



POL.UKG7 The Judiciary: Independence, Neutrality and the Supreme Court

EDEXCEL 9PL0 · Calculators not allowed · about 75 minutes

Total Marks

Name: _____ Date: ____ / ____ / ____

Answer ALL questions. Short answer questions may be answered in short sentences; extended answers and the two levels-marked questions must be answered in full sentences with developed explanation and evidence. Spend approximately 15 minutes on the source-based question and 45 minutes on the final 30-mark essay.

- 1** Define judicial independence as it is discussed in UK constitutional contexts, naming the basic idea.

(Total for Question 1 is 1 mark)

- 2** State one practical mechanism that supports judicial independence in the UK, naming the mechanism.

(Total for Question 2 is 1 mark)

- 3** State the primary statutory body responsible for recommending candidates to most judicial posts in England and Wales, naming it.

(Total for Question 3 is 1 mark)

- 4** Explain the sub judice rule as it applies to UK Parliament and public comment while a legal case is ongoing.

(Total for Question 4 is 3 marks)

- 5** State the year the Constitutional Reform Act received Royal Assent and the year the UK Supreme Court became operational, naming both years.

(Total for Question 5 is 1 mark)

- 6** Explain two distinct roles performed by the UK Supreme Court under the Constitutional Reform Act 2005 and since 2009.

(a) Explain one role of the Supreme Court relating to appellate jurisdiction. (2)

(b) Explain one constitutional role of the Supreme Court in relation to the separation of powers. (1)

(Total for Question 6 is 3 marks)

- 7** Explain the doctrine of separation of powers as it applies in the UK constitution, and note one way the UK system departs from a strict tripartite model.

(Total for Question 7 is 4 marks)

- 8** Explain what is meant by judicial neutrality and give one example of how it is maintained in practice in the UK.

(Total for Question 8 is 4 marks)

- 9** Using the two short extracts below about the judiciary and its relationship with government and Parliament, analyse the claim that security of tenure alone is sufficient to ensure judicial independence. Source context: extracts are synthetic classroom-style summaries for Edexcel 9PL0 UK Government.

Using the source, analyse the claim that security of tenure alone is sufficient to ensure judicial independence.

(Total for Question 9 is 30 marks)

- 10** Evaluate the extent to which the UK judiciary is independent of the other branches of government, using examples and named institutions where relevant.

Evaluate the extent to which the UK judiciary is independent of the other branches of government.

(Total for Question 10 is 30 marks)

Mark scheme · POL.UKG7 The Judiciary: Independence, Neutrality and the Supreme Court

Question 1

- **B1** a concise definition, that judges must be able to decide cases free from improper influence by government, Parliament, parties or private interests
- **Answer: Judicial independence means judges decide cases free from improper influence by the executive, the legislature, political parties or private interests.**

Question 2

- **B1** names one mechanism, e.g. security of tenure for judges
- **Answer: Security of tenure for judges.**

Question 3

- **B1** names the Judicial Appointments Commission
- **Answer: The Judicial Appointments Commission.**

Question 4

- **B1** identifies that sub judice limits public commentary that could prejudice ongoing legal proceedings
- **B1** explains that it is a convention and parliamentary practice restricting debate or media reporting that might influence jurors or the court
- **B1** explains the purpose, to protect the fairness of trials and uphold judicial independence from outside pressure
- **Answer: The sub judice rule restricts public and parliamentary commentary that could prejudice ongoing legal proceedings; it operates as a convention and parliamentary practice to limit debate or media reporting likely to influence jurors or judges, thereby protecting the fairness of trials and helping to keep the judiciary independent from outside pressure.**

Question 5

- **B1** states 2005 for the Constitutional Reform Act and 2009 for the Supreme Court becoming operational
- **Answer: The Constitutional Reform Act received Royal Assent in 2005, and the UK Supreme Court became operational in 2009.**

Question 6

- (a) **B1** identifies appellate jurisdiction as hearing appeals on points of law of the greatest public importance
- (a) **B1** explains the effect, e.g. it provides a final court of appeal for civil cases across the UK and for criminal cases in England, Wales and Northern Ireland
- (a) **Answer: The Supreme Court hears appeals on points of law of the greatest public importance; it is the final court of appeal for civil cases across the UK and for criminal cases in England, Wales and Northern Ireland, providing authoritative legal rulings.**
- (b) **B1** identifies that the Court provides an institutional separation of the judiciary from Parliament and the executive, replacing the Law Lords' former role within the House of Lords
- (b) **Answer: The Supreme Court provides an institutional separation of the judiciary from Parliament and the executive by removing the senior judges from the legislative chamber, ensuring clearer constitutional separation of powers.**

Question 7

- **B1** defines separation of powers as the idea that legislative, executive and judicial powers should be held by separate institutions
- **B1** explains the purpose, to prevent concentration of power and provide checks and balances
- **B1** identifies a UK departure, e.g. the executive is drawn from the legislature since ministers are MPs
- **B1** explains the consequence of that departure, e.g. it creates overlap but constitutional conventions and institutions such as the Supreme Court act to constrain abuses
- **Answer: The separation of powers is the constitutional principle that legislative, executive and judicial powers should be held by separate institutions to prevent concentration of power and to provide checks and balances. The UK departs from a strict tripartite model because the executive is drawn from the legislature, with ministers typically being MPs; this overlap is managed by conventions and by institutions such as the Supreme Court, which help to constrain potential abuses and preserve judicial independence.**

