



POL.UKG1 The Nature and Sources of the UK Constitution

EDEXCEL 9PL0 · Calculators not allowed · about 90 minutes

Total Marks

Name: _____ Date: ____ / ____ / ____

Answer ALL questions. Short-answer items require concise, accurate sentences. For levels-marked extended questions write a sustained developed response using precise terminology and accurate factual detail. Allocate time sensibly: about 40 minutes for the two 30-mark questions combined, 35 minutes for the remaining questions, and 15 minutes checking work.

- 1** Define the term 'uncodified constitution' in the context of the United Kingdom's constitution.

(Total for Question 1 is 1 mark)

- 2** Give two examples of statute law that are regarded as constitutional in the UK, naming each Act and its year.

(Total for Question 2 is 2 marks)

- 3** Name one leading common law case which illustrates judicial protection of civil liberties and give its year, as used in UK constitutional study.

(Total for Question 3 is 2 marks)

- 4** State two recognised works of authority cited in UK constitutional study.

(Total for Question 4 is 2 marks)

- 5** Explain, in two developed points, why parliamentary sovereignty is a central constitutional principle in the UK.

(Total for Question 5 is 3 marks)

- 6** Explain Dicey's three key elements of the rule of law in the UK context, briefly.

(Total for Question 6 is 3 marks)

- 7** Explain what is meant by constitutional conventions and give one clear example that is not the calling of elections or the Prime Minister's appointment.

(Total for Question 7 is 4 marks)

- 8** Explain two differences between an uncodified constitution and an unentrenched constitution in the UK context.

(Total for Question 8 is 6 marks)

- 9** Analyse the extent to which statute law is the most important source of the UK constitution.

(Total for Question 9 is 12 marks)

- 10** Using the two extracts below about the uncodified constitution, analyse how they would support and challenge the view that an uncodified constitution is flexible and responsive. Extract A is a short interpretive passage by a constitutional scholar. Extract B is a short critical commentary from a political commentator. Use both extracts in your answer.

(Extracts) Extract A (constitutional scholar, 2010): 'The uncodified UK constitution permits (30)

steady, pragmatic adaptation. Where new circumstances arise Parliament can legislate quickly, judges can interpret existing rules and conventions can be adjusted by political actors. This elasticity has preserved stability across centuries.'

Extract B (political commentator, 2024): 'Flexibility can be a cloak for uncertainty. When fundamental rules are changeable by simple majorities, rights and minority protections risk being eroded. Rapid legislative change can be used to bypass deeper debate, making the constitution reactive to political expediency rather than principled adaptation.'

Context: both extracts discuss the uncodified nature of the UK constitution and were written for a general audience in academic and journalistic outlets respectively.

(Total for Question 10 is 30 marks)

- 11** Evaluate the extent to which the UK constitution's uncodified nature is a strength.

(Total for Question 11 is 30 marks)

Mark scheme · POL.UKG1 The Nature and Sources of the UK Constitution

Question 1

- **B1** a concise definition, for example: a constitution not contained in a single written document, drawing on multiple sources such as statutes, common law, conventions and works of authority
- **Answer: A constitution not contained in a single written document, made up from statutes, common law, conventions and works of authority.**

Question 2

- **B1** one correctly named constitutional Act with year, e.g. Human Rights Act 1998
- **B1** a second correctly named constitutional Act with year, e.g. Constitutional Reform Act 2005
- **Answer: Any two correctly named constitutional Acts with years, e.g. Human Rights Act 1998; Constitutional Reform Act 2005; Representation of the People Act 1918; Scotland Act 1998.**

Question 3

- **B1** correctly names a relevant case, e.g. Entick v Carrington
- **B1** gives the correct year, e.g. 1765
- **Answer: Entick v Carrington, 1765.**

Question 4

- **B1** one correct work of authority, e.g. Erskine May
- **B1** a second correct work, e.g. A V Dicey or Walter Bagehot
- **Answer: Any two of: Erskine May, A V Dicey, Walter Bagehot.**

