work in police stations now to try and improve the relationship between the CPS + police.

However, more recently evidence has been found to suggest that the relationship between the CPS and the police is still hostile. This was displayed in the Abu Hamza case 2006, Hamza was a muslim cleric who was charged with terror crimes. The police wanted to deport Hamza, however the CPS argued that 'Mean this was not possible'. Again this highlights that the CPS' relationship with the police is obstructing them from carrying out their role effectively.

Even more recently, earlier this year, the BBC News website posted an article containing details of Her Majesty's CPS Inspectorate Report, which criticised the CPS and blamed them for the closure of Dorset Magistrate's Court. The report suggested that the CPS had been discontinuing cases early ~~as~~ so as not to risk an acquittal upon trial. These findings suggest ~~that~~ that the CPS may be carrying out its role in an unfair + unjust

manner, alarmingly at the expense of the English + Welsh courts, it would appear.

~~The CPS~~ To conclude, the CPS was established by the Prosecution of Offences Act 1985 and to carry out unbiased prosecution, and is headed by the Director of Public Prosecutions (currently Alison Saunders). It has several roles, however its main one is to decide which cases to prosecute, which it uses the Full Code Test to do. However, despite the number of discontinued cases falling in recent years, criticism as recent as this year has suggested the CPS may not be carrying out their role completely effectively.

3(b).

The Criminal Defence Service was established by the Access to Justice Act 1999, and is a form of legal aid to assist defendants in criminal cases.

The Criminal Defence Service has two main roles - to provide advice for those facing a criminal trial, and to provide legal representation for those facing a criminal trial. A means + merits test is used to decide allocation of assistance to defendants, and defendants more recently have had the option of receiving advice through a telephone line system at the police station whilst in custody.

The fund for the service is provided by the Legal Services Commission. Funding is unrestricted for the Service. This has sparked much debate as legal aid for civil cases is limited, and it has been argued that criminal cases are taking an unfair priority over civil cases.

In response to these criticisms, plans have been revealed to ~~restrict~~ put a limit on funding for the Criminal Defence Service however this has faced a backlash from many barristers + solicitors. The Guardian recently published an article that showed a protest by over 2000 barristers + solicitors. The ~~to~~ protest ~~after~~ was taken outside of Westminster and included signs such as 'Don't Keep Calm, Save Legal Aid'.

To conclude, the Criminal Defence Service is a form of legal aid to advise + represent those facing a criminal trial. There is much debate over plans to limit funding to aid the Service in carrying out its role.

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To conclude, the Criminal Defence Service is a form of legal aid to advise + represent those facing a criminal trial. There is much debate over plans to limit funding to aid the Service in carrying out its role.



A03-1 ✓
A02-7

*Answer **two** questions.*

4. (a) Explain the different types of jury trial available in England and Wales. [14]
- (b) To what extent is trial by jury reliable? [11]

4a ~~Thirion~~ There is evidence that juries have been used since the Norman Conquest and before. In 1215 when trial by ordeal was condemned by the Church, the Magna Carta recognised a person's right to a trial by the lawful judgment of his peers. ~~Thirion~~ The independence of the jury was established in the case of Bushell's case (1670) and more recently in R v Mchenna in 1960. Juries are used in various ~~ways~~ today, and there are different types of jury that are available in England and Wales.

~~Thirion~~ A jury trial can be used for indictable or indictable either way cases in the Crown Court. Less than 1% of criminal trials are heard by jury as 97% are dealt with in the Magistrates Court and in the Crown Court, two thirds plead guilty. In a criminal trial, a panel of 12 ~~jurors~~ are the assessors for that case. The jurors have a split function between the judge and themselves. The judge decides the point of law and the jury are the deciders of fact. The judge is able to give a directed verdict when necessary in 10% of all cases. The jury ~~must~~ decide whether the defendant is guilty or not guilty beyond reasonable doubt.

