

AS Law

The English Legal System

Student Workbook

Teacher Notes

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Introduction

The eight topic areas in this workbook are designed to complement the teaching of the English legal system. They are intended to support the learning process that takes place in the classroom, either as a teaching aid or as a revision tool after each topic has been taught in depth. Teachers must decide whether they want to be guided by the structure of the workbook or use it when it corresponds to their own teaching programme.

Each topic contains a number of extracts and source materials followed by a series of questions. The questions are not designed to reflect the structure of the examination, but rather to help students develop the skills that the examination will demand.

These teacher notes are designed to be helpful, but not comprehensive in their coverage. They rely mainly on the source material provided in the workbook and include guidance about what to expect from the students' responses. Although suggested answers are given here, it may be that a range of answers is appropriate. Individual students' responses will vary and may be more detailed at the higher end of the ability range.

Most questions can be answered from the material in the extracts. However, students will need to use their notes, textbooks and the internet to answer some questions.

Police powers

Question 1

- Section 24 of PACE allows arrest without a warrant for arrestable offences.
- Section 25 of PACE allows arrest according to the general arrest conditions.
- Section 46A of PACE allows arrest for breach of bail conditions.
- **Magistrates' Court Act 1980** allows arrest with a warrant.

Question 2

An arrestable offence is any offence that:

- has a maximum sentence for an adult offender of 5 years or more on first conviction
- has a sentence fixed by law, e.g. murder
- has been specified as an arrestable offence

Question 3

Anyone can make an arrest if:

- an individual is currently committing an arrestable offence or there are reasonable grounds for suspecting that someone is committing an arrestable offence
- an individual has committed an arrestable offence or there are reasonable grounds to suspect that an individual has committed an arrestable offence

Additionally, police officers can arrest:

- where they have reasonable grounds for suspecting an arrestable offence has been committed, anyone whom they have reasonable grounds for suspecting to be guilty of the offence
- anyone who is about to commit an arrestable offence or whom they have reasonable grounds for suspecting to be about to commit an arrestable offence

Question 4

A police officer can arrest someone under s.25 if:

- the suspect's name and address cannot be determined
- the suspect's name and address are reasonably believed to be false
- there are reasonable grounds to believe arrest is necessary to prevent the individual causing damage to property, suffering physical injury or causing injury to himself/herself or to others, committing an offence against public decency or causing an unlawful obstruction of the highway

Question 5

The police need to demonstrate that an individual has committed or is suspected of committing an offence that carries a prison sentence.

Question 6

- **Police and Criminal Evidence Act 1984**
- **Misuse of Drugs Act 1971**
- **Criminal Justice and Public Order Act 1994**
- **Prevention of Terrorism Act 2000**

Question 7

Stop and search powers allow police officers to stop and search individuals and vehicles in a public place, such as the street or a car park. The police officer must have reasonable suspicion that the individual is in possession of prohibited or stolen objects, or articles intended to cause criminal damage.

Question 8

- The police officer must show appropriate identification if he or she is in plain clothes.
- Before the search, the police officer must state his or her name, station and the reason for the search.
- The police officer can ask the suspect to remove only outer garments.
- A written record must be made of the search, unless there are exceptional circumstances.
- The police cannot base reasonable suspicion on factors such as hair colour, gender, race or manner of dress.

Question 9

155,164

Question 10

Asians (a 30% increase)

Question 11

13%

Question 12

- There was a significant increase in the use of stop and search powers.
- The figures show that a disproportionate number of Asians and black people were searched.
- Only a small percentage of stop and searches resulted in arrest.

Question 13

True

Question 14

C — Code X — Codes A, B and C are relevant to the study of A-level law.

Question 15

True

Question 16

D — s.117 Police Act — it does not exist.

Question 17

This case helped define ‘reasonable grounds’ for suspecting an individual in relation to arrest — an ‘ordinary’ person must have evidence to ‘reasonably suspect’ the arrestee.

Question 18

Detention is covered by PACE, as amended by the **Criminal Justice Act 2003**. The police can detain an individual for up to 36 hours before either charging or releasing him/her. The police can also authorise continued detention for another 12 hours. After this point, they must apply to magistrates for an extension of up to 96 hours.

