

Examiners' Report
June 2016

GCE Government & Politics 6GP02 01

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Introduction

The collective general view of the examiners on the Summer 2016 examination for 6GP02 was that it was an extremely fair paper with considerable breadth and choice for candidates who had worked hard and who had prepared thoroughly.

It provided an excellent platform for those who had revised and were prepared to do well and reach the higher level thresholds set on the paper. It was extremely pleasing for examiners to see so many well prepared candidates display a range, depth and breadth of knowledge linked to increased contemporary political awareness and understanding combined with a ready willingness to critically analyse the questions set.

Examiners commented warmly on the continued improvement in essay performance and evidence of better planning for the essays.

The two stimulus questions were almost equally popular. Q1 on Parliament attracted a 55% response from candidates with Q2 on the Prime Minister and Cabinet attracting the other 45%. Q3 on constitutional reform was by far the most popular essay question with a little over 73% of candidates opting for it whilst Q4 on judges and rights and liberties attracted 27%.

Examiners commented that the time factor did not seem to be an issue with comparatively few unanswered or partially answered questions.

Examiners were generally pleased with the improvement in performance in the essay style questions but repeat three points for the attention of centres.

- (1) The critical importance for L3 responses of the need to use contemporary and informed examples. The situation is improving but this was a crucially limiting factor on Q3 constitutional reform and Q2(c) on the political constraints on the PM.
- (2) The need for a balanced answer when a question requires an assessment to be made. 'Discuss,' 'To what extent?' 'How far?' and so on.
- (3) The critical need to read and re-read the question and answer the question that has been set.

Question 1

Q1 (a) With reference to the source, outline three types of committees operating in the House of Commons.

Examiners commented that this question proved problematic for some candidates as they were unable to follow the instruction in the question and identify 3 *types* of committee. A significant minority of answers to this question therefore scored 0/5 as they detailed, for example, the Home Affairs Select Committee, Public Accounts Committee and Culture, Media & Sport Committee. Unfortunately, these are examples of committees not types of committee and could not be awarded any marks. Some candidates wasted time by adding criticism of the committees which was not required by the question. Centres might take note of these points so that candidates are made aware that parliamentary committees have different functions and they need to be aware of these, as well as relevant examples of each. It is very important to pay particular attention to the precise wording of the question.

The most common mark for this question was 3/5. Here candidates correctly identified 3 types of parliamentary committee from the source, but then failed to develop their answer further. Some answers simply stated the 3 types of committee with no further explanation at all. Others copied out the source, which could not be given any further credit as it did not reveal any understanding required to score the two additional marks available. There was frequently an inability to differentiate between the different types of committee. Although not as crucial here as in part (b) it was an indicator of the ability of a candidate. The better quality responses successfully managed to distinguish three different/distinct types from the source and included extended information/illustration both from the source and their own knowledge to enhance the overall quality of response to achieve up to 4/5 marks.

Q1 (b) With reference to the source and your own knowledge, how effective are the Commons committees?

Candidates generally made good use of the source to comment on the effectiveness of parliamentary committees. Most candidates appeared to be aware of how both select and legislative committees are a notable aspect of providing government scrutiny and the majority of candidates dealt with this question sufficiently well to gain at least a level 2 score in both AO1 and AO2. However, in order to move beyond level 2 candidates needed to add more from their own knowledge and a good number of candidates failed to do this. There were some very good answers that were able to refer to the PAC's questioning of executives from Amazon and Google over their tax affairs, for example, or to Mike Ashley's recent controversial appearance before the Business, Skills & Innovation Select Committee as good examples of committees carrying out their remit successfully.

A minority of candidates however confused select and standing/legislative committees and while they had potentially relevant points to make, their answers did not score well as what they said was incorrect. This is a common error and candidates need to be clear of the difference between select and standing/legislative committees, as well as the impact of the Wright Committee recommendations on the operation of select committees since 2010. Some candidates asserted that select committee members and chairs were chosen by party whips which is incorrect. Since 2010 both committee members and chairs have been elected by secret ballot, arguably making them more independent of government and therefore effective. Legislative committees, however, are whipped and there the criticism of government control was valid. Some candidates showed excellent awareness of the role and work of the Backbench Business Committee and could provide suitable examples of its impact, whereas others were very hazy about what the Committee did.

It seemed clear to examiners that, unlike other questions on the paper there was a dearth of examples from most candidates and it appeared that this topic is not universally well taught by centres. Some candidates opted to miss this section entirely, or only pay it lip service, whilst others wrote a mini-essay and far too much for a 10 mark response.

Q1 (c) Excluding committees, assess the means by which Parliament is able to control the executive.

Examiners were generally very pleased with the quality of response to this question and very many candidates scored well into Level 3. In some ways it was a similar question to how Parliament holds the executive to account and so in this sense many candidates were quite well prepared to answer it. This was a good discriminator for all grade boundaries and it showed how well (or how poor) the candidate's appreciation of Parliament's ability to control the executive was. As always, relevant and detailed examples here often boosted the overall mark awarded.

There were a number of approaches to this question. Some candidates looked at other mechanisms open to MPs to scrutinise the executive and dealt with questions (both written and oral) and debates, particularly opposition days and adjournment debates. Again the best answers could provide examples of each and were able to evaluate their effectiveness through considering strengths and weaknesses of each. Particularly good answers noted the contribution of John Bercow as speaker by championing the right of backbenchers to table urgent questions and emergency debates. Other valid points include the size of the government's majority, the governing party's unity and therefore its propensity to suffer backbench rebellions, the Sunday Trading Bill and the first vote on bombing Syria in 2013 as examples of government failing to convince even some of its own MPs to vote for its programme. While it was possible to access level 3 marks without dealing with both Houses of Parliament, strong responses were able to examine the effectiveness of both. Many candidates were aware of restrictions on the ability of the second chamber to restrict executive power, but with many referring to the defeat of Osborne's plans to abolish working tax credits in 2015, a pleasing number of candidates were able to show how the Lords has become more assertive since the 1998 reform and therefore make life more difficult for the executive, whether Labour, Coalition or Conservative.

Many candidates referred to the reserve power of the Commons to table a motion of no confidence in the executive. While certainly valid, it was important to note that this has not resulted in the resignation of the government since Callaghan in 1979. Others made the valid point that for all Parliament's powers, quite often a determined and powerful PM can overpower and outmanoeuvre it, with Thatcher and Blair often cited as examples to support this argument.

On the negative side again a minority of candidates ignored the instruction in the question and wrote about the effectiveness of parliamentary committees in terms of controlling the executive. This could not be credited. A bigger pitfall was the number of candidates who focussed on the limitations beyond Parliament. It was not uncommon to see the Cabinet and the media mentioned as limitations which gained few if any marks due to going beyond the parameters of the question. There was also a common misconception that the whips are a tool of Parliament, rather than the parties.

Examiners stress strongly that candidates need to be reminded of the importance of reading the question carefully before starting their answers.

What Parliament does and how well it fulfils its tasks are key components of Unit 2. Stronger candidates come armed with both the functional or operational knowledge accompanied with lucid examples which serve as a platform for AO2.

This script again fails to hit full marks on (a) but then excels and provides a really good response.

(a) One type of committee operating in the House of Commons would be 'select committees'... which are concerned with 'examining work of government departments'. There are 40 select committees with 19 of these committees being departmental. Select committees examine government, scrutinise them and make sure that they are held to account. Another type of committee operating in the House of Commons would be the 'Public Accounts Committee' which has a 'non departmental role'. This would aid the PM as members of this committee would have specialist knowledge of that area and would meet with the PM to discuss public accounts. A further Commons Committee would be those in a range of 'original investigations' such as the Liaison Committee which meet twice a year to examine the work of the PM.