Another jury trial that is available in England and Wales is that of civil cases in the High Court (Queen's Bench

divorces). The jury in the High Court hears cases of defamation, false imprisonment & fraud. The jury in this case, differs from that of the Crown Court as they must decide whether the claimant (as plaintiff) is liable or not liable on the balance of probabilities. ~~Within~~ Within this case there is a panel of 12 jurors. The jury also have an extra power, which is to decide the amount of damages that the plaintiff will receive.

Another way in which jury trial is available is in the County Court. This court is similar to that of the High Court, and hears cases of defamation, fraud & false imprisonment. The jury panel however, is smaller than that in the High Court sitting 10 jurors who decide whether the claimant (as plaintiff) is liable or not liable, on the balance of probability.

One last way in which jury trial is available is in the Coroner's Court. This differs from the courts that we mentioned above as it decides how one died rather than whether they are liable or not. This occurs in the cases where there was a death in custody, death resulted as an omission of a police officer. On a panel, ~~7~~ 7 to 11 jurors are able to sit & decide the death of an unfortunate person.

In conclusion, there are many ways in

which ~~any trial~~ any trial is available. This means that in various cases, one is able to be tried by the lawful judgement of his peers.

4b ~~There~~ There is evidence of the use of juries before the Norman conquest in 1066. In 1215 when trial by ordeal was condemned by the church the Magna Carta recognised a person's right to be tried by 'the lawful ~~judgement~~ judgement of his peers'. There ~~has~~ has been much discussion as to whether the jury is reliable or not, which could mean that they are not holding up justice in the criminal justice system of England and Wales.

Firstly, it has been argued that the system of jury trial is indeed reliable as the jurors must make their decision in the jury room. This means that the jurors are free from influence from the media or others in the court room. It has been argued however that the system of jury trial is reliable as the jurors have not been influenced in their decision.

Secondly, it has also been stated that the system of trial by jury is reliable as juries are independent. The independence of the jury was established in Bonnell's Case (1679) and more recently in R v Mchenna (1960). This means that they could base their decision on fairness,

returner has a point of law, as a judge would. Therefore, it is argued that the system of trial by jury is in fact ~~extremely~~ reliable.

Thirdly, it has been argued that trial by jury is ~~extremely~~ reliable as the ~~jurors~~ jurors are ordinary people who have been randomly selected, and therefore not case hardened. Not being case hardened could potentially increase the reliability of the system of trial by jury as they aren't going to return the verdict of guilty as they have seen this case before. (This is the case for lay magistrates), jurors are going to discuss and deliberate and the verdict to return the verdict that is the most fair. Therefore the system of trial by jury is in fact reliable.

However it has been argued that the system of trial by jury is not reliable. Firstly, it has been argued that although the jury must return to the secrecy room, there still could potentially be media influence. In this modern day and age modern technology is everywhere, meaning that the jurors could potentially base their decisions on what the media says. Therefore it has been argued that the system of trial by jury is not reliable as there is the potential danger of jurors being influenced by the media.

Secondly, it has been argued that the system of trial by jury is not reliable as it is not out of the ordinary for people to have prejudices. Therefore, racial bias could be a significant problem. This ~~also indicates~~ deteriorates the reliability of the trial by jury as they could potentially base their decision on the race or religion of ~~the~~ the defendant. Racial bias within the jury has occurred before in the case of *Sanders v UK*. Therefore, it could be argued that the system of trial by jury is not reliable.

lastly, ~~the~~ the system of trial by jury has been said to be unreliable due to perverse decisions. The jury is meant to be consistent however, it is possible for the jury to make a decision contrary to the facts. This occurred in the case of Randle v Pottle where the jury found the defendants not guilty although they had helped to escape a prisoner (however thirty years ago!) This can damage the reliability of the jury system as it is not possible to tell whether or not one will receive a verdict of guilty or not guilty and the jury may be unreliable. Therefore, it is argued that the system of trial by jury is not in fact reliable.