Question 19

- The arrest should be made under s.24, as murder is an arrestable offence.
- The custody officer must explain Jez’s rights.
- Jez cannot be interviewed for 10 hours without a break. He must be given regular breaks.
- Jez has the right to see a lawyer.
- The police can take a saliva sample and fingerprints without consent.
- The police can detain someone for up to 96 hours in certain circumstances.

Question 20

- The arrest should be made under s.24.
- An interview should not normally take place in a car, but the evidence is admissible.
- As Sonya is only 15, she should have an appropriate adult present during interviews under Code C.
- Section 56 allows for the right to have someone informed of an arrest.
- Refusal of contact could be considered oppressive evidence under s.76.

Question 21

- The search is covered by Sections 1–7 of PACE.
- The police officer is only allowed to ask a suspect to remove outer garments.
- The arrest should be made under s.24.
- A suspect can be detained for a maximum of 96 hours.
- Section 62 allows the police to take a blood sample.

Sentencing

Question 1

Aim of sentencing	Advantages	Disadvantages
Denunciation	<ul style="list-style-type: none"> Public support Prevents vigilantism 	<ul style="list-style-type: none"> No focus on future criminal behaviour Can cause inconsistency in sentencing
Deterrence	<ul style="list-style-type: none"> Can reduce future criminal behaviour Public and media support 	<ul style="list-style-type: none"> Most crime not premeditated Reoffending rates high
Incapacitation	<ul style="list-style-type: none"> Public support Stops reoffending while incapacitated 	<ul style="list-style-type: none"> Expensive Short-term solution
Rehabilitation	<ul style="list-style-type: none"> Focus is on future behaviour Can be effective in drug-addiction cases 	<ul style="list-style-type: none"> Expensive Reoffending rates high
Reparation	<ul style="list-style-type: none"> Puts victim central to the sentence Strong public support 	<ul style="list-style-type: none"> Not suitable for all crimes Some offenders have no financial resources to compensate the victim
Retribution	<ul style="list-style-type: none"> Reflects society's demands Proportional to the crime 	<ul style="list-style-type: none"> No focus on future behaviour Difficult to gauge society's demands regarding punishment

Question 2

There are a number of aims of sentencing, each of which has a different focus in terms of what it is trying to achieve. The person who decides the sentence should consider these aims when sentencing. The effects of penal policy or the circumstances of the individual receiving the sentence could direct the dominance of a particular aim.

Question 3

Individual deterrence aims to prevent the offender from reoffending. General deterrence aims to discourage others from committing a crime.

Question 4

- a** Reparation
b It is the victim who has suffered, so it is important that he/she is compensated for the loss or put back into the position he/she was in before the crime was committed.

Question 5

The cycle of crime refers to the number of repeat offenders. Rehabilitation recognises this and puts in place measures that try to reform the individual so that he/she will not commit crime in the future.

Question 6

This is due to the large number of people sent to prison. There has been a dramatic rise in this number, despite the home secretary, lord chief justice and head of the prison service urging that prison be used as a last resort.

Question 7

The figures show that nearly twice the number of offenders were sent to prison in 2002 compared with 1992.

Question 8

Prison should be used only if the crime deserves it. This is supported by the government penal policy and the **Criminal Justice Act 2003**. For many crimes other punishments could be used instead of issuing a prison sentence, e.g. community sentences.

Question 9

The reduction in the use of the fine has been accompanied by an increase in the use of both community punishments and prison. The number of serious offenders given community punishments rose from 74,000 in 1992 to 110,000 in 2002.

Question 10

C — 18 months

Question 11

D — 7

Question 12

Statement	True	False
Retribution means ‘an eye for an eye’.	✓	
Retribution means punishing the offender for their wrongdoing.	✓	
Community service and fines are examples of retribution.		✓
It is important that the criminal is punished.	✓	
It has public support.	✓	
Life imprisonment is an appropriate punishment.	✓	
It is the only form of sentence used by judges.		✓
No attempt is made to modify behaviour.	✓	

Question 13

False

Question 14

B — 6

Question 15

Utilitarian theorists believe in finding a solution to crime. They would suggest some solutions that would not have public support, such as prison sentences for speeding. Although this would reduce the number of individuals speeding, it would have little public support.

