LEVEL 3 MARKING SCHEME

SUMMER 2024

LEVEL 3
CRIMINOLOGY – UNIT 4
4543UD0-1

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About this marking scheme

The purpose of this marking scheme is to provide teachers, learners, and other interested parties, with an understanding of the assessment criteria used to assess this specific assessment.

This marking scheme reflects the criteria by which this assessment was marked in a live series and was finalised following detailed discussion at an examiners' conference. A team of qualified examiners were trained specifically in the application of this marking scheme. The aim of the conference was to ensure that the marking scheme was interpreted and applied in the same way by all examiners. It may not be possible, or appropriate, to capture every variation that a candidate may present in their responses within this marking scheme. However, during the training conference, examiners were guided in using their professional judgement to credit alternative valid responses as instructed by the document, and through reviewing exemplar responses.

Without the benefit of participation in the examiners' conference, teachers, learners and other users, may have different views on certain matters of detail or interpretation. Therefore, it is strongly recommended that this marking scheme is used alongside other guidance, such as published exemplar materials or Guidance for Teaching. This marking scheme is final and will not be changed, unless in the event that a clear error is identified, as it reflects the criteria used to assess candidate responses during the live series.

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LEVEL 3 CRIMINOLOGY – UNIT 4

SUMMER 2024 MARK SCHEME

1. Scenario:

Arthur and Aled are brothers who are both studying law at university. Arthur intends to go into politics and become a member of parliament. Aled wants to become a judge. Both brothers want to bring in new laws to combat crime. Arthur supports laws promoting deterrence from criminal behaviour. Aled believes that the legal system is too soft and that civil liberties and legal barriers are limitations in achieving social control.

(a) (i) Briefly describe two stages in the parliamentary (governmental) law-making process. [4]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- The Green Paper – A consultative stage where the aim is to allow people both inside and outside Parliament to give the government feedback on its policy or legislative change. The document is coloured green.
- White Paper – A policy document, on white coloured paper, is produced by the government with firmer proposals for future legislation. It may contain a draft version of a bill that is being planned.
- First Reading – This is the formal introduction, which can be in either House, when a clerk reads the name of the bill but there is no debate or discussion about its contents.
- Second Reading – This is the first time the bill is debated and it usually takes a whole sitting. MPs decide whether the bill should pass to the next stage by taking a vote.
- Committee Stage – Here MPs go through the Bill in detail and amendments may be suggested. Most bills are considered by a Public Bill Committee which is usually made up of 17 MPs. Bills can also be considered by a Committee of the whole House.
- Report Stage – is an opportunity for the whole House to consider what has been done during the committee stage. Amendments can also be proposed at this stage.
- Third Reading – This is the final opportunity for MPs to pass or reject the whole bill. There is usually up to an hour for the debate, although some of the time might be used up by any votes at the

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end of the report stage.

- Other House – The bill goes through all the stages in the other House. Both Houses must agree on the wording of the bill before it can gain Royal Assent. If both Houses do not agree the bill is sent back and forth, responding to the proposed changes. This process is known as ‘ping-pong’.
- Royal Assent – Once a bill has completed all the parliamentary stages in both Houses, the Monarch formally agrees to make the Bill into an Act of Parliament. The legislation within the bill may come into effect immediately, after a set period or only after a commencement order by a government minister.

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(a) (ii) Briefly describe the judicial law-making process. [4]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- Made by judicial precedent and statutory interpretation
- For judicial precedent, judges follow previous decisions, using the court hierarchy. If there is no precedent, they make original precedent, for example in Donoghue v Stevenson
- Judges avoid precedent by methods such as distinguishing
- For statutory interpretation, judges must interpret words and phrases in Acts of Parliament
- Judges use a variety of rules, for example the literal rule, for example in Whitely v Chappel.

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(b) Assess how community punishment meets the aim of deterrence. [6]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
5–6 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

Note: There must be evidence of an understanding of this aim of sentencing.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- A community order may act as a general deterrent as other criminals know they are likely to face such a punishment.
- Community orders can be a combination of requirements tailored to meet the offenders' needs, for example unpaid work or curfew. This can address particular aspects of sentencing or particular offences such as a curfew to prevent night-time burglaries. This allows the punishment to focus on the aim of deterrence.
- A community order may include a treatment programme to deal with anger control, drug or alcohol abuse. This allows for the possibility of behaviour modification, which may mean the individual is deterred from further re-offending.
- A community order can require up to 300 hours of unpaid work. This may include tasks such as removing graffiti or cleaning overgrown areas. This, together with an offender giving up their spare time to carry out work may act as a form of deterrence.
- According to the Bromley Briefings, the use of community sentences has nearly halved since 2006 and account for just over 9% of all sentences. However, they are 8.3% more effective than short custodial sentences at reducing reoffending rates. This suggests some success with the aim of deterrence.
- Some studies have suggested that more than three quarters of those sent to prison have at least one previous community sentence. This would suggest that they do not act as a deterrent and prevent reoffending.
- 70% of offenders complete their community orders. This could suggest that deterrence is provided by this sentence. However, 30% are in breach of the conditions, for example, by reoffending and are returned to court for an alternative sentence. This suggests that deterrence is not effective.