In Conclusion, clearly the system of trial by jury could be reliable or not reliable however, it's ~~hard~~ plausible to say

that the trial by jury has much public confidence ~~means~~ meaning that the public, broadly speaking, agree with the majority of the verdicts. Therefore, although ~~but~~ there are many arguments as to why trial by ~~the~~ jury is unreliable, jury trial in terms of its secrecy, public confidence and independence, are reliable.

* Media influence was said to occur in the case of R V Weir. ~~Assistant~~ ^{Rosemary} ~~Assistant~~ ^{Rosemary} Weir appealed on the basis she did not have a fair trial (Article 6 of the European Convention of Human Rights) however it was not accepted and she was put in prison.

* ~~It~~ It is also impossible to find out whether the verdict was due to racial bias. Section 8 of the Contempt of Court Act says it is a ~~the~~ criminal offence to disclose anything said in the jury room and ~~the~~ it is punishable by imprisonment.

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42 The law pertaining to juries is found in the Criminal Justice Act 2003 which amended The Juries Act 1974, after recommendations from the Auld review 2001. Juries have been used for many years since the magna carta outlined a persons right 'to be tried by his peers'. Lord Denning has described juries as 'the light that shows that freedom lives'.

Jurors are randomly selected via computers by the central summoning bureau. The jury for each individual case is chosen by a ballot in the court. Before they are sworn in there is the opportunity to challenge. The defence can challenge for cause. This is against an individual juror and there must be a valid reason such as said juror is disqualified. You can be disqualified if you are on bail or have serious convictions. In order to serve as a juror you must be 18-70, registered on the electoral role and a UK citizen for five or more years since your 13th birthday. The prosecution can challenge by standing by a juror. This puts them to the end of the list for that one and makes it very unlikely they will serve on it. The prosecution need not give a reason for this.

Section 5 of the Criminal Justice Act 2003 gives the power of to the array. This challenges the whole jury on the basis of being unrepresentative and was used successfully in R v Pinner when the defendant was of an ethnic minority and the jury were all white.

Juries can be used in the Crown Court to try indictable offences. They assess evidence and determine guilt beyond reasonable doubt. The jury deliberate in

the size of the jury room. Usually 12 jurors serve if they cannot reach a unanimous vote then a majority of either 11-1 or 10-2 will be allowed.

Jurors can be used in the County Court to try cases of malicious prosecution, fraud or deception. They assess liability on a balance of probabilities and if appropriate decide amount of damages to be awarded. Usually 8 jurors serve in civil cases in the County Court.

Jurors are used in the High Court in the same way as in the County Court but they deal with cases of much higher monetary value.

Sometimes jurors are also used in the coroners court in order to determine cause of death if someone has died either in police custody, prison or as a result of a breach in health and safety. Usually between 7 and 11 jurors serve in this court.

Trial by jury is most commonly used in the Crown Court to determine guilt concerning indictable offences. They are an important part of our legal system upholding the right to be tried by ones peers. Trial can however be by judge alone if the case is considered to be complex, such as a fraud case or if there is a high risk of jury tampering such as in terrorism. Trial by judge alone is outlined by The Criminal Justice Act 2003.

45 Trial by jury upholds the right to be tried by ones peers as outlined in the Magna Carta. They have been used for many years with the main basis held in the Criminal Justice Act 2003 after it amended the Juries Act 1974 after recommendations by the Auld review 2001.

Before the Juries Act 1974 only land and property owners were eligible to serve as jurors. This meant jurors mainly consisted of middle aged, white men. A report by the Macpherson commission

showed that 95% of women were unable to serve.

The Juries Act 1974 widened eligibility by allowing those 18-70, registered on the electoral roll who had been a resident of the UK for 5 or more years since the age of 13. provided they were not mentally disordered, disqualified or otherwise lacking in capacity. You may be disqualified if you are on bail or have serious convictions. A ten year ban is given to those who have served either a community, prison or suspended sentence in the last 10 years. A life ban is given to those who have been in prison for over five years or ever been given an extended sentence.