Question 16

D — prison — prison is a type of punishment, whereas the others are aims of sentencing.

Question 17

a Deterrence **b** Denunciation **c** Reparation **d** Incapacitation

Question 18

The range of answers will vary according to students’ own opinions.

Question 19

Adult offenders	Juvenile offenders
Prison	Young offenders’ institute
Home detention curfew	Detention at Her Majesty’s Pleasure
Custody plus	Detention and training orders
Intermittent custody	Reparation order
Suspended sentence	Supervision order
Community sentence	Attendance centre order
Compensation order	Curfew order

Adult offenders	Juvenile offenders
Confiscation and civil recovery order	Exclusion order
Absolute and conditional discharge	Action plan order
Disqualification	Antisocial behaviour order (ASBO)
Antisocial behaviour order (ASBO)	

Question 20

Statement	True	False
Prison is only available to people aged 21 and over.	✓	
The court must state the reasons for sending someone to prison.	✓	
There are mandatory and minimum sentences.	✓	
Prisoners always serve the whole sentence.		✓

Question 21

D — available to anyone aged 18 or over — Section 177(1) makes the majority of community sentences available to anyone aged 16 or over.

Question 22

Custody plus was introduced by the **Criminal Justice Act 2003**. A maximum period of 3 months in prison is followed by up to 6 months of supervision in the community. The court can make additional attachments.

Under custody minus, offenders have the opportunity to undertake a community punishment but with the threat of swift imprisonment for any failure to comply. The scheme also involves intermittent custody for offenders, serving part of the week in custody and part of the week in the community. This approach requires the prison and the probation services to work together closely.

Question 23

Fines can have an adverse effect on the poor. It is argued that all fines should be proportionate. There are a significant number of people, particularly women, who are in prison for non-payment of fines.

Question 24

a Aggravating factors:

- If the defendant is granted bail and continues to commit crime, then the court will consider this an aggravating factor.
- Crimes caused by racial or sexual intolerance will normally be given more severe punishments.
- If the defendant was in a position of trust or power and used that to commit a crime, the courts are likely to impose a more serious sentence, e.g. an accountant who commits theft from his employer.
- Factors indicating a more than usually serious degree of harm are aggravating. These include: multiple victims, additional degradation of the victim, the presence of children at the scene of the crime and crimes committed against vulnerable members of society.

b Mitigating factors:

- If the defendant played only a minor role, then this can potentially reduce the sentence.
- Age is a mitigating factor where it affects the responsibility of the offender.
- Provocation may be a mitigating factor, if the defendant were provoked to commit the crime or received a higher degree of provocation than expected.
- An early guilty plea will, in some circumstances, reduce the sentence by a third.
- Section 166(1) CJA 2003 allows a sentence to take into account any factors that mitigate the sentence in the opinion of the court.

Civil courts

Question 1

This deals with claims of less than £5,000 (or £1,000 for personal injury). The case is heard in the County Court, but it follows the small claims track. The case is normally heard by a district judge and a more inquisitorial approach is permissible as opposed to a rigid formal trial procedure.

Question 2

This means the judge plays a more active role in the case, asking the parties to explain certain issues.

Question 3

£5,000 to £15,000 (or from £1,000 for personal injury cases)

Question 4

Cases are usually dealt with within 30 weeks.

Question 5

County Courts or High Courts

Question 6

Multi-track cases deal with claims over £15,000. If the case is for less than £25,000, it will normally be dealt with by the County Court. If the case is for over £50,000, it will be dealt with in the High Court. For actions between these amounts, the case can be dealt with by either court.

Question 7

Negotiation is normally the starting point for most people in dispute. They try to reach agreement between themselves by finding common ground.

Question 8

Advantages	Disadvantages
Private resolution	Needs parties to cooperate
Can reduce costs	Parties may not reach a solution
Speedy resolution	Limited rights of appeal
Provides a better solution for certain issues, e.g. divorce	

Question 9

Mediation involves a neutral third party. The mediator consults the parties and acts as a go-between. The mediator will not impose a solution if the parties need to reach an agreement between themselves. Conciliation is similar to mediation in that there is third-party involvement. However, compared to a mediator, a conciliator plays a relatively direct role in the resolution of a dispute and is usually seen as an authority figure.

