1.3 Rights and Civil Liberties in the UK: Protection and Tensions

Total Marks

EDEXCEL 9PL0 · about 60 minutes · Write-in edition

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions write well-structured, developed responses in full sentences, using accurate political knowledge and named examples where appropriate. Spend around 60 minutes in total.

1 Name two specific Convention rights contained in the European Convention on Human Rights, as referenced in UK rights law.

(Total for Question 1 is 2 marks)

2 Explain what is meant by common law rights in the UK context and give one example of such a right.

(Total for Question 2 is 3 marks)

3 Explain how certain EU-derived rights were retained in UK law after Brexit and give one example of an area where retained EU-derived rights still affect rights protection.

(Total for Question 3 is 4 marks)

4 Explain two ways in which Parliament can limit executive powers that affect civil liberties in the UK, giving an example of recent legislation or parliamentary action for one of the ways.

(Total for Question 4 is 6 marks)

5 Evaluate the view that rights are well protected in the UK.

(Total for Question 5 is 30 marks)

6 Using the source extracts below about surveillance and free expression in the UK, analyse the arguments made about the balance between security and civil liberties. Source A: 'Senior security officials in 2023 argued that increased data retention is essential to prevent organised terrorism and serious crime, because modern communications rely on encrypted and online services.' Source B: 'A 2024 human rights report by a UK charity claimed that bulk retention of communications data without individual suspicion poses a grave threat to privacy and chills legitimate investigative journalism and whistleblowing.' Using these extracts, analyse how each source presents the trade-off between security and civil liberties in the UK context.

(Total for Question 6 is 12 marks)

Mark scheme · 1.3 Rights and Civil Liberties in the UK: Protection and Tensions

Question 1

one correctly named Convention right, e.g. Article 8 right to respect for private and family life	**B1**
a second correctly named Convention right, e.g. Article 10 freedom of expression or Article 6 right to a fair trial	**B1**

Answer: Any two of: Article 8 right to respect for private and family life; Article 10 freedom of expression; Article 6 right to a fair trial; Article 2 right to life; Article 3 prohibition of torture.

Question 2

identifies that common law rights are protections developed by judges through precedent rather than by statute	**B1**
gives one clear example, e.g. habeas corpus, right to silence in certain contexts, or the right to a fair administrative process	**B1**
brief development showing why common law rights matter, e.g. they can offer protection where Parliament has not legislated	**B1**

Answer: Common law rights are protections created and developed by judges through case law rather than by Parliament; examples include habeas corpus or the judge-developed right to procedural fairness in administrative decisions. They matter because they can protect individuals where statute is silent or ambiguous.

Question 3

identifies that the European Union (Withdrawal) Act 2018 preserved EU-derived domestic law as retained EU law at the point of exit	**B1**
identifies that retained EU law can continue to protect rights where it was part of domestic law before exit	**B1**
gives one accurate example area, e.g. employment rights, data protection frameworks reflected in UK law, or environmental protections	**B1**
brief development, e.g. noting Parliament can amend or repeal retained EU law over time	**B1**

Answer: The European Union (Withdrawal) Act 2018 converted EU-derived domestic law into retained EU law at the moment of exit, so many protections formerly sourced in EU law continued to operate in UK domestic law after Brexit. Examples include aspects of employment law and data protection rules that were preserved, though Parliament can amend or repeal retained EU law over time.

Question 4

identifies one parliamentary mechanism, e.g. passing primary legislation that constrains executive discretion	**B1**
develops that mechanism with an example, e.g. the Investigatory Powers Act 2016 created statutory controls over surveillance powers	**B1**
identifies a second parliamentary mechanism, e.g. parliamentary scrutiny through select committees, debates and votes such as stopping or amending government proposals	**B1**
develops the second mechanism with an explanation of how scrutiny acts as a check	**B1**
explains a linked point, e.g. Parliament can also use secondary legislation control or require sunset clauses and review provisions	**B1**
provides brief evaluation, e.g. noting limits where government has a strong Commons majority or uses delegated powers	**B1**

Answer: Parliament can limit executive powers by passing primary legislation that defines and constrains state powers, for example the Investigatory Powers Act 2016 set statutory frameworks and oversight for surveillance. Parliament also constrains the executive through scrutiny: select committees, urgent questions, debates and votes can expose, amend or block executive proposals. However, these checks can be limited if the governing party has a large majority or uses delegated legislation.