The criminal justice Act 2003 allowed even more people to serve, by removing restrictions, now judges, magistrates and members of the police force can serve. This has caused a minor issue among bias. R v Khan concerned issues with a police officer serving on the jury as he professionally knew a police witness.

The fact the jury is chosen at random is an argument for them being representative of society. A report concerning diversity and fairness in the jury system 2002 found in respect of age and gender the representation of ethnic minorities are proportionate to the population. However there are restrictions on random selection imposed by eligibility, disqualification and to an extent jury vetting. The case of R v Ford shows that ethnic minorities need not be represented as it held you could not challenge the whole jury just because it's not multi-racial.

The advantage of juries is that they are seen to impose fair and just verdicts. They base their decisions on fact not law, which does not require legal training. In 1985 the jury refused to convict despite the judge saying there was no defence. Bushell's case established the independence of the jury.

R v Owen is an example of the jury imposing a fair result despite not being legally correct. They sympathised with a man who shot his sons killer and refused to convict him despite the strength of evidence against him. The jury is reliable in terms of a fair verdict - if not legally correct.

However there have been many issues with juries. For example despite attempts to keep them impartial with the

Contempt of Court Act Section 8 allowing secrecy to keep them free from bias and pressure the media can still influence. In R v Taylor and Taylor a paper printed CCTV stills which presented an inaccurate view of an event. The secrecy of deliberations also means it cannot be assured the jury fully understood the case. However 35 of the Criminal Justice Act 2003 allows for trial by judge alone in lengthy, complex fraud cases or where there is a high risk of jury tampering such as in R v Tawney.

Secrecy also means it can't be known how the jury come to their decision. In the case of R v Long 1995 the jury used a Ouija board to contact the deceased victim. There is also the risk the jury is influenced by one or two strong minded jurors. A contact with police and judges serving as jurors who might influence the jury with bias towards the prosecution.

While the jury can be unreliable with deliberation methods, and tendency to sympathise with certain cases they can be relied on in such that they will go with the decision they deem to be fair and just. They are fundamental to our justice system. Ensuring the right to be tried by ones peers however it could be argued discretionary cautions are given too easily.

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jurors are used in the high court in the same way as in the county however they deal with cases of much higher monetary value.

Sometimes jurors are also used in the coroners court in order to determine cause of death if someone has died either in police custody, prison or as a result of a breach in health and safety. usually between 7 and 11 jurors serve in this court

Trial by jury is most commonly used in the crown court to determine guilt concerning indictable offences. They are an important part of our legal system upholding the right to be tried by ones peers. Trial can however be by judge alone if the case is considered to be complex, such as a fraud case or if there is a high risk of jury tampering such as in terrorism. Trial by judge alone is outlined by The Criminal Justice Act 2003.

415 Trial by jury upholds the right to be tried by ones peers as outlined in the magna carta. they have been used for many years with the main basis held in the Criminal Justice Act 2003 after it amended the Juries Act 1974 after recommendations by the Auld review 2001.

Before the juries Act 1974 only land and property owners were eligible to serve as jurors. This meant jurors mainly consisted of middle aged, white men. A report by the Merrie commission

showed that 95% of women were unable to serve.

The Juries Act 1974 widened eligibility by allowing those 18-70, registered on the electoral roll who had been a resident of the UK for 5 or more years since the age of 13. Previously they were not mentally disordered, disqualified or otherwise lacking in capacity. You may be disqualified if you are on bail or have serious convictions. A ten year ban is given to those who have served either a community, prison or suspended sentence in the last 10 years. A life ban is given to those who have been in prison for over five years or ever been given an extended sentence.

The criminal justice Act 2003 allowed even more people to serve, by removing restrictions, now judges, magistrates and members of the police force can serve. This has caused a minor issue concerning bias. R v Khan concerned a man with a police officer serving on the jury as he professionally knew a police witness.

The fact the jury is chosen at random is an argument for them being representative of society. A report concerning diversity and jurors in the jury system 2002 found in respect of age and gender the representation of ethnic minorities are proportionate to the population. However there are restrictions on random selection imposed by eligibility, disqualification and to an extent jury vetting. The case of R v Ford shows that ethnic minorities need not be represented as it held you could not challenge the whole jury just because it's not multi-racial.