Question 10

Advantages	Disadvantages
Solution is imposed	Limited rights of appeal
No compromise required	High costs
Speedy resolution	
Private resolution	

Question 11

Dispute	Method and explanation
Tina has discovered that her employer is paying her male colleague more money than her for doing the same job.	Negotiation and, if it fails, an employment tribunal — it is an employment matter and therefore under the jurisdiction of the employment tribunal.
David and Vicky are getting divorced. They are in dispute as to who should get custody of their two children.	Mediation — this is something that has been encouraged by the Woolf reforms.
Mark has bought a new car. The engine blows up after 5 miles. He wants a replacement car but the garage refuses.	As Mark has already tried to negotiate, the courts or arbitration may be useful.
Cara has planted a new tree at the bottom of what she believes is her garden. Her next-door neighbour claims Cara has planted the tree in his garden.	Negotiation — the parties should try to settle their differences.
Budget has a contract to supply Bodge It with widgets. Bodge It has refused to pay for the last consignment because it was delivered a day late.	Negotiation or arbitration, depending on whether there is an arbitration clause in the contract.

Criminal courts

Question 1

The nature of the appeal is dictated by what has happened in the Magistrates' Court. An appeal can be made to either the Crown Court or the Queen's Bench Division.

Question 2

If the defendant pleaded not guilty, he or she can appeal against sentence and conviction. If the defendant pleaded guilty, he or she can only appeal against sentence. The defendant has an automatic right to lodge an appeal within 21 days from conviction.

Question 3

The Crown Court can rehear the facts and confirm the original sentence and conviction, reverse the decision, or reduce or increase the sentence.

Question 4

This is an appeal on a point of law (for example, if an error has occurred regarding a technicality or the magistrates have not followed the correct procedures). The magistrates set out the facts and their decision and the appeal is on these case-stated facts. The appeal will be heard by up to three judges of the Queen's Bench Division.

Question 5

This appeal route is available to the prosecution and the defence. An appeal to the House of Lords can only be made if the House of Lords or the Queen's Bench Divisional Court gives leave for appeal and the Divisional Court certifies that the case involves a point of law of public importance.

Question 6

The Criminal Cases Review Commission is an independent body set up by the **Criminal Appeals Act 1995**. It was established following criticism of the old procedure for dealing with suspected miscarriages of justice. Cases like the Birmingham Six and the Guildford Four have cast doubt on the criminal justice system.

Question 7

A 'miscarriage of justice' is the conviction and punishment of a person for a crime that he or she did not commit or a conviction reached in an unfair or disputed trial.

Question 8

The CCRC can have cases referred to it by defendants or their families. It can initiate its own research or the Court of Appeal can refer a case. If the CCRC has sufficient grounds, it will refer a case to either the Court of Appeal or the Crown Court. This referral can result in a conviction being quashed.

Question 9

The outcome of the Angela Cannings case casts doubt on the validity of a significant number of other cases. It was important for the CCRC to become involved to identify whether any of these cases were miscarriages of justice.

Lay participants

Question 1

About 30,000.

Question 2

Magistrates work part time and normally sit together in teams of three. Examples of a magistrate's work include dealing with summary and triable either-way offences, issuing search and arrest warrants, and hearing committal proceedings and applications for bail.

Question 3

Lay magistrates do not need any formal legal qualifications, but they should be of a suitable character. There are six key qualities that potential candidates should have. These are:

- good character
- social awareness
- sound judgement
- good understanding and communication
- maturity and sound temperament
- commitment and reliability

Potential magistrates must be aged at least 18 and not over 65. They must live or work near the local justice area and be prepared to sit at least 26 times a year.

Question 4

Abolishing lay magistrates would help remove a number of disadvantages. Whether this would result in a positive outcome would depend on what they were replaced with. For example, replacing magistrates with a judge would reduce sentencing inconsistency, heavy reliance on a clerk and prosecution bias, but it would cost more, local knowledge would be lost and the representation levels of women and ethnic minorities would be worse. On a pragmatic level, cost is a major factor in retaining lay magistrates.

Question 5

The use of the jury in the English legal system is small. Juries are used in the Crown Court, High Court, County Court and Coroners' Court.