Question 5

- **B1** identifies that Parliament can make or unmake any law and is not bound by its predecessors
- **B1** explains consequence, e.g. implies the supremacy of statute over common law and conventions
- **B1** gives further development, e.g. means no Parliament can bind a future Parliament and courts cannot strike down Acts of Parliament on constitutional grounds
- **Answer: Parliamentary sovereignty means Parliament can make or unmake any law and is not bound by previous Parliaments; this places statute law above common law and conventions, and implies that courts cannot invalidate primary legislation, while no Parliament can bind a future Parliament.**

Question 6

- **B1** identifies one element, e.g. supremacy of regular law over arbitrary power
- **B1** identifies second element, e.g. equality before the law
- **B1** identifies third element, e.g. the constitution is the result of ordinary law and judicial decisions rather than a special code
- **Answer: Dicey's three elements are: the supremacy of regular law over arbitrary power, equality before the law, and that the constitution is the result of ordinary law and judicial decisions rather than of a separate constitutional code.**

Question 7

- **B1** defines constitutional convention as an unwritten practice considered binding though not legally enforceable
- **B1** gives a valid example, e.g. the convention that the monarch gives Royal Assent to legislation on the advice of ministers
- **B1** explains the example's constitutional role, e.g. ensures government accountability to Parliament and continuity of government
- **B1** notes that conventions are politically, not legally, enforceable
- **Answer: Constitutional conventions are unwritten practices regarded as binding though not legally enforceable. Example: the convention that the monarch gives Royal Assent to Bills on ministerial advice, which ensures parliamentary legislation becomes law while preserving the constitutional role of the Crown as acting on ministerial advice.**

Question 8

- **B1** identifies that uncodified refers to source and form, that material is spread across statutes, common law, conventions and works of authority
- **B1** develops that point, e.g. no single constitutional text exists to which all citizens can refer
- **B1** identifies that unentrenched refers to the legal protection of constitutional rules, that ordinary statute law can be changed by a simple Act
- **B1** develops that point, e.g. entrenchment would make constitutional rules harder to amend than ordinary law
- **B1** identifies a consequence of being uncodified, e.g. flexibility and evolutionary change
- **B1** identifies a consequence of being unentrenched, e.g. potential vulnerability of fundamental rights and institutions to ordinary parliamentary majorities
- **Answer: Uncodified refers to the form and sources, meaning constitutional rules are spread across statutes, common law, conventions and works of authority rather than a single document; this gives flexibility and allows evolution. Unentrenched means constitutional rules are legally no harder to change than ordinary statute law, so Parliament can amend fundamental rules by ordinary Acts, creating potential vulnerability for rights and institutions to shifts in parliamentary majorities.**

Question 9

- **Level 0** (0): No relevant content.
- **Level 1** (1-3): Basic, limited knowledge of statute law as a source, with little analysis of its relative importance.
- **Level 2** (4-6): Clear knowledge of statute law and at least one other source, with some developed analysis of why statute law might be more or less important.
- **Level 3** (7-9): Detailed knowledge of statute law and other sources used to construct a well-developed analysis of its importance, including examples and some qualification.
- **Level 4** (10-12): Wide-ranging, accurate knowledge applied to a sustained analysis that weighs evidence for and against statute law being the most important source and reaches a supported judgement.
- **Indicative content:**
 - Case for statute law being most important: parliamentary sovereignty makes Acts of Parliament supreme; major constitutional changes are normally effected by statute, for example the Human Rights Act 1998 or the Constitutional Reform Act 2005.
 - Case for others being important: common law can protect rights and shape constitutional practice when statutes are silent, e.g. judicial development of prerogative limits in recent judicial review cases.
 - Conventions matter politically despite lacking legal force; in practice they guide behaviour and can determine constitutionally significant outcomes, for example the Salisbury-Addison type conventions on Royal Assent and ministerial responsibility.
 - Works of authority, such as Erskine May, guide parliamentary procedure and are frequently relied upon by MPs and clerks to interpret statute and practice, giving them practical constitutional force.
 - A balanced judgement might argue statute law is legally supreme and therefore structurally the most important source, but in practice the constitution functions through an interaction of sources, so statutes often require support from conventions, common law and authoritative works to operate effectively.