(b) Committees in the Commons, such as select committees, could be viewed as an effective check on the government. There are 40 select committees and 19 departmental committees. Select committees are 'largely concerned with examining the work of government' therefore this is an effective way to keep an eye on government power as it means that the government will be held accountable and under scrutiny by committees and would therefore need to justify their actions as well as the decisions that they made. Departmental committees are also effective as they consist of people with specialist

knowledge of the coordinating government department. Therefore this is effective as it would allow them to advise the prime minister on specific areas where he/she may not have the required knowledge.

Conversely, select committees may not be effective because only around 60% of select committee reports have an actual effect on policy and are used by the government. Select committees also have little funding and therefore this may not allow them to do an effective report. As government is simply able to ignore select committee findings this would also make them not effective. They may also not be effective as government has '60 days to reply' therefore the process is slow and drawn out.

(b) continued) Other common committees which are effective would include the 'Public Accounts' and Liaison Committee which are 'non departmental'. The Liaison Committee is a committee set up to examine the work of the prime minister. This is therefore effective because it means that the PM is under scrutiny - examined in detail and also it would mean that the PM has to be accountable to their voters. This would strengthen the legitimacy of the PM.

However, committees like the Liaison Committee may not be effective because they only meet with the PM twice a year. Therefore this means that the committee would

have a limited influence on the power of the government and the PM himself as most of the year the PM would not have to answer to a committee.

Another effective committee would be the 'backbench business committee' the BBBC was introduced in the Wright reform 2009, implemented in 2010. The BBBC allows debate and deliberation to occur as John Burtch allowed the backbenchers to have greater power from this committee. Issues debated would come from e-petitions which receive over 100,000 signatures on controversial issues. Therefore the BBBC is effective as it brings issues to gov attention which this may

((b) continued) have otherwise ignored.

However the BBBC is not effective as debate time is limited to 35 days and also these days are chosen by the government themselves which could therefore limit their effectiveness as power still lies ultimately with the government.

(c) Parliament is able to control the executive through many methods such as scrutiny, accountability, deliberation, legislation, legitimacy. The executive is basically the PM.

One of the ways in which parliament is able to control the executive would be through ^{Scrutiny} ~~Deliberation~~ ~~Deliberation~~.
This would include debates which happen to keep a check on executive power. Executive power can therefore be controlled because of ~~debates~~ ~~debates~~ Supplementary questions could be posed. Supplementary questions are where ministers do not have time to prepare answers to the questions beforehand. Therefore this would provide an ^{the} check on executive as they would be scrutinised and immediately held to account. Furthermore urgent questions would also mean that ministers are immediately summoned to be held to account on a particular issue. However scrutiny may not be that effective because often the government will have the overall majority meaning that they will always be more likely to get their way.

Furthermore Parliament is able to control executive power through deliberation. Deliberation would involve debates between parties where government would have to be held to account. For example PMs take place on a Thursday at midday and this would check on executive

((c) continued) power as the government would be put under pressure by the opposing party as well as members of the public. Debates on question time also take place which would be another means of deliberation or a check on executive power. However, debates are not always effective because of debates such as government debates which take place on a Friday when MPs have ~~already~~ returned to their constituencies so often attendance is low. Furthermore Jeremy Corbyn and Lord Cameron use them in more of a comical way when Lord Cameron told Jeremy to 'do up his top button and wear a proper suit'

Finally the Parliament ~~prevents or effectively checks~~ ~~government~~ is able to control the executive through legislation. Legislation is checked in both the House of Commons and the House of Lords before it will be accepted. Therefore parliament is able to control the executive. Bills have to go through different stages such as white paper, green paper, report stage and gain royal assent before the bill is passed. For example House of Lords report stage 2 never gained Royal Assent and therefore controlled the executive as not all bills that they work

((c) continued) ~~to~~ be passed will be passed.

However this is not always effective as whips will control the way that members vote and as the gov has a majority in the House of Commons this means that the majority of wishes and wants from the government will be passed. However sometimes MPs vote against the whip for example against Iraq, however backbench rebellions are not often.

Moreover Parliament is ~~able~~ overall not able to control the power of the executive because of the PM and cabinet. The PM and cabinet have a close relationship where the cabinet as well as bi-laterals and the quad consult with the PM to decide on policy. The cabinet no longer has as greater influence on the PM due to the decline of cabinet meetings time and the greater use of bi-laterals which has meant that special relationships is coming into play more. However Parliament can still control the executive due to increasing use of cabinet from concern due to ~~the~~ the S113 clause so it is needed more.

~~*~~

Overall Parliament does have control over the executive because of backbenchers, the cabinet / committees, debate, legislation and accountability. However due to the overall majority of the Party in the HOC this means

((c) continued) that the executive will always retain a lot of power because of the...



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Examiner Comments

- (a) Some material inconsistencies means here that only 1 mark is attained for two of the types identified and not the maximum – which gives us a total of 4 overall.
- (b) This is a very detailed answer and reaches full marks.
- (c) This is a good example of level 3 material – attained on all of the AOs.



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Examiner Tip

Planning and setting out paragraphs do matter and there is reward for these in the (c) sections and in the essays with A03 for communication.

All too often a candidate uses the source and own knowledge well then loses the support of the sources and takes a step back. By contrast this question does the opposite. Here the source and own knowledge is not well used but an improvement in performance comes with part (c)

(a) One committee operating in the House of Commons is the Backbench Business Committee, which was established with the ability to decide business in the Commons Chamber and in Westminster Hall.

Another committee operating in the House of Commons is the Home Affairs Committee which has focused on immigration, the performance of the Border agency and the relationships between police, media and a high profile criminal investigation recently.

A ~~The~~ third committee operating in the House of Commons would be the Sport, Media and Culture Committee which focuses on the funding, policy and administration of the policies above.

(b) The Commons committees could be argued effective in the way they are attracting attention ~~to~~ and arguably even exposing information to the public. The Home Affairs Committee has had considerable input

Affairs Committee has had considerable input in this as it has been part of televised sessions and issued hard hitting reports on key topics such as the performance of the border agency. This is particularly effective as it is holding public bodies to account while educating citizens.

Another way select committees could be deemed effective is how they are part of the legislative process. Both houses refer legislation to select committees for detailed discussion and approval. Meaning committees can use their expertise to make sure legislation is feasible.

Perhaps a component that undermines the committees is the time lag involved. Governments can ignore committees findings for up to two months meaning much information can be sidelined. This could

((b) continued) prove detrimental in arguing a committees effectiveness.

(c) Unlike many modern democracies there is a fusion of power between the legislative and executive rather than a separation of powers. This makes it more difficult for parliament to hold the government to account. Yet this doesn't mean there is no check and balance in place for the executive.

Perhaps one of the most abrupt and assertive ways a parliament can control the executive is its power to declare a vote of no confidence. If a parliament concludes that a government's work is simply inadequate then a vote of no confidence can be called and there is the possibility that the government will have to leave office and an election will be called. This happened in 1979 under James Callaghan's Labour which resulted in him being forced to leave the office. Perhaps an ~~ex~~ explanation to the rarity of a 'vote of no confidence' is that most governments hold a majority in Parliament. This limits the effectiveness of a VONC.

((c) continued) as it is unlikely that a VONC will succeed.

Another, arguably more common way Parliament can control the executive is by blocking legislation proposed by the government. While this ~~proposes~~ is still a victim of the government holding a majority in the Parliament, they are generally more successful as it is more probable that government MP's rebel. When successful this is an incredibly powerful check and balanced as it is preventing the government from passing through whatever it ~~can~~ wishes. A sensible example would be Parliament's veto of the government's proposal to freeze suspected terrorists bank accounts in 2011. A more recent example would be Parliament's blocking of the tax credits proposal earlier this year.