The advantage of juries is that they are seen to impose fair and just verdicts. They base their decisions on fact not law, which does not require legal training. In 1985 the jury refused to convict despite the charge saying there was no defence. Bushell's case established the independence of the jury.

R v Owen is an example of the jury imposing a fair result despite not being legally correct. They sympathised with a man who shot his sons killer and refused to convict him despite the strength of evidence against him. The jury is reliable in terms of a fair verdict - at not legally correct.

However there have been many issues with juries. For example despite attempts to keep them impartial with the

Contempt of Court Act Section 8 allowing secrecy to keep them free from bias and pressure the media or still influence. In R v Taylor and Taylor a paper printed CCTV stills which presented an inaccurate view of an event. The secrecy of deliberations also means it cannot be assessed the jury fully understood the case. However 35 of the Criminal Justice Act ~~2003~~ 2003 allows for trial by judge alone in lengthy, complex fraud cases or where there is a high risk of jury tampering such as in R v Tawney.

Secrecy also means it can't be known how the jury come to their decision. In the case of R v Long 1995 the jury used a Ouija board to contact the deceased victim. There is also the risk the jury is influenced by one or two strong minded jurors. A conflict with police and judges saying no jurors who that they would influence the jury with bias towards the prosecution.

While the jury can be unreliable with deliberation methods, and tendency to sympathise with certain cases they can be relied on in such that they will go with the decision they deem to be fair and just. They are fundamental to our justice system. Enshrining the right to be tried by ones peers however it could be argued discretionary cautions are given too easily.



11/1

2/2

23

(10) A Jury ~~ex~~ is a random group of people selected at random from the electoral register. The magnacarter created Juries as a defendant should be ~~a~~ ~~test~~ judge by other members of society, ~~his~~ his peers

There are 3 different types of Jury trial. In the Criminal division they are in the magistrates and the crown court. There is normally between 8-12 people who sit on the Jury in criminal courts. Their main role is to decide the Guilt or ~~innocence~~ innocence of the defendant. Under the criminal and Public authority Act 2003 Police and lawyers are now allowed to sit on juries. However, judges are not allowed to sit on juries.

Juries are also ~~the~~ sit ~~in~~ in the Civil Courts such as County Court and High Court. They decide whether the ~~claim~~ liability of the claim and they can also decide on the amount the claimant receives. There is normally between 7-11 people on Jury in the Civil court. However, ~~all~~ juries are not allowed to sit in civil cases of defamation of character, Fraud and false imprisonment.

Juries also sit in the Coroners Court where they hear about deaths

in custody and decide whether the
custody is to blame. This is a key role as
the custody may be ~~the~~ ~~suede~~ ~~as~~

There are ~~now~~ three main types
of juries in the ~~the~~ Anglo-welsh legal
system and all play a vital role in
each of the different courts. However, ~~the~~ juries
will always be criticised and questioned about
their role and whether they are reliable.

(b)

Plan

reliable

~~randomly~~ Selected at random

• Peers assess D

• Article 6

unreliable

• Romford Juries

• emotion

• Jury nobbling (bias)

(b)

Look At Question 4a for start of introduction.

However, juries will always be questioned
on the reliability of the juries.

Juries tries can be reliable as it
is ~~you~~ the defendants (D from here onwards)
peers. This is a vital aspect as ~~a~~ it shows
representation of ~~the~~ society. Under criminal
and Public authority Act 2003 Police and
lawyers are now allowed to sit on the
juries which ~~at~~ means that the society
is more represented.

On the other hand, Juries can be unreliable
as it is not always a true representation
of society. One example of this was the
~~a~~ Romford ~~the~~ jury where 9 of the 12 jurors
were from the same area. ~~Most~~ Two of
those jurors ~~what~~ lived 20 doors away from
each other. This jury was challenged and the
quashed, until a new ~~the~~ jury was summoned.
Another reason why ~~the~~ jury trial is

unreliable is the fact the Jury nobbling is easy and the D and prosecution can see the list of names. One example of this was when a juror contacted the D during a rape trial on Facebook and started talking to him. The case was quashed on this evidence.