Question 6

The function of the jury is dependent on the court. A Crown Court jury has to decide whether the defendant is guilty or not guilty, whereas a High Court jury can decide liability and levels of damages.

Question 7

The size of the jury is also dependent on the court. Crown Court juries have 12 members, while a Coroners' Court can have between 7 and 11 jurors.

Question 8

Explanations of the statements should be along the following lines:

Advantages

- Strong public support. In surveys the public consistently support the retention of the jury even though significant numbers try to excuse themselves from service.
- Secrecy of the jury room. The jury's deliberations are kept secret. This allows jury members to make decisions without fear that the public or the defendant will have an awareness of what was said and discussed.
- Impartial. The jury does not have a connection with the case and so will make decisions fairly.
- Judged by peers. A jury is selected at random and uses the facts to decide if a defendant is guilty or not. Being judged by your peers is seen as a key issue of a democratic society.
- Makes the legal system appear democratic. The jury represents a wide cross-section of society. Without its involvement the decision-making aspects of the legal system would be made by only a minority.

Disadvantages

- High acquittal rates. If a defendant pleads not guilty, the jury is highly likely to agree.
- High excusal rate, particularly for middle classes. A significant number of people have tried to excuse themselves from service. The changes made in the **Criminal Justice Act 2003** may reduce this.
- Potential bias against the police and ethnic minorities. There is evidence to suggest that certain juries are biased against ethnic minorities and the police. This is difficult to gauge as jury room deliberations are secret.
- Media influence. In high-profile cases the material produced by the media could affect the impartiality of the jury.
- Lack of understanding, especially on complex matters. Certain legal issues are highly complex and technical. It is difficult for the jury to understand the evidence and reach a reasoned conclusion. For this reason some fraud trials can only be heard by a judge.

Question 9

District judge (Magistrates' Court) and lay magistrates

Question 10

- a** John's age allows him to apply to become a magistrate. He must live or work near a justice area and satisfy the six key qualities.
- b** Bob's age allows him to apply, although it is rare for a magistrate to be younger than 27. However, reliability is a key quality so Bob's application would be unlikely to succeed.
- c** Keith satisfies the age requirement and people with disabilities are allowed to become magistrates. However, his stutter may affect his application as magistrates require good communication. Visually impaired people can be appointed as magistrates.
- d** Gemma's age satisfies the requirement but her request to work only 10 days a year would make her application fail.
- e** Jason is at the maximum age for appointment. His hearing problems may also hinder his application.
- f** As Jeff is a soldier he cannot become a magistrate. The driving conviction would also be an issue, depending on what it was for.
- g** Carrie would be entitled to become a magistrate, although she will not be paid. She would need to have the six key qualities and fulfil the other criteria.
- h** Fatima is entitled to become a magistrate as she is in the correct age band. She would need to have the six key qualities and fulfil the other criteria.

Question 11

Magistrates have to sit 26 times a year as a minimum. This is an advantage because it gives flexibility to people who are employed and magistrates do not become 'case hardened'. It is a disadvantage because not many employers are supportive of giving their employees that level of time off and it takes a significant amount of time to gain the necessary experience.

Question 12

- a** Yes **b** Yes
c No **d** Yes

Question 13

The appointment of lay magistrates is partly historical, but there are considered to be a number of benefits for retaining them. Examples include local awareness, cost, training and providing a greater cross-section of society than the judiciary.

Question 14

Students should consider:

- the number of male and female magistrates (49% women, 51% men)
- the age of magistrates (there is only a small percentage of magistrates under the age of 40)
- the social backgrounds of magistrates (the majority come from professional or managerial backgrounds)
- participation rates of ethnic minorities
- regional differences

Question 15

Magistrates have to achieve a set level of competence in a number of areas. Each trainee has a mentor and keeps a personal development journal. In the first 2 years, there are a number of training sessions and a programme of appraisal. A considerable proportion of training is given on the job. The training has significantly improved and is now more vocational. Magistrates are also issued with a handbook and a guide to sentencing.