Question 8

- **B1** defines judicial neutrality as judges deciding cases impartially according to the law and facts, without bias or political partisanship
- **B1** identifies one practical example, e.g. restrictions on political activity by judges or sitting judges not voting in elections
- **B1** explains how the example supports neutrality, e.g. limits on political activity reduce appearance of bias
- **B1** offers brief further development, e.g. guidance from the judiciary on public comment and recusal rules for conflicts of interest
- **Answer: Judicial neutrality means judges decide cases impartially according to law and facts, without partisan bias. It is maintained by measures such as restrictions on political activity by serving judges and expectations about recusal where there is a conflict of interest; these steps reduce the appearance and risk of bias and help preserve public confidence.**

Question 9

- **Level 1** (1-6): Basic, limited engagement with the source; simple description of security of tenure with little or no analysis of its sufficiency; evaluation is absent or assertions are unsupported.
- **Level 2** (7-12): Clear identification of points in the source about security of tenure and other safeguards; some analysis of how tenure contributes to independence, with limited evaluation of its sufficiency and some use of own knowledge.
- **Level 3** (13-18): Detailed analysis of the source and use of relevant wider knowledge, weighing the strengths of security of tenure against other factors; evaluation is present but may be partial or one-sided.
- **Level 4** (19-24): Well-developed analysis using both extracts and substantial own knowledge, addressing counterarguments and the limits of security of tenure; reaches a reasoned judgement supported by evidence.
- **Level 5** (25-30): Sophisticated analysis and evaluation driven by the source, integrating wide-ranging own knowledge, identifying nuances and trade-offs, and reaching a balanced, well-substantiated judgement about the claim.
- **Indicative content:**
 - Extract A notes that security of tenure protects judges from being removed for unpopular decisions, allowing them to decide without fear of dismissal, which directly supports independence.
 - Extract A also points out that tenure is necessary but not sufficient, because other conditions such as financial security, appointment processes and the absence of political pressure also matter.
 - Extract B argues that a statutory retirement age and reliance on ministerial funding for court budgets can create indirect pressures, so tenure alone cannot guarantee full independence.
 - Analysis could explain how tenure prevents direct dismissal by the executive but does not remove subtler forms of influence, for example through control of salaries, promotions, or court resources that affect morale and capacity.
 - The Judicial Appointments Commission reduces executive patronage in appointments; reference to the JAC shows that appointment processes are another essential safeguard alongside tenure.
 - Reference to the Constitutional Reform Act 2005 and the Supreme Court's institutional separation from the House of Lords supports the argument that structural reforms complement tenure.
 - Counterargument from the source could be that in a system with weak conventions or where government controls budgets, tenure would be less protective; the student can use historical or hypothetical examples to show how other institutions could undermine independence despite tenure.
 - Evaluation should weigh the strong protective effects of tenure against the real-world constraints and show that a

Question 10

- **Level 1** (1-6): Basic, limited knowledge of mechanisms for judicial independence with little or no developed analysis or evaluation. Examples, if present, are generalised.
- **Level 2** (7-12): Clear knowledge of several mechanisms supporting independence and some analysis of how they operate, but evaluation may be partial or rely on assertion rather than evidence.
- **Level 3** (13-18): Detailed knowledge and sound analysis of how independence is supported and limited, using specific examples such as the Constitutional Reform Act 2005 and the Judicial Appointments Commission; evaluation is developed but may not address all significant counterarguments.
- **Level 4** (19-24): Well-developed, balanced analysis that integrates wide-ranging and accurate examples, considers structural, financial and cultural constraints, and weighs evidence to reach a reasoned judgement on the extent of independence.
- **Level 5** (25-30): Sophisticated, wide-ranging and well-evidenced evaluation that addresses multiple lines of argument and counterargument, including institutional reforms, remaining vulnerabilities, and recent developments, and reaches a clear, well-supported conclusion on the extent of judicial independence.
- **Indicative content:**
 - Arguments that the judiciary is substantially independent: security of tenure for judges, clear removal process, and judicial immunity from suit for acts done in judicial capacity strengthen independence.
 - The Constitutional Reform Act 2005 established structural safeguards, notably creating the Supreme Court to separate senior judges from the legislature, and reformed the role of the Lord Chancellor to reduce political influence.
 - The Judicial Appointments Commission reduces ministerial patronage over appointments, promoting merit-based selection and enhancing independence compared with the pre-2005 system.
 - Mechanisms of neutrality and professional ethics, including guidance on political activity, expectations of recusal and published judgments, support impartial decision-making and public confidence.
 - Limits and qualifications: the executive retains control over court budgets and administrative resources, which can create indirect pressure; financial dependence can be used subtly to influence priorities.
 - Limits and qualifications: the UK lacks a codified constitution and some protections rely on convention and political culture, which could be weakened under sustained political pressure.
 - Recent legislative or policy changes, or government rhetoric, can affect perceptions of independence even if legal safeguards remain; students may cite how changes to appointment procedures or budgetary control would matter in practice, without needing to rely on judicial review cases.
 - A reasoned conclusion should weigh strong formal and institutional safeguards against real-world constraints and argue that the judiciary is significantly independent in judicial decision-making, but that independence is not absolute and depends on complementary safeguards including transparent appointments, secure funding, and a political culture that respects the rule of law.