^{back end of booklet} * Juries can be called unreliable as some jurors may not want to be there ~~as~~ so don't give their opinion. Instead they will go along with what the other jurors say so they don't spend a long time there.

This goes against Article 6 Right to a fair trial.

Juries will always be questioned on the reliability of trials by jury. However, the aspects against juries will never breached the facts for jury trials.

Some good points, but very brief and lacking authority.

(4b) * Juries are reliable as they are selected at random from the electoral register which means that it is a fair view from the D perspective and creates a fair trial which is Article 6 of ECHR.

Also they can be unreliable as they may decide on the verdict with their emotion instead on the evidence which is against Article 6. They can also be forced to go with a verdict from other ~~jurors~~ jurors as the ~~can~~ deliberation in the jury room is private.

Q10 A Jury ~~are~~ is a random group of people selected at random from ~~the~~ electoral register. The magnacarter created Juries as a defendant should be ~~the~~ judge by other members of society, ~~his~~ his peers

CRIM

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CIVIL


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A brief account of
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7+1=8.

⑥

Plan

reliable

- ~~randomly~~ Selected at random
- Peers assess D
- Article 6

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⑦

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6+1=7
15

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Case?

4a) A jury is a selection of people selected at random to decide the facts of a case and deliver a verdict. ~~In the UK jury is~~ In the UK jury selection is done at random from the electoral register and you will be sent a summons to notify you that you have been chosen for jury service.

In a criminal case there are 12 members of a jury who sit with a judge. They sit in the court and listen to the case then go into a private room and discuss the case to decide a verdict. ~~They are~~ Juries are used in ~~criminal~~ civil cases but are very rarely used as most civil disputes are now settled out of court.

There are certain qualifications you must meet to become a juror and if you do not meet these you can be disqualified from jury service permanently or non permanently depending on ~~the the quality~~ why you are not suitable to be a juror.

4b) A jury is a group of people selected at random to decide the facts of a case and deliver a verdict. In criminal cases a jury consists of 12 members selected at random from the electoral register. They sit along side one judge in the crown court.

Jury trial is reliable to the extent that you have 12 ~~(a large number of people)~~ people who you have never met or encountered deciding the facts of your case and delivering a

verdict. However, there can be issues with this as in one case there was a spiritualist in the jury and decided to use an ouija board to decide the verdict ~~the~~ which cannot be relied on. An advantage of having 12 individuals deciding the facts of your case is that there is no bias and they are not case hardened like judges who see cases daily.

Jury trial is reliable in gaining justice as they can sympathise with the defendant or prosecutor and understand what justice is needed in a modern society as seen in one case where a man murdered a man who killed his son after drink driving. In this case the jury let the father off and found him not guilty even though there was evidence to prove he had done it, the jury saw it as justice for the father.

Jury trial is unreliable because they are not legally qualified and some cases may be too complex to understand and getting someone who is legally qualified to explain these points may influence the group's decision. Also, if there is a lawyer, solicitor, ex judge, current judge, police officer or someone in the legal profession in a group of individuals

who are not, they may lead the group and the rest may just follow because they know what they are talking about.

Jury's are reliable because they are selected at random from society so show a true representative of ~~society~~ society. However, not everyone is on the electoral registers and there are some qualifications that you require to be a juror which not everyone has so this limits some people from becoming a juror.

To conclude, jury trial is reliable to a certain extent however the qualifications required should be narrowed down so there is a wider variety of individuals from society in order to give a ~~false~~ true representative of society in a jury.

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3+1=4



Very limited -
only criminal
juries briefly mentioned

Cases not
cited directly,
though there is
implication.
Lots of
missed
opportunities
for cases.

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Some good points, but lacking authority.



$6 + 1 = 7$

11