Perhaps the most public way a parliament is able to control the government is by putting the executive under constant scrutiny. While this is more of a theoretical measure ~~it is~~

((c) continued) As g. scrutiny doesn't physically hinder the government from doing anything, it is still vital in ~~abusing~~ preventing the executive from abusing its power. Other parties within Parliament will scrutinize every act the government do. A way in which they do this is by utilising Prime Minister's Question. Shadow Leader, Jeremy Corbyn was seen in April (exposing the PM for his supposed tax evasion. While this has little effect on government control, it is key in educating and informing the public on the government's ~~at~~ acts. This prevents governments from ~~doing what they~~ with over abusing as their power as they know critical comments from other politicians will effect their ~~reputo~~ public reputation. The Labour party's reputation is still reeling from their reputation of ruining the economy as the Conservatives are constantly ~~remind~~ reminding the public on Labour's Acts. This showcases how powerful public comments are.

To conclude, while it is fundamental to

((c) continued) acknowledge the way in which success parliament has in controlling the ~~ex~~ executive. One could argue that due to the constitutional manner of the UK, Parliament will never be able to provide a seriously powerful check and balance. In most governments, the threat of Parliamentary control is often extinguished by the fact that parliament the government holds a majority within parliament.



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Examiner Comments

(a) It may seem harsh, but the basic premise here is adhering to the question which asks for types of committees and we are only given one type here – in paragraph 1 – the next two paragraphs are descriptive and does not define the types.

(b) A mid level 2 response in AO1 – the AO2 is not strong.

(c) After limited performance in parts (a) and (b) there is a shift in performance here as the response makes valid and accurate points.



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Examiner Tip

Although the mark schemes do give this guidance – do remember that any further development of the source is treated as own knowledge to earn marks.

Question 2

Q2 (a) With reference to the source, outline three aspects of the Prime Minister's role in relation to ministers and their departments.

This was perhaps better answered than Q1(a) and it was relatively easy to gain three marks typically hiring, firing and overall organisation of the executive. A common error was to introduce aspects not mentioned in the Source. Another common error was to simply list three aspects, but to add no further detail, or to simply copy the source word for word. Better answers identified the PM's ability to appoint and dismiss ministers, to organise the cabinet committee system and the overall organisation of the executive. Those that developed at least two of these points, often through the use of examples most commonly the appointment and/or dismissal of Michael Gove tended to attain the highest marks.

Q2 (b) With reference to the source and your own knowledge, what impact has coalition government had on the office of the Prime Minister?

The coalition is recent in terms of PM power and scope and there is an abundance of contemporary material on the topic. Better candidates showed this quite well and were aware of its impact. This question was reasonably well answered. Most candidates were able to offer at least two ways in which the coalition affected the PM, and better answers identified three or four ways. Typically these concerned the following: the fact that the Deputy Prime Minister Nick Clegg appointed four members of the cabinet, effectively only Clegg could replace these ministers, on certain issues there was dispensation for ministers from collective cabinet responsibility, the need to consult and reach agreement amongst two sets of ministers and two sets of MPs within the House of Commons, the fact that the House of Lords did not need to abide by the Salisbury Convention and the introduction of fixed-term parliaments; but also the fact that the coalition gave Cameron a sizeable working majority, some degree of parliamentary consensus and the ability to push through centrist policies supported by the Liberal Democrats. Those accessing Level 3 marks were able to explain three or more of these impacts with considerable detail and relevant examples. Those earning fewer marks either offered less analysis and detailed knowledge or considered fewer differences. Some only used knowledge from the Source, or more rarely only their own knowledge.

Common errors included repeating the same point using different parts of the source, typically the appointment of Lib-Dems to the Cabinet which occurred in two or three paragraphs in some responses. Some candidates focussed their responses on the Government in general rather than the office of Prime Minister.

Q2 (c) To what extent is the Prime Minister free from effective political constraints?

This was a popular question, and many candidates were able to produce well-crafted essays that addressed the question to a high standard. It was more than a 'how strong is the PM' and to reach the top levels it was required to appreciate the political constraints around the office. Most candidates answered this well. They were able to evaluate the relative ability of Parliament, Cabinet, media, electorate, party, events and personality to place effective constraints on the PM. Many mentioned prerogative powers, the size of majorities, domination of the Cabinet, control of the largest party in the Commons and the weakness of an unelected Lords which thus lacks legitimacy and effective power, to indicate how powerful the PM can be under favourable circumstances. Equally, small majorities, coalition government, powerful figures in the Cabinet, a more assertive Lords, devolution, EU law, policy disasters, economic difficulties and a hostile media may all act as constraints on a PM. Some seemed determined to bring in aspects of how presidential PMs are into their answers.

Those offering the most in-depth analysis would typically access Level 3 marks. These answers tended to evaluate three or more key constraints on the PM, and the way in which these might alter under different circumstances. Those that excelled tended to be the ones who were able to adjust the PM/Presidentialism question that they had prepared to actually answer the question in front of them. Where candidates failed to do this and where they came up with a stock answer, typically on Presidentialism and spatial leadership their scores tended to remain in level 2. The most common error was the failure to address both sides of

the question – some candidates simply offered all the constraints or all the freedoms, thus restricting themselves to level 2. There was also a common misconception that Margaret Thatcher was removed by a vote of no confidence in Parliament.

Overall, this was a well answered question, and those achieving lower marks did so because they discussed only a small number of reforms, answered only one side of the question or failed to develop any analysis of the reforms that they identified.

This is a clear example, particularly in (b) where the source and own knowledge are well utilised.

Chosen question number: Question 1 Question 2

(a) One aspect of the Prime Minister's role (PM) in relation to ministers would be appointing and dismissing Cabinet ministers. As stated in the source the PM is "responsible for appointing ministers" and thereby selecting who is in his/her cabinet. Secondly the PM is responsible for "orchestrating the cabinet committee system" in which the majority of the legislation is created. The PM can therefore set the agenda of said committees and they are usually made up of ministers from the PM's own political party. Lastly the PM is expected to take the "lead on significant matters of state", having the responsibility of chief executive and setting policy for cabinet to discuss. This relates to the PM's power of "reshuffling" cabinet in order to better mold it's members to his own agenda.

(b) ~~With~~ The introduction of coalition government in May 2010 resulting in the PM ~~is~~ (David Cameron) sharing much of his responsibility with the Deputy Prime Minister (Nick Clegg). As stated in the source, the PM was "obliged to" discuss the reshuffle of cabinet with the Deputy Prime Minister and the selection of ministers. Thus we can see the power of the PM being shared with the Deputy Prime Minister as a result of the joint coalition agreement.

Furthermore the source states that there should be an "agreed balance between the two coalition partners", sharing their shared responsibility ~~also~~ and also referring to the fact that there had to be 5 Liberal Democrats within cabinet at all times. This was part of the coalition agreement and ~~limits~~ impacts the power of the PM in such a way that he cannot always have a unified cabinet and it is harder to maintain collective ministerial responsibility.

Lastly the source highlights the PM's power of patronage having a "new formal limitation" as of the coalition government. The PM's power of patronage is normally subject to "political constraints" however within the coalition government a "formal constraint" limits this power, ~~based on the costs~~ established through the coalition agreement. And thus the PM cannot avoid said limitations as they are

((b) continued) ~~formal~~ Thus the PM's power to appoint Ministers and set the Agenda for cabinet committees is limited by the presence of Liberal Democrats and also the approval or consent of Nick Clegg the deputy Prime Minister.

(PM)
(c) The prime minister has constraints imposed upon him by the constitution, House of Commons and many other sources, however he is not effectively free from these constraints.