Question 16

- a** Yes
b Only for committal
c Depends if it falls into their jurisdiction as it is triable either-way
d Yes
e Yes
f No
g Yes (some magistrates assist in Crown Court appeals)

Question 17

Criminal roles	Civil roles
Issuing search and arrest warrants	Enforcing debts
Committal proceedings	Dealing with non-payment of television licence
Mode of trial hearings	Dealing with non-payment of council tax
Triable either-way trials	Family court proceedings
Summary trials	
Bail applications	
Youth court proceedings	
Sitting in Crown Court to hear appeals	

The judiciary

Question 1

Courts and Legal Services Act 1980

Question 2

A Law Lord requires a 15-year Supreme Court qualification or to have held high judicial office for at least 2 years. Appointments are made by the queen on the recommendation of the prime minister. Lords Justices of Appeal require a 10-year High Court qualification or to be a High Court judge already. Appointments are made by the queen on the recommendation of the prime minister.

Question 3

Judge	Court
Law Lord	House of Lords
Lord Justice of Appeal	Court of Appeal
High Court judge	High Court
Circuit judge	County or Crown Court
Recorder	County or Crown Court
District judge	County Court
District judge (Magistrates' Court)	Magistrates' Court

Question 4

Judges need to have rights of audience or experience as a judge at a lower level.

Question 5

To increase the number of female and ethnic minority judges so that the judiciary is more reflective of society.

Question 6

16% female and 4% ethnic minority

Question 7

Deputy district judge

Question 8

Former barristers

Question 9

Women are significantly under-represented in all levels of the judicial hierarchy. This position worsens when looking at superior judges. There are significant barriers to female participation in the judiciary.

Question 10

False

Question 11

- a** Law Lords
- b** Lords Justices of Appeal
- c** Circuit judges and Recorders
- d** Circuit judges, Recorders and district judges

Question 12

Law Lords, Lords Justices of Appeal and High Court judges

Question 13

The qualifications needed are dependent on the type of judge.

- Law Lords need a 15-year Supreme Court qualification or to have held high judicial office for at least 2 years.
- Lords Justices of Appeal are required to hold a 10-year High Court qualification or to be a High Court judge already.
- High Court judges must have a 10-year High Court qualification or have been a circuit judge for 2 years.
- Circuit judges need a 10-year Crown or County Court qualification or to have been a Recorder or district judge for 3 years.
- Recorders need a 10-year Crown or County Court qualification.
- District judges need a 7-year general qualification.

Question 14

True

Question 15

Dismissal is dependent on the type of judge. Law Lords, Lords Justices of Appeal and High Court judges can only be removed by the monarch. Both Houses of Parliament must submit a petition to the monarch. For inferior judges, the Lord Chancellor has the power to dismiss for incapacity or misbehaviour.

Question 16

The separation of powers concerns the Montesquieu theory. This theory states that there are three key areas of the state and to maintain a democratic society they should be independent from each other. The three areas of the state are the judiciary, the executive and the legislature. There are, however, discrepancies between Montesquieu's theory and political reality in the UK.

Question 17

C — monarch — the monarch is not part of the separation of powers.

Question 18

False

Legal funding

Question 1

The **Access to Justice Act 1999** established a Community Legal Service (CLS) scheme. This allows for assistance, advice and representation for certain legal issues.

Question 2

Certain civil issues are excluded from the **Access to Justice Act**, such as defamation, boundary disputes, issues involving less than £5,000, tribunal hearings, most personal injury claims and conveyancing.

Question 3

- a** An individual's disposable income and capital are assessed. These criteria result in full, partial or no government financial assistance.
- b** The merits test looks for a realistic chance of success. This must take into account the amount of money available and the priorities set by the government for the scheme.

Question 4

'Conditional fees' are a method of paying for legal advice or assistance. They are commonly known as 'no win, no fee' agreements.

Question 5

The solicitor agrees a fee with the client, together with a success fee. If the client wins, he or she will pay the agreed fee and the success fee. If the individual loses, he or she pays nothing. The losing party may be forced to pay the agreed fee and the success fee of the winning party.

Question 6

Advantages	Disadvantages
Allows access to justice	Poor cannot afford insurance
Minimal cash outlay	High-risk cases are not taken
Reduces financial risk	Difficult to estimate costs

Question 7

When it was set up in 1950, it was seen as the second arm of the welfare state (along with the NHS). Lawyers in private practice were paid by legal aid not only to defend those charged with serious crimes but to handle civil court cases — divorces, housing disputes, virtually any type of civil claim. Later the scheme was extended to include advice and help short of going to court.