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(c) Examine how civil liberties **and** legal barriers can be limitations in achieving social control. [9]

0 marks	The response does not meet any of the criteria specified below.
1–3 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
4–6 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
7–9 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- It can be argued that rights such as freedom of speech or freedom of movement can prevent social control from being achieved
- Agencies such as the police can be frustrated with detainees' rights under the Police and Criminal Evidence Act 1984. For example, the right to remain silent, the right to a lawyer or the right to have someone informed of the arrest
- At times, the police are restricted from preventing marches and processions
- Police restrictions on the right to stop and search may prevent social control from being achieved
- Foreign nationals with criminal convictions may not be deported if they face danger in their home country, for example Abu Qatada
- The Crown Prosecution Service requires a case to satisfy a realistic prospect of conviction test before it agrees that a suspect should be charged. This can prevent cases reaching court
- Restrictions on surveillance may restrict social control being achieved.

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(d) Name **two** criminal courts in which judges sit. [2]

0 marks	The response does not meet any of the criteria specified below.
Up to 2 marks	Award 1 mark for each correct point.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

Candidates may argue that judges can sit in the following courts:

- Magistrates' court (District Judge)
- Crown Court
- High Court
- Court of Appeal
- Supreme Court.

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2. Scenario:

Sam has many public disorder convictions, including being drunk and disorderly. The convictions are minor but his constant offending is becoming a nuisance to people in the community. He is before the court next week charged with another drunk and disorderly offence and two further Public Order Act 1986 offences.

(a) Identify the court in which Sam's case would start. [1]

0 marks	The response does not meet any of the criteria specified below.
1 mark	Award 1 mark for a correct point.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- A magistrates' court.

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(b) Identify **three** examples of personnel and/or agencies that Sam may encounter while his case proceeds through court. [3]

0 marks	The response does not meet any of the criteria specified below.
Up to 3 marks	Award 1 mark for each correct point.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- Crown Prosecution Service (CPS)
- National Probation Service (NPS)
- Court personnel, such as the Clerk to the Justices, or magistrates
- Defence lawyer
- Prison Service.

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(c) Describe the behavioural tactics and measures used to achieve social control. [9]

0 marks	The response does not meet any of the criteria specified below.
1–3 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
4–6 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
7–9 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

Criminal Behaviour Order (CBO), formerly known as an Anti-Social Behaviour Order or an ASBO

- CBOs are issued by the courts after a person has been convicted for a criminal offence
- Under the order, a person who has been convicted would be banned from certain activities or places, and would also be required to address their behaviour, for example by attending a drug treatment programme
- These orders are aimed at serious and persistent offenders
- A breach could see an adult face up to five years in prison.

The court can also order an offender to be subject to a probation order

- Probation orders aim to change an offender's behaviour, with the possibility of a prison sentence for further reoffending
- The probation order would ensure that an offender manager oversees and monitors the offender
- An offender may also have to carry out unpaid work in the community
- An offender may have to attend an alcohol or drugs prevention course.

A token economy scheme may be used to alter an offender's behaviour

- This involves rewarding positive behaviour and punishing negative behaviour
- In a token economy programme, the institutional management draws up a list of behaviours they wish to promote, and when a desired behaviour is carried out the offender is rewarded
- For example, the Incentives and Earned Privileges Scheme imposed in prison.

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(d) Discuss the weaknesses of the judiciary in achieving social control. [6]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
5–6 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- The judiciary has been criticised as being unrepresentative of society and therefore unable to understand society and its issues
- Comments and statistics about class, gender and ethnicity may be provided
- They are often referred to as 'pale, male and stale'
- The judiciary has given out unduly lenient sentences. This is where a sentence falls outside the range of sentences that the judge, applying their mind to all the relevant factors, could reasonably consider appropriate for example the sentence given to Ian Patterson, who was given a 15-year jail term that was later increased to 20 years
- The judiciary is limited by the parameters and mitigating factors that affect the punishments they are able to hand down
- If an unduly lenient sentence is given, then social control may not be achieved.

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(e) (i) Identify **two** punishments that aim to achieve the protection of society. [2]

0 marks	The response does not meet any of the criteria specified below.
2 marks	Award 1 mark for each correct point.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- A community order
- A custodial sentence
- A conditional discharge.

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(e) (ii) Briefly explain how **one** of the punishments identified in 2(e) (i) helps to achieve the protection of society. [4]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

A community order

- A probation order would ensure that an offender's behaviour is monitored and that the offender is not committing a crime, thus protecting society
- An offender must report regularly to an offender manager
- Conditions, such as limitations on where an offender can and cannot go, can be placed on the order.

A custodial sentence

- An offender would be in prison, and therefore unable to commit crime, thus protecting society
- While in prison, an offender would receive rehabilitative treatment
- Upon leaving prison, an offender would be subject to a probation order, which would monitor their behaviour.