Firstly the PM may not be free from political constraints because of the role of cabinet. Firstly the cabinet is bound by collective ministerial responsibility whereby the cabinet agrees to show a collective face on government policy and follow the party line despite their own private disagreements. Thus it could be argued that as long as a PM maintains collective ministerial responsibility within his cabinet he is free of their political constraints. However as coalition governments may appear with increasing ~~regularity~~ regularity in modern times (due to low voter turnout) the PM will be faced with a regularly divided cabinet that Cameron faced within his own coalition in 2010. Therefore the break of no collective ministerial responsibility is a strong constraint on the PM and PM's that have distanced themselves from cabinet have often faced u-times when cabinet has refused to show a collective face for their policy. This is illustrated best by Margaret Thatcher who lost the support of her cabinet after the introduction of her poll tax in 1989, resulting in the end of her time as prime Minister. Thus this information shows how the PM is politically constrained by cabinet whenever collective ministerial responsibility

(c) continued) is not maintained.

Leading on from the previous point, a PM may seek to further escape the political constraints of cabinet through a spatial style of leadership. This is when the PM chooses to distance themselves from cabinet in order to agree on policy with a few ~~trusted~~ ~~advisers~~ advisers. Once again this is only successful with cabinet approval and thus cabinet itself provides some constraint against this. Spatial leadership is perhaps best illustrated by PM's such as Tony Blair and Margaret Thatcher. Blair seek to escape policy decision in cabinet by keeping them loyal whilst opting for his own 'soft politics' approach. This involves bilateral meetings instead of full cabinet meetings and they involve just 1 or 2 ministers along with the PM himself. ~~With~~ With this technique a PM can sideline cabinet and pass more legislation quicker with the approval of a few ministers, as long as cabinet shows a collective face then the PM faces no political constraint. However this is once again limited by cabinet approval but as mentioned before a unified cabinet, which Blair and Thatcher experienced removes this constraint. Therefore the above shows how a PM faces no political constraints when expanding his power so long as cabinet is unified.

(c) continued) Another way in which the PM isn't free from political constraints is the size of their majority in parliament. For example in 2015 Cameron won the general election, freeing him from the restraint of a coalition government. However he only won by a small majority of 331 seats and thus is perhaps equally limited by this ^{small} ~~small~~ majority. The PM faces political constraints from a small majority because if there is dissent over policy and ministers close to resign then the majority is quickly lost, for example one of Cameron's recent cabinet members close to resign in 2016 over cuts to disability benefits, threatening Cameron's majority government. There is arguably no way of escaping this political restraint as the PM cannot ~~gain~~ gain more seats overnight and thus is limited by maintaining a fully unified government party who all back him.

Lastly the PM is permanently under the restraint of the backbenchers. Backbench rebellions have occurred many times in the past, for example the rebellion in 2014 over a proposed EU referendum severely limited Cameron and house of lords reform has ~~completed~~ completely stalled due to the backbench rebellion after Nick Clegg's proposed reforms. In 1999 after the proposal of all ~~hereditary~~ hereditary peers being removed, only 92 remain ~~by~~ but Nick Clegg faced equally opposition in 2010 with his proposed

((c) continued) refers to the second chamber. Furthermore the fact that Blair's time in office, ~~for~~ Gordon Brown's back bench support was a key constraint on him in 2005 and thus this shows the back benches being an unavoidable constraint on the prime minister.

Overall the PM is not free of effective political constraints because he must maintain collective ministerial responsibility within cabinet, keep his backbenchers happy and maintain a majority in parliament. The constraints on the PM depend upon many factors but a PM within a coalition government ~~may~~ ^{will} experience more constraints.



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- (a) This clearly covers three aspects of the Prime Ministers role in relation to ministers and their departments – although it does lift words from the source it uses own words to place them in context.
- (b) This quite succinctly makes detailed points and uses both information from the source and their own knowledge.
- (c) This is a detailed answer and worthy of level 3 for all AOs – it is reflective and shows clear analysis. There is a little repetition – but this does not detract from what is a good answer.



ResultsPlus Examiner Tip

Here examples of past Prime Ministers are crucial and the ability to see different aspects in various office holders is key to success.

- (a) One of the roles of the Prime Minister in relation to the rest of ministers in their department is the Prime Minister has the power of Patronage. The PM has the power of "appointing ministers" and "dismissing ministers" as it says in the source. Another role of the PM is he is the "chair of the cabinet". In this way he has the power to decide when and where cabinet meetings take place and ~~the~~ he also decides the agenda and sums up the mood of the meetings. A third role of the PM is he takes "lead on significant matters of state"; the PM is ~~of~~ higher technically first among equals in the cabinet however he is ~~of~~ in practice of higher status and the ultimate decision remains his. However as the source says there is "no constitutional definition of the British Prime Minister" and therefore his role in relation to ministers and their departments is largely open to ~~into~~ interpretation.

(b) According to the source coalition government has impacted the Prime Minister's powers of patronage. Coalition ~~has~~ ^{has} limited this prerogative power of the Prime Minister as new appointments and dismissals with the cabinet have to be approved ~~by the~~ ^{by} the Deputy Prime Minister. Furthermore they must operate in a 'one in, one out' basis to maintain the balance between the two parties within the cabinet.

Another way in which coalition government affected the office of the prime minister was that it made it more difficult for the Prime Minister to get the legislation he wanted to through parliament. This is because the PM ~~has~~ ^{with} a small majority, even with the help of their coalition partners. Also ~~the~~ ^{the} party coalition is created through two parties who inevitably will not agree on all issues. This makes back bench rebellions much more likely and therefore, ~~it~~ ^{the PM cannot take the support of his MPs for} it is more difficult for the pm to transform ^{and} his policy programme into legislation.

~~Coalition government~~ It was the lib-dem coalition of 2010 who introduced fixed term

(b) continued) parliaments, with an act in 2011. This has reduced the power of the prime minister because it has taken away some of the prerogative powers and the right to call an election in order to increase the majority in the house of commons.

But in addition to this when there is a coalition government much more debating must take place in order to establish a consensus. In theory this would weaken the power of the prime minister, however as was seen in the 2010 with the creation of the Quad, much of this debate took place in the executive, thus strengthening the PM's dominance.

(c) IS free

- doesn't have to listen to cabinet (illegitimate & not recommended)
- ~~select comm~~ Liaison Committee - mostly majority party

(no codified constitution)

- majority - can get stuff through parliament

Isn't free

- Cabinet can get PM out - Thatcher
- vote of no confidence - people.

In the UK there are a number of effective political constraints on the ~~PM~~ Prime Minister that aim to prevent him from dominating the political system and having too much power. Despite their weaknesses these constraints are effective and the PM is not free.

~~The Prime minister~~ ~~One of~~ The Prime Minister is ~~primarily~~, in most cases, the head of the majority party in the house of commons, and this position brings a number of benefits. ~~But~~ The existence of Parliament is supposed to act as a constraint on the PM, however in practice, it rarely does. This is because of the idea of an elective dictatorship, which is a term coined by

((c) continued) Lord Hailsham in the 1970s. ~~As the PM~~
~~is~~ Due to the convention of collective ministerial responsibility, ~~the~~ government ministers are required to support official government policy in the house of commons. In this way, if the government have a large majority they can almost guarantee the success of their bills in parliament as MPs have to vote in line with their parties, therefore the PM, who largely decides the governments policies is free from constraint. Having said this MPs do reserve the right to rebel against

their parties and this is especially important at the moment as Cameron only had a majority of 12 in the house of commons, and so rebellions will be damaging and will act as a constraint on Cameron's power. This has already been seen as Cameron has been defeated on his "English votes for English ~~laws~~ laws" bill.