Question 5

Level 0 No relevant content.	**0**
Level 1 Basic, limited knowledge of UK rights protections with little or no developed evaluation. Claims are asserted without supporting evidence or clear reasoning.	**1-6**
Level 2 Clear, accurate knowledge of rights protections and some evaluation. Argument may be one-sided or rely on general examples rather than detailed analysis.	**7-12**
Level 3 Detailed knowledge of multiple mechanisms protecting rights (HRA, courts, common law, parliamentary processes, oversight bodies) with sustained analysis and evaluation, including consideration of tensions and limits.	**13-18**
Level 4 A well-argued, balanced evaluation using precise legal and political examples, assessing strengths and weaknesses of UK protections and their practical effectiveness, and offering a reasoned judgement.	**19-24**
Level 5 Sophisticated, wide-ranging argument that integrates constitutional, legal and political evidence, anticipates counter-arguments, weighs competing values and reaches a nuanced, well-substantiated final judgement on the extent to which rights are well protected in the UK.	**25-30**

Indicative content:

- Arguments that rights are well protected: the Human Rights Act 1998 enables domestic rights litigation and keeps Convention rights in domestic courts; an independent judiciary and judicial review enforce legality and procedural fairness; common law rights and judges have developed protections where Parliament is silent; retained EU-derived rights continue to protect areas such as employment and data for now; oversight bodies and parliamentary scrutiny provide additional checks.
- Use of concrete examples: the Supreme Court decisions in R (Miller) 2017 and Miller/Cherry 2019 show courts can constrain executive overreach; declarations of incompatibility under the HRA have prompted parliamentary action or ministerial responses; independent investigatory bodies and commissioners (e.g. Information Commissioner) play a role in enforcing rights like data protection.
- Arguments that protections are limited or under strain: the HRA allows courts only to declare incompatibility rather than strike down Acts, so Parliamentary sovereignty can limit remedies; government legislation such as the Investigatory Powers Act 2016 grants broad surveillance powers raising Article 8 concerns; retained EU law can be amended or repealed by Parliament, reducing long-term protections; political pressure and majorities can weaken oversight.
- Practical limits and democratic arguments: Parliamentary majorities may override judicial or NGO criticism; security and counter-terrorism imperatives often provide a justification for restricting rights; resource constraints and limited access to justice can prevent effective rights enforcement for some individuals.
- Comparative and normative points: compared with some jurisdictions the UK has robust institutional checks, but lacking a codified written constitution means protections rely on conventions and political will; judges have been willing to protect rights but cannot force Parliament to change primary legislation.
- Evaluation and judgement: a balanced conclusion might argue rights enjoy substantial legal and institutional protection in the UK, especially through the courts and HRA mechanisms, but these protections are qualified by parliamentary sovereignty, national security pressures and recent legislative trends, so rights are well protected in principle and in many cases in practice, yet remain vulnerable in some areas without stronger statutory guarantees or firmer safeguards.

Question 6

Level 0 No relevant analysis of the source material.	**0**
Level 1 Basic identification of arguments in one or both extracts with limited analysis of their implications or context.	**1-3**
Level 2 Clear analysis of the arguments in both extracts, showing how each frames the security-liberty trade-off, with some reference to UK legal or policy context.	**4-6**
Level 3 Detailed analysis of both extracts, discussing the evidence, assumptions and rhetorical framing each uses, and evaluating the strength of the claims in the UK context.	**7-9**
Level 4 Sophisticated and sustained analysis comparing both extracts, assessing credibility, underlying values and policy implications, and reaching a well-supported judgement about which source presents the stronger case in the UK context.	**10-12**

Indicative content:

- Source A frames the issue instrumentally, prioritising operational effectiveness by arguing that modern encrypted communications require more intrusive data retention to prevent organised terrorism and serious crime, implying security benefits outweigh liberty costs.
- Source A assumes state actors can use retained data proportionately and effectively, but the source does not spell out safeguards, oversight mechanisms or legal limits, which weakens the claim if such protections are absent.
- Source B frames the issue in terms of rights and democratic functions, arguing that bulk retention threatens privacy and has chilling effects on journalism and whistleblowing, presenting a consequentialist argument about harm to public interest reporting and democratic accountability.
- Source B implies that intrusion without individual suspicion is disproportionate and risks undermining freedom of expression and the role of the press, thereby invoking Article 10 and Article 8 tensions in the UK legal framework.
- Compare credibility: Source A is likely to reflect official operational knowledge but may understate risks of abuse and lacks discussion of judicial oversight or independent review bodies; Source B highlights real risks to free expression and is concerned with proportionality and safeguards, but may understate the practical security difficulties if limits are too restrictive.
- Policy implication analysis: a balanced approach might require targeted retention with strong judicial authorisation, robust independent oversight, transparency and narrow retention periods to protect both security and civil liberties; the stronger case depends on whether safeguards can be shown to be effective.
- Judgement: a reasoned conclusion could argue Source B is more persuasive about long-term democratic harms unless Source A demonstrates concrete, narrowly targeted safeguards, or conclude the extracts together show the need for careful legal balancing rather than absolute priority for one side.