A conditional discharge

- An offender would be subject to an order, which would prevent them from reoffending within a set period of time
- Breach of that order would lead to further punishment.

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3. Scenario:

Goldie is a reformed criminal. She has a criminal conviction for theft for which she served a prison sentence, but since her release she has abided by the law. Goldie now helps at a local charity that aims to assist in reforming criminals and to improve conditions in prison. There, she advises others of her own experiences, and hopes to make a positive contribution to their lives.

(a) Explain how the prison sentence served by Goldie met the aims of her punishment. [6]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
5–6 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

Rehabilitation

- A prison sentence can provide rehabilitation through education and courses to address offending. Goldie has abided by the law since being released from prison; this would suggest rehabilitation has been successful.
- Medical support can be provided for addiction, such as drugs and alcohol, which is often behind offending.
- Support by the probation service is usually present when an offender leaves prison. This helps to support rehabilitation. Goldie is likely to have been made subject to a probation order when she left prison and received the support of an offender manager.

Deterrence

- A prison sentence can have the aim of deterrence to prevent further offending.
- This can apply to Goldie, who now abides by the law, or to society in general, as others may not want to receive a similar punishment.
- The loss of liberty and requirement to abide by prison rules may be a deterrent. Goldie wants to make others aware of her own experiences and make a positive contribution to their lives.

Retribution

- A prison sentence can be seen as society seeking revenge on Goldie for her theft. This can include revenge for the victims of the crimes too.
- The loss of liberty resulted in Goldie getting her ‘just deserts’ for breaking the law.
- This aim can be seen as looking backwards as it does not seek to alter an offender’s behaviour, but merely to provide an appropriate punishment.

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(b) Briefly discuss rehabilitation as an aim of punishment. [4]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- Rehabilitation is a forward-looking aim, the purpose of which is to alter an offender's behaviour so that they will not reoffend
- Reformation is a very important element in the sentencing philosophy for young offenders
- Rehabilitative punishments aim to provide direction, and allow an offender to become a useful member of society
- Rehabilitative sentences can also be controversial since it may appear that the offender is being "rewarded" for committing crimes (such as "holidays" for youth offenders)
- Punishments that often have a focus on rehabilitation include community orders such as probation and attendance on alcohol- or drug-awareness courses
- Restorative justice is heavily based on rehabilitation.

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(c) Examine how charities may be effective in achieving social control. [6]

0 marks	The response does not meet any of the criteria specified below.
1–2 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
3–4 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
5–6 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- Charities are an important part of the criminal justice system. They complement the various government agencies to help bring about social control
- They support offenders with housing, welfare benefits and offer other practical support. This helps prevent re-offending and so bring about social control
- There are charities that support those in prison improving social control in prisons
- Other charities also, or alternatively, support the families of offenders improving the home environment upon release
- *The Prince's Trust* supports young people, running an initiative to help ex-offenders make a positive transition back into the community
- The *Howard League for Penal Reform* is the oldest penal reform charity in the UK. It has run many successful campaigns such as the *Books for Prisoners* campaign, which won a charity award in 2015. It has also run a campaign to reduce the criminalisation of children by working closely with police forces in England and Wales.

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(d) Explain why most people abide by the law and do not commit crime. [9]

0 marks	The response does not meet any of the criteria specified below.
1–3 marks	There is a limited focus on the question, with vague or no accurate support and little or no use of specialist vocabulary.
4–6 marks	There is a reasonable focus on the question with some accurate support and some use of specialist vocabulary. The demands of the question may be only partially addressed.
7–9 marks	There is a clear and detailed focus on the question with mainly accurate support and an effective use of specialist vocabulary. The demands of the question are fully addressed.

The following material is an indication of what candidates **may** include in their responses. Credit any other relevant material.

- Internal social control can make people abide by the law. This can include tradition, upbringing and morals
- Religion can also guide a person into the correct behaviour
- A rational ideology may be guided by your conscience; feelings of guilt or anxiety may make a person behave appropriately
- External forms of social control could be attributed to coercion. This can ensure a lack of criminal behaviour. It can include physical coercion, including the police powers of arrest and detention. It can also include restriction on liberty due to imprisonment
- Fear of punishment is inherent in deterrence where punishment is used as a threat to deter people from offending. The concept of deterrence has two key assumptions: individual deterrence and general deterrence
- The courts impose sentences to prevent people from committing further crimes. For example, a suspended sentence or a conditional discharge. External pressures persuade or compel members of societies to conform to rules. The most visible form of external social control is exercised by people and organisations specifically empowered to enforce conformity to society's laws
- The Police Service, the courts, the National Probation Service and HM Prison Service are the most obvious agents of external social control
- The Ministry of Justice introduces sentencing policies to use coercion and the fear of punishment to control crime. For example, mandatory minimum sentences, such as life for murder, seven years for a third drug offence and three years for a third burglary
- Control theory could be mentioned. Walter C Reckless argued that a combination of internal psychological containments and external social containments prevents people from deviating from social norms
- Travis Hirschi stresses the importance of the individual's bond to society in determining conforming behaviour.

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