Another way in which the PM is free from political constraints is his ability to control the cabinet. The Prime minister is supposedly first among equals in the cabinet however this is unrealistic and a more realistic idea is outlined in Crossman's theory of Prime Ministerial government that was developed in

((c) continued) the 1960s that said the Prime Minister, not the ~~executive~~ ^{Cabinet} dominates the executive. The Prime Minister has the power to set the times and agenda's of cabinet meetings and can sum up the mood of the meeting. This means that the PM effectively can ^{limit} ~~control~~ what cabinet's involvement, ~~addition~~ there is also no law that states that the PM must consult the cabinet before making policy decisions. Having said this failure to do so ~~could~~ would mean the decision lacked legitimacy and could face criticism, ~~for~~ ~~an~~ ~~example~~ of this

was when Tony Blair went to war with Iraq without formal approval from the Cabinet. In this way, if the PM wants to appear to be making legitimate democratic decisions he is constrained by the Cabinet.

Another The Cabinet also limits the freedom of the PM as they have the ability to overthrow them or force them to resign, this is what happened when Margaret Thatcher fell from power in the 1970s. In addition to this high profile cabinet resignations can be damaging to the PM and paint him in a negative light. This was experienced when Ian Duncan Smith resigned in October 2015,

((c) continued) because he could not support the proposed tax cuts, his resignation damaged the reputation of David Cameron.

The main reason why the PM is not free from political constraints is that the Prime Minister is ultimately removable. If the House of Commons loses faith in the government they can call a vote of no confidence, the result of which can be the resignation of the current government and an election being held. This happened although this is an unlikely and extreme measure it is one that can and has,

In the event of the resignation of James Callaghan, happen. Furthermore the public reserve the right to remove the Prime Minister and regularly do so by voting in opposition to them at the next general election.

There are a number of effective political constraints on the Prime Minister and they carry out their role effectively as the Prime Minister is not free from them. The PM does have significant power and in some cases, such as parliament and the cabinet, can be more powerful than the constraints placed upon him. However the fact that the PM is ultimately by both the

((c) continued) house of commons and the electorate means that the Prime Minister is not free from the effective political constraints placed on him.



ResultsPlus
Examiner Comments

- (a) Fully utilises the source to gain full marks.
- (b) Brings in relevant topics such as the quad and fully addresses the question. At level 3 for both AOs.
- (c) Packed with detail and well argued, showing balance and with the question fully focused throughout. There may be slight inconsistency but this still attains full marks



ResultsPlus
Examiner Tip

The candidate has shown a plan here - it does help in structure and is worth the investment of time. It does not have to be long to act as a guide

Question 3

Q3 'Arguments in favour of further constitutional reform are more convincing than those against.' Discuss.

This question was by far the most popular of the long essays with over 70% of candidates choosing to do it. With politics although it is important to have one foot in the past it is equally important to have the other in the present, in the here and now, and this was crucial here to securing a top level performance. How candidates approached the question varied considerably however but they generally came in four forms. The codified v uncoded approach. The arguments for reform (elective dictatorship, lack of rights protection, etc) v arguments against (tradition, flexibility, etc) approach. An examination of the reforms undertaken so far and the arguments for and against them needing to go further. Finally, a retrospective historical review of all the reforms of the last two decades, usually under Labour.

We saw a significant minority of responses which interpreted the question as requiring a run through of the arguments for and against codification. Some of these were done very well by clearly able candidates but while this approach was certainly valid, it was only one issue and responses that failed to move the discussion on to consider, for example, the need for further parliamentary reform, decentralisation and electoral reform, were unlikely to break out of low level 2. Another common approach was to treat the question as requiring an assessment of constitutional reforms to date. Again while much of this material was certainly valid, it needed to be made relevant to the question with clear evaluation of whether these reforms have proved sufficient or need further development to access level 3. Centres do need to advise candidates not to rehearse common questions to be churned out under exam conditions, but rather to practise decoding questions to ascertain their demands and to ensure that points made are explicitly linked back to the set question.

Solid to strong answers covered the standard reforms of recent years such as devolution, electoral reform, judicial reform and House of Lords and Commons reform. The best responses which clearly reached into level 3 here showed awareness of the current debate about constitutional reform with regard to a range of issues. Some candidates showed particularly good understanding of the consequences of the Scottish referendum, with 'devo max' and 'EVEL' receiving thorough analysis. Others were able to explore the case for a fully federal solution to the current issues raised by devolution. Likewise there were many good assessments of the case for further Lords reform, as well as coverage of the arguments for reforming the Westminster electoral system in the light of the result of the 2011 AV referendum and the 2015 general election result. Candidates could also have covered the need for further reform to the judicial system, to the protection of civil liberties and to the UK's relationship with both the European Union and the European Court of Human Rights – a minority of candidates continue to insist that the Human Rights Act is part of EU law. A small number of candidates continue to argue that senior judges are members of the House of Lords.

A pleasing number of candidates realised that the Conservative Party is not as averse to constitutional reform, as other candidates asserted, and were able to look at the case being made for a British Bill of Rights to replace the Human Rights Act, for reducing the number of MPs and even for explaining Zac Goldsmith's reservations about the terms for recall of MPs in the UK. While detailed knowledge of the current views of the main political parties was not a requirement to access level 3, when used well this could enhance the AO2 and AO3 aspects of an answer to this question and enable candidates to reach the top of that level. Very good answers successfully weighed up the relative merits of further reform to arrive at a clear answer to this question – an approach that should be encouraged.

→ The UK has an uncodified constitution. This means there is no single document or piece of legislation that defines the ~~responsibilities~~ responsibilities and limitations placed on government and Parliament.

Instead, the UK constitution is largely composed of Acts of Parliament, Conventions (and interpretations thereof), EU treaties, court judgements, particularly with regards to common law, and The Human Rights Act 1998, which enshrines the European Convention on Human Rights (ECHR) in British law.

Many argue for constitutional reform, on the basis that our uncodified constitution gives undue influence to the government of the day. While most countries have entrenched laws regarding matters such as human rights that are difficult, if not impossible, to repeal. In the UK,

any law made could be repealed - short of time itself, nothing could legally stop a government with a ~~s~~ large majority from repealing all laws or from introducing authoritarian ones. This level of power may threaten civil liberties and freedoms.

In practise, Parliament acts as a significant restraint on the power of the government's to ability to introduce harmful laws. Through a vote of no confidence it could disband Parliament, causing an election. It could also simply vote against such Bills. Furthermore, the 'Popular Sovereignty' of the people stops the government from reversing changes made by referendums or repealing the Human Rights Act, as any party that did would never be re-elected.

By ~~rep~~ codifying the constitution, Britain would be brought in line with other modern democracies, such as the USA, Germany, France and

Australia, which have codified constitutions. By failing to codify, the UK appears to be politically backward. Codification would therefore represent a step forward for modernisation.

Conservatives would argue that the current system has endured for centuries, and that since the Glorious Revolution of 1688, and for decades before that, there have been no major political struggles or violent revolutions. A system that ensures peace and continuity, and has done so since long before constitutions were introduced in many countries (USA-1767, France-1958, China-1949) must have merit. More simply - 'if it ain't broke - don't fix it!'

Political Participation has been falling in the UK over the past 20 years, and some blame the uncodified constitution. If people were able to see the constitution, they may be able to understand it - the current system of procedures, and traditions

and conventions is too arcane for the average voter to understand. This may in turn lead to ~~disillu~~ disillusionment and a less ~~repres~~ representative democracy.

The General Election turnout stands at slightly more than 85%. This is less than it once was, admittedly, and needs improvement, but does not indicate a crisis. Simply ~~the~~ writing a constitution will not repair disillusionment - instead, parties must ~~conv~~ educate voters and enhance their role, solving the problem far more simply and effectively.

While the ability of the current Parliament and Government to make laws with no regard for a fixed constitution may be seen as undemocratic and dangerous, it is a key component of effective government. A wide range of laws were quickly introduced to respond to the 9/11 terrorist attacks, while

in Europe and the USA the process was slower. Furthermore, our uncodified constitution can change with the times; it was simple to make voting equal for men and women - taking just one Act of Parliament in 1928. Devolution from 1997 to 2000 was also sped along. Outdated laws such as gun availability could be easily changed, while in the USA the 'right to bear arms' [4th amendment] is fixed, inhibiting the ability of the government to act.