Question 10

- (Extracts) **L1** (1-6): Basic reference to the extracts with limited analysis. May summarise one extract without using the other, little or no evaluation and few, if any, contextual details.
- (Extracts) **L2** (7-12): Some accurate analysis of the extracts, using both to identify clear supporting and challenging points about flexibility; limited evaluation and limited use of wider factual knowledge.
- (Extracts) **L3** (13-18): Clear, developed analysis using both extracts and integrating relevant factual knowledge about sources of the constitution to show how uncodified features enable flexibility; includes lines of evaluation weighing support against challenge.
- (Extracts) **L4** (19-24): Detailed analysis that uses precise reference to the extracts and shows how statute, common law, conventions and works of authority can make the constitution responsive. Strong evaluation that considers practical risks and provides specific examples, reaching a reasoned judgement.
- (Extracts) **L5** (25-30): Sophisticated, sustained analysis that drives evaluation from the sources. Integrates accurate, well-chosen examples and constitutional theory to show nuanced reasons why flexibility is both a strength and a risk, and reaches a balanced, well-justified judgement about the overall claim.
- **(Extracts) Indicative content:**
 - Use Extract A to show how uncodified features allow rapid legislative responses by Parliament, citing examples where statutes adapted constitutional practice.
 - Explain how common law allows judges to fill gaps and develop principles, giving the constitution a dynamic character; reference judicial review and case law as mechanisms of adaptation.
 - Show how conventions can be altered by political practice without legal reform, allowing practical change in areas where formal amendment would be difficult, and how works of authority guide such shifts in practice.
 - Use Extract B to show the risk that ordinary statute law can be changed by a temporary majority, threatening rights and stability; give an example of where rapid parliamentary legislation created controversy over rights or procedural safeguards, described without covering post-1997 reforms.
 - Analyse the tension between pragmatic adaptation and the potential erosion of protections, explaining how the lack of entrenchment makes flexibility double-edged.
 - Evaluate the practical mechanisms that check flexibility, such as political accountability, judicial review, and reliance on conventions, and assess whether these are sufficient to prevent abuse.
 - Conclude with a balanced judgement that flexibility promotes responsiveness and evolution but requires strong political norms and institutional checks to avoid opportunistic or destabilising constitutional change.

Question 11

- **Level 0** (0): No relevant content.
- **Level 1** (1-7): Basic, limited knowledge of uncodified constitution with little or no analysis or evaluation. Statements are largely descriptive or assertional.
- **Level 2** (8-15): Clear knowledge of the uncodified constitution and some developed analysis of its strengths and weaknesses. Evaluation is present but may be one-sided or underdeveloped, with limited use of examples.
- **Level 3** (16-23): Detailed, accurate knowledge of features and sources of the uncodified constitution used to construct a sustained analysis. Evaluation weighs strengths against weaknesses and uses well-chosen examples; reaches a reasoned judgement.
- **Level 4** (24-30): Sophisticated, wide-ranging and accurate knowledge deployed in a tightly argued evaluation that directly addresses the extent of the claim. Uses precise examples and constitutional theory across AO1, AO2 and AO3 to reach a balanced, well-substantiated conclusion.
- **Indicative content:**
 - Arguments that uncodified nature is a strength: flexibility and adaptability so constitution can evolve without formal amendment; ability for Parliament to respond quickly to new problems; interaction of multiple sources allows pragmatic solutions.
 - Examples in support: statutes that have clarified constitutional arrangements when needed, judicial interpretation that evolves common law principles, and conventions adapting over time to political realities.
 - Arguments that it is a weakness: lack of clarity for citizens and uncertainty over fundamental rules; vulnerability of rights and institutions to ordinary parliamentary majorities due to lack of entrenchment; potential for executive or majoritarian abuse when political norms erode.
 - Examples illustrating weaknesses: occasions when rapid statutory change or political behaviour caused controversy about rights or procedures, and instances where conventions were tested and found fragile in political crisis, described without discussing reforms reserved for other packs.
 - Evaluation of checks and balances: role of judicial review and the courts in interpreting law, political checks such as elections and parliamentary scrutiny, and the practical force of works of authority and conventions, assessing whether these sufficiently protect constitutional principles.
 - Consideration of trade-offs: flexibility versus certainty, democratic responsiveness versus protection of minorities, and whether an uncodified system better suits the UK's political culture and historical constitutional development.
 - Conclusion should reach a clear judgement on the extent to which uncodified nature is a strength, acknowledging that it can be both an asset and a liability depending on political context and the resilience of supporting institutions and norms.