Question 8

- a** People who have more than £100,000 equity in their homes would not be entitled to legal help from the legal aid scheme.
- b** Negative. Over 10,000 people would no longer be entitled to help. These people would be forced to take out loans in order to get access to justice.

Question 9

- a** Ring-fenced means being protected. In this context, a set amount of money would be allocated and protected for various types of legal claims.
- b** It means the budget is not protected so the money could be used for other purposes.

Question 10

- a** 582,925
- b** The forecast for 2004–05 is 502,323. The amount forecast to be spent during this period is £218m.

The legal profession

Question 1

There is an imbalance regarding the number of female solicitors. This lack of equality is worse when looking at partnership positions.

Question 2

- a** Half of all solicitor firms are located in the southeast.
- b** This leaves residents in other areas of the country with little or no access to legal firms.

Question 3

- a** 45% of practices are sole practices.
- b** There could be a lack of specialism regarding advice. Larger firms normally employ people to specialise and give advice in different areas, e.g. an employment expert.

Question 4

- a** Female
- b** This should mean in the future that most solicitors and barristers are female, which, in turn, should affect the judiciary.

Question 5

QC means Queen's Counsel and refers to a barrister or solicitor who has been recognised for his or her skill and expertise.

Question 6

The applicant needed a 10-year advocacy qualification before applying to the Lord Chancellor.

Question 7

The previous selection process was secretive and the criteria for appointment were vague. The number of women and ethnic minorities who were selected as QCs was particularly low: about 10% for women and even fewer for ethnic minorities.

Question 8

Candidates complete an application form. Once submitted, they are judged against a competence framework. The competencies include integrity, identifying and presenting arguments and working with clients and as part of a team. Candidates must be graded as 'excellent' to become a QC.

Question 9

The new system is an improvement. There is a set framework that a candidate can be judged against. This process is also more open and is checked independently by the Judicial Appointments Commission.

Question 10

- a** A law degree is followed by a Legal Practice Course (LPC) which lasts for 1 year. After that there is vocational training in the form of a 2-year training contract.
- b** Following a non-law degree it is necessary to take a 1-year conversion course and the Common Professional Exam (CPE). After this you need to complete a 1-year legal practice course, followed by a 2-year training contract.
- c** Via a vocational route you need to take the ILEX professional qualification in law. Then there are 2 years of on-the-job training at a solicitor's office. You may then become a fellow of the Institute of Legal Executives, provided you are at least 25 and have worked in a solicitor's office for at least 5 years. This is followed by a Legal Practice Course.

Question 11

Defects of training routes include:

- the cost
- non-law-degree route is criticised for a lack of legal training
- there is a lack of government funding for LPC and CPE

Question 12

Most solicitors work in private practice.	✓
Solicitors are organised into partnerships.	✓
Solicitors only advise clients.	
Direct access to solicitors is limited.	
Solicitors can be specialists in a particular aspect of law.	✓

Question 13

True

Question 14

- a** This Act removed solicitors' monopoly on conveyancing. It allowed solicitors to apply for advocacy qualifications, giving them rights of audience in more courts.
- b** This Act allows solicitors to carry full rights of audience.

Question 15

To complain against a solicitor you can:

- go to court and sue for breach of contract or for negligence
- complain to the Office for the Supervision of Solicitors
- complain to the legal services ombudsman

Question 16

False

Question 17

There are two routes to becoming a barrister. If you have a law degree, following this you then join an Inn of Court. This is followed by a Bar vocational course and a call to the Bar. If you have a non-law degree the process is the same except that you need to take the Common Professional Exam before joining an Inn of Court.

Question 18

Barristers are self-employed.	✓
Barristers work from chambers.	✓
Barristers have limited advocacy skills.	
Barristers can form partnerships.	
Some barristers are QCs.	✓

Question 19

- a** *Hall v Simons* overruled *Rondel v Worsley*. *Hall* removed barristers' immunity from litigation for negligent activities in court.
- b** *Saif Ali v Sydney Mitchell & Co* decided that a barrister can be sued for negligence regarding written advice and opinions.

Question 20

Any individual can go directly to a barrister for civil issues, with the exception of family matters. Direct access is also not allowed for criminal cases.

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