Despite this, with devolution and EU laws effectively entrenched, our constitution has become partly codified without issue - done gradually. Full codification would be simple and harmless.

In conclusion, there should be no further reform, as the meagre potential benefits are outweighed by the costs and uncertainty that would come with change.



ResultsPlus

Examiner Comments

The problem with this response is that to an extent it answers a slightly different question and is constrained by a heavy focus on the codified vs. uncodified constitution debate. There are marks to be earned here but an exclusive focus on this has to serve to limit the reward. It tends to be a historic account of the constitution rather than focused on contemporary issues – again another restricting factor. Some candidates adopted this as a method of answering this essay – and this had a restricting impact.



ResultsPlus

Examiner Tip

Read and then re-read the question – it does matter in the essay and its worth half the marks of the entire examination paper.

Here we are in level 2 just falling short of level 3.

yes	No
<u>Plan:</u> Restoration of rights not finish	Devol-Decent. good
Democr. Hott not finish	Hott already 92 h. -1.p. good
Democr. elect. reform	
Dem./Rights HRA BBo/R EU stay	

The UK constitution is in a steady change with more and more additional Act to reform our constitution and to reform the branches like the legislature and its two chambers.

Some people would argue we need need further constitutional reform while other argue we don't.

The purpose of reforms are to democratise the country, so it could also be seen as a question if we need further reforms to democratise or if the UK is democratic enough.

One argument in favour of further reform is to make a reform on another electoral system. FPTP isn't very democratic because it doesn't reflect the political views and seats that parties won in the general election.

Another argument in favour of further reforms are that citizens rights aren't protected enough.

Therefore that parliament is sovereign and has the ultimate power over law making it can get easily rid of the Human Rights Act and other laws because due to the fact that the UK doesn't have a codified constitution it doesn't have entrenched higher laws, so parliament and government aren't limited or not limited enough.

An example for this is that in 2004 government introduced an Card Identity Act in which each citizen should have a identity card but this got blocked in the end. Or another case in which suspected terrorist got into Belmarsh prison without trial. This shows that the rights of citizen aren't protected enough, with the legal sovereignty of government and parliament.

Another

Another argument is that parliament has got too much power to do what it wants this shows the Card Identity Act again. So we need further reforms to controll parliament and government more to hold them more accountable.

At the moment are citizen limited in holding both into account because government isn't even elected so we can't have influence in their

work. Furthermore we can't hold single MPs accountable outside general elections. The reform of recall of MPs got blocked, which would have been a great way to hold MPs accountable before the next general election.

A further argument for more reforms is that some reforms aren't even finished yet. For example the House of Lords (HoL) reform isn't finished. The last reform on the HoL was in 1999 with appointing 92 hereditary peers and the rest life peers. This is arguable not very democratic to have one half of parliament not elected and therefore can't be held accountable.

On the other side is the UK already democratic and there have been reforms that improved it as well.

One argument against further constitutional reforms is that the way how we run parliament and government is democratic enough. With for example fixed term parliament Act which introduced ~~every~~ elections every 5 years we limited the time of each government and parliament and to them by the election held them accountable, which

could arguable be enough of holding them accountable.

Another argument is that we don't need further reforms because the UK is democratic enough in terms of rights of citizen. The UK law is based on the rule of law in which everyone is the same (also parliament and government) under the law. Citizens rights are established in the common law and the Human Rights Act and even if the UK leaves the European Union they would replace the HRA with a British Bill of Rights and some people would argue that to take rights of terrorists away is okay because they are terrorists and it wouldn't impact "normal" citizen.

A third argument against further reforms is that in terms of Parliament Act and the reform of the HoL to make them more democratic isn't necessary because the HoL is good how it is. To have appointed and not elected chamber may provides a better expertise and experienced chamber to get to a good conclusion in law making.

Furthermore if citizen would have to elect a

second chamber as well it might lead to voter apathy because of too many elections

So after looking at both sides I would argue that further reforms are a good idea because they improve our democracy and protect citizen rights more. Even despite the fact that the UK is already democratic and there have been reforms already to improve our democracy there are still ways to improve them more.



ResultsPlus
Examiner Comments

This fell short of level 3 for AO1 reaching the top of level 2. More depth and detail is required to advance here. It does adhere to the format of the question.



ResultsPlus
Examiner Tip

The candidate has done a plan – and invariably brief that these are it does give time to reflect and give scaffolding to the response.

Plan

FOR - Democratisation
Decentralisation
Rights

Constitutional reform is a topical debate within modern times. Reasons to reform include democratisation, decentralisation and entrenchment of rights. These arguments relate to aligning the UK constitution with other modern democracies. However, arguments against include the fact that reform has already occurred, the UK constitution is workable and sufficient measures are in place.

The UK constitution is uncodified, so, all rules, principles and practices aren't written in a single document. Therefore there are a number of sources both written and unwritten. Not only this, but the UK constitution is flexible and organic.

Firstly, the need for democratisation poses an argument to suggest that constitutional reform is needed. The House of Lords is undemocratic in the sense that it is unelected and therefore unaccountable for its workings. This includes the use of the Parliament Act 1945. The issue here is that such actions lack legitimacy, so, to make this element of Parliament more democratic there is the proposition to reform by making it elected. This would give greater legitimacy to their actions.

On the other hand, there is an argument against such reform. This relates to the fact that it would be too constraining upon the government. This relates to the reason for reform - in that it would act as another check and power balance upon the government. This could prevent elective dictatorship. However, the UK constitution has an attributable feature of strong and effective government and such a reform would undermine this. Not only this but there is dispute over which electoral system would be used. Ultimately,

There would be the loss of the functional representation by way of business men and Theocrists who are peers. So, it can be seen that to reform the HoFL is unfavourable so there is a stronger argument against such a reform.

~~Now~~ secondly, there is the argument for constitutional reform to decentralise the power of government. In the UK the constitution is unitary in the sense that power and sovereignty resides in a central location - Westminster. The issues with this is elective dictatorship. So, a constitutional reform would be to introduce a codified constitution to create a federal system. This would mean sovereignty would be dispersed between central and regional bodies in a symmetrical fashion. This would decentralise sovereignty.

To counter this argument there is the fact that constitutional reform ~~was~~ has already taken place through devolution. This ~~was~~ dispersed power to Northern Ireland, Scotland and Wales in the 1997

and AFS referendums. Such power is asymmetrical in the sense that Scotland has the greatest powers eg tax varying, followed by Northern Ireland and then Wales. This shows that power is decentralised. However, arguments against this kind of devolution and therefore, for reform is that the devolved power can be returned by the government for it isn't entrenched and Parliament is sovereign. So, through this it can be seen that reform is favourable in order to entrench the decentralisation of power.

Thirdly, there is the argument for constitutional reform is obtain a better protection of rights. At the current state, the human rights act is not entrenched and despite being binding on all bodies, it can be ignored or worked around. For instance, the judiciary stated a state of 'incompatibility' when the government were retaining DNA in 2004. So, it can be seen that because rights aren't entrenched, people aren't adequately protected so entrenchment via constitutional reform eg codification

of the British Bill of Rights as proposed by the Conservatives would better protect people.

On the other hand, it can be seen that such reform is unnecessary for rights are sufficiently upheld. This relates to the fact that constitutional reform, by way of removing fusion of powers to create an independent Supreme Court in 2009, has allowed for a greater rights protection. For instance judicial review has increased by 70%. However, the judgements can be overturned by Parliament for it is sovereign. Therefore, this poses a stronger case for constitutional reform to entrench people's rights.

Finally, constitutional reform eg by codification ~~would~~ would align the UK with other modern democracies such as the USA. This would give greater clarity to the arguably vague UK constitution. Not only this but through proposed further devolution and elected mayors as seen with the Conservatives there is the appetite for constitutional reform. However, counter to this comes the

IGSS of the flexible UK constitution and strong government.

In conclusion, it can be seen that there is a greater case in favour of constitutional reform. This would be to complete already imposed reform and to enhance the democratic element of the UK constitution, to align with other democracies and to decentralise power.



ResultsPlus
Examiner Comments

This is a clear example of a level 3 response for all the AOs. It covers a range of topics with reference to the UK's constitution and draws out good analysis (AO2). There is a range of relevant information and accompanying analysis, it is well constructed and readily deserves Level 3 for AO3.



ResultsPlus
Examiner Tip

This essay shows several positive traits

1. It is planned and sequenced.
2. It adheres to the question throughout – no deviation.
3. It is up to date with recent references.

Question 4

Q4 To what extent are judges better guardians of rights and civil liberties than Parliament or the executive?

Examiners commented that this question was by far the least popular of the two Section B questions, attracting approximately 27% of the candidates. Nevertheless this is a slight improvement on the 20% who tackled the Judiciary stimulus question last year. Examiners remain surprised that the question remains so unpopular with both centres and candidates, it is clear that some centres seem to omit the topic completely or deal with it in a cursory manner towards the end of the course. Examiners believe that the topic is relatively straightforward, extremely topical and deals with the sorts of issues regarding rights and liberties that might appeal to candidates. Similar questions have been asked on previous exam papers.

Judges and politicians represent different and distinct pillars of the Constitution, and some differences of approach to civil liberties could thus be expected. However, they operate within the framework of an essentially liberal democratic constitution and could thus both be expected to uphold civil liberties.

The question was not all about judges and there had to be an appreciation of the part played either by the executive and/or Parliament though not necessarily in equal measure. Once this was appreciated more marks became available as level 3 opened up. The overall level of performance was rather disappointing and there were comparatively few essays of level 3 quality. The most commonly discussed areas relating to civil liberties with regard to the judiciary were the issues of judicial review, sentencing, rule of law, the Human Rights Act, judicial activism, judicial independence, judicial neutrality, EU law and parliamentary sovereignty.

The most able candidates were able to explain, using appropriate examples, how these issues led to both judges being able to uphold civil liberties, but also the limitations they experience within the present constitutional framework.

The Human Rights Act was commonly discussed. It has given judges increased scope to uphold civil liberties, whilst stopping short of giving them powers to strike down legislation as unconstitutional.

Many candidates identified rulings produced by judges using the HRA. These included, the long-delayed deportation of Abu Qatada, giving prisoners the right to vote, the right to privacy, the release of the Belmarsh detainees and a number of other controversial rulings usually related to prisoners and suspected terrorists. These were often explained at great length, though not always accurately.

Very good responses also discussed increasing judicial activism, the growing tendency of senior judges to speak out about legal issues and oppose ministers since the adoption of the Constitutional Reform Act, and the continuing issue of the status of EU law in the UK as a higher level of law. Judicial neutrality or the lack of it (Griffiths) was commonly discussed. Good candidates applied what they knew about parliamentary sovereignty and the role of the judiciary to the question.

However, many answers failed to move beyond the judiciary, treating this as a simple 'how effectively do judges uphold civil liberties' question. To access Level 3 marks, candidates also needed to assess the effectiveness of politicians in upholding civil liberties. A minority of candidates were able to do this and there were some very good quality responses ranging well into level 3. Of these, passing civil liberties legislation, such as the HRA or Freedom of Information Act, was commonly cited. Better answers also identified that MPs can deliver redress of grievance for their constituents, and scrutinise the executive to make sure they are upholding civil liberties. In addition, politicians need votes, and supporting civil liberties issues can increase their popularity. Some MPs are known for their ideological commitment to a civil liberties agenda. On the other hand, the executive is considered to be overly powerful, often prioritises security and law and order over civil liberties, whilst politicians

may gain votes from denying civil liberties to unpopular and marginalised minorities e.g. prisoners, asylum seekers, illegal immigrants etc.

Unfortunately, many answers failed to assess the effectiveness of politicians and gained fewer marks as a result. Equally, a number of answers simply listed a number of high profile civil liberties cases, especially Abu Qatada, but failed to identify exactly how these related to the question; offering little analysis as to effectiveness or which aspect of judicial activity they related to. A number of answers addressed the legitimate issue of politicians being elected but judges being unelected, but tended to concentrate on the issue of legitimacy, rather than accountability, which would be more relevant in addressing whether this makes one or the other better guardians of rights.

Equally, many candidates simply failed to address the protection of rights as the heart of the question.

Some candidates seemed to have no understanding of the role of the judiciary and produced extremely poor answers. A small number believed that the judiciary's main function is to scrutinise legislation, and a number believed that senior judges still sit in the House of Lords.

Again we have three essays to look at here all rising in ability and marks.

Judges - independent, not bias

- European Convention of Human Rights - ^{privacy} Mosley
- uphold the rule of law

Parliament and executive - make the laws

- judiciary cannot overturn laws

In the UK, the judiciary is an independent body separate from the executive and Parliament. This can give judges the role of better guardians of rights and civil liberties than Parliament or the executive. Parliament and the executive are both heavily political ~~an~~ which may cause bias towards certain members of society or situations.

The judiciary consists of judges who are separated from Parliament and the executive and are politically neutral. This can support the idea that judges are better guardians of rights and civil liberties as they cannot be bias towards ~~part~~ anyone and must treat everyone equally. For example, the ~~govt~~ judiciary ruled

that the government could not suspend the bank assets of suspected terrorists as this was against the European Convention on Human Rights.

Furthermore, judges are responsible for upholding and ensuring the European Convention on Human Rights is adhered to. Judges can perform this role without bias or influence from other sources, which Parliament or the executive would not. For example, one human right is the right to privacy which Mosley, a former one-time executive, was deprived of when a media source revealed false details of a party he attended.

However, Parliament and the executive have the power to make and overturn laws which judges do not. Judges simply must interpret the law and cannot change or dispose of laws. This may give Parliament and the executive more power to uphold rights and civil liberties as they may change them if necessary. However, this can cause problems within Parliament and the executive, and may cause bias to come about.

Judges are also responsible for upholding the rule of law, which requires everyone is treated equally under the law. If Parliament and the executive were responsible for this, political bias may play a part in deciding the overall decisions. Judges can uphold this role effectively as they are not exposed to outside influences.

In conclusion, it is clear to see that judges are better guardians of rights and civil liberties than Parliament or the executive. Judges are physically separate from Parliament and government and are politically neutral. Judges can make informed decisions and protect people's rights and civil liberties without outside influence or bias.



ResultsPlus
Examiner Comments

This is a brief but nonetheless a concise answer – it does have a clear focus on the question and its short span does meet some key aspects. However its brevity and lack of further detail has to act and give some limitations. Slightly higher reward in AO2 level than for AO1 by level.



ResultsPlus
Examiner Tip

As stated before there is no precise length we require in an essay – but we consider the question and what key points could be covered in the time available – and we have on this paper a mark per minute.

Judges have now become separate within the Parliament. After the reform of the House of Lords it meant that all but 92 hereditary had the right to vote and they have become more ~~to~~ independent, neutral and therefore fairer within the political system. This means that they have a wider range of knowledge and work in their own specific field rather than have more influence from other government bodies. Through sub judice, security of tenure, neutrality and independence, they are seen to be more able to protect civil liberties and rights.

Judges have become separate in many ways to make themselves have judicial independence and step away from the influence of other government bodies. The House of Lords reform meant that as the House of Lords used to be the highest court of appeals, they were allowed to make decisions about the Court of Law. To some this may have seemed unfair because they were already within the government and their work may have ~~unfairly~~ influenced some decisions made. therefore

A new supreme court was created, separate from the House of Lords and made up of senior judges who had expertise in particular fields of the court of law. This meant that the Lord Chancellor, who was seen before as the head of the House of Lords and the one who made all the decisions was replaced by a new appeals commission who was now head of the supreme court. This change meant the judges could now be independent from the government and unbiased so their decisions were fairer.

As Parliament and the executive are all part of the government, their decisions can be based on the work they have done in making it unbiased and they are therefore not protect civil liberties and rights of citizens. They are not independent so have influence on government bodies. The executive can change decisions made by judges because his power overrules their power.

Moreover, judges have judicial neutrality which means that they cannot be biased about a situation and must see both sides to it. This therefore suggests that decisions

made ~~in~~ in the courts are fair and the right punishments are given to the perpetrator. Moreover judicial neutrality ensures that people are given a fair trial and the right decisions are made. For example, the 2004 Belmarsh Case saw 9 terrorist suspects detained without trial for over the limited time they would have been held for. ^{This was due to judicial review} This meant that they had to be ~~read~~ released because it was against their rights. ~~One~~ This shows how the judges were protecting them and being fair to them.

However Parliament and the executive ~~are~~ are not as neutral as judges. This is because when they realised they had been detaining the terrorism suspects longer than they had the right to, ~~they tried~~ in 2005 Tony Blair tried to make the law ~~into~~ in detaining terrorism suspects for up to 90 days. This shows how they tried to change a law even ~~one~~ after they realised they were in the wrong. ~~The~~ Parliament and the executive try to manipulate the system, however the law didn't get passed, which suggests how they will try anything to make themselves seem like they're in the right ~~and~~ although it is not neutral and a fair situation.

On the other hand, a way not ~~that~~ that judges are [^]better guardians of rights

and civil liberties in through the fact that they are unelected. ~~Most judges are~~ All judges are unelected and are appointed to their position.

~~Most of them are hereditary~~ This means that they are undemocratic and have less legitimacy than the executive and Parliament. This is because as some of these judges came from the House of Lords although they are a separate legal entity, they ~~have~~ haven't been elected by the public unlike Parliament and the executive. These judges also come from the same background, white, majority of them male, middle aged and Oxbridge educated. ~~It~~ This therefore may make them seem biased with only one ~~option~~ as opinion as they are all the same and educated in the same way. Therefore, they will be seen as unreliable and unfair because of this. ~~It~~ Moreover, it means that they are unlikely to be neutral or independent because they may ~~get~~ get influence from ~~the~~ their peers. ~~They~~ There should be an ethnic majority in the Supreme Court of mixed backgrounds and equal genders.

The executive and Parliament as elected parts of the government are therefore seen as democratic and legitimate because they have been voted by the public. The ~~the~~ public ~~the~~ are the ones who

decided who should be the MP and who should be the Prime Minister & so they should therefore be able to have ~~an elected~~ elected judges to determine sentencing and trials. This makes it fairer to the public and they can be protected more because the elected chamber know what the public want and will do the best they can to represent them in court and make their trial as fair as possible. ~~the~~ This also means that as ~~the result~~ ~~for~~ there is parliamentary sovereignty, Parliament can overrule judges if they do think that they are being biased, ~~therefor~~ or unfair, therefore not all control is lost.

Finally, Parliament and the executive may be better guardians of rights and civil liberties because ~~Parliament~~ they are the ones who legislate the laws and rights for the public. In this way, it means that they can interpret laws in a way that suits a suspect and this therefore protects them from having too much of a rough punishment. As the UK has an unwritten constitution, laws are not entrenched and are ~~not written~~ from multiple sources such as parliamentary orders, Common Law, tradition and conventions. This means

next Parliament can find other means to making laws as fair and unbiased as possible. Also, as the ~~to~~ executive and Parliament are the ones who make the laws, if they understand and have more knowledge on how the law should be placed or ~~a~~ interpreted if needs be, depending in the type of case that they are dealing with. In this way they can better protect citizens civil liberties and rights.

On the other hand judges ~~are~~ only interpret laws and don't ~~make~~ make them which means they may interpret it in the ~~the~~ wrong way and in his case suspects can call for a ~~proceed~~ ~~in~~ review which senior members of courts deal with and parliament deal with to determine a case. This shows how ~~a~~ judges may seem unbiased and may not have enough knowledge on how a ~~case~~ law should be used or interpreted if a judicial review is called for. Therefore, the executive and Parliament should ~~it~~ just handle it all.

To conclude, I believe that judges are better guardians of civil liberties and rights because they ~~have~~ are independent from parliament and government.

meaning that they are their ~~own~~ own legal entity. They have judicial neutrality, meaning they are unbiased and this also includes having sub judge and security of tenure. As a separate part of the government, they are not influenced by ~~government~~ other government bodies and they are therefore better at protecting citizens in the court of law.



ResultsPlus

Examiner Comments

Here there is a range of points for AO1 – and all are relevant, however the essay is not developed to the same extent at AO2 and AO3 – the points which are raised are not coherently brought together (AO3) and analysed in depth (AO2).



ResultsPlus

Examiner Tip

The quality of the content is far more important than the extent of it. We have a lot written here – but it lacks focus to move into the top level.

Saving the best until last – this is a really good response to this essay question.

Judges are, to a large extent, better protectors of individual liberties and rights as they are expected to be neutral and independent, with such independence having increased ~~more~~ in recent years through constitutional reform. Notably the creation of a new supreme court in 2009. However, it could be argued that there is a danger of peoples rights / civil liberties being compromised due to the fact that ultimately Parliament is sovereign, and these guarantees can be set aside at any point without judges authority as they are not democratically legitimate.

Judges are better at protecting civil rights through the fact that they are independent and neutral, meaning that they should be free from political influence and bias. This is the most important

when protecting rights, as regardless of the government of the day's wishes to maintain security etc. the judiciary will always place the civil liberties of individuals higher than the desires of an essentially temporary government. Principles such as security of tenure, ~~so~~ sub-judice and the fact that judges salaries are free from ~~interference~~ executive control have ensured that the executive yields no power over judges, and cannot pressure them into making rulings to side with their wishes. Consequently, the judges are able to carry out their main functions of dispensing justice and interpreting laws to protect minorities and individuals ~~rather~~ as oppose to succumbing to executive power and demands of the army. This was exemplified through the Benmarsh case of 2004, where the court ruled it ~~was~~ to be unlawful to detain terrorist suspects without trial. This example

proves that Parliament may implement laws and measures of the day in order to protect national security, which set aside rights + liberties thus this proves that a government is able to use its power to in fact suppress rights ~~rights~~ in certain circumstances - especially more in recent years due to the increasing terror threat - as oppose to protecting them.



Additionally, the Human Rights Act which became enshrined into law in 2000 has fuelled judges with the ammunition they need to challenge executive power. Through the use of judicial review the Human Rights Act is used extensively by the judiciary against Parliament ~~and the~~ and the ~~the~~ executive to highlight when they have compromised peoples rights. For example, the mental health Act of 2002 was

needed by judges to contravene with the Human Rights Act, as ~~government~~ individuals should not have to themselves prove that they are mentally fit. Instead, the government amended the policy so that the government institutions themselves had to prove the mental instability of the patient. The Human Rights Act, therefore, means that the judiciary has a set of codified principles in which it effectively ~~to~~ utilizes in judicial reviews to fall on side of minorities.

However, it may be argued that Parliament is an effective protector of individuals rights and liberties, as the government has to make itself constantly accountable to Parliament through select committees, debates and questions to ministers. This means that legislation must be justified by the government

constantly, with Parliament highlighting issues regarding civil rights / liberties whilst representing various groups. Parliament also remains ultimately sovereign, meaning that it can use its reserve powers to ~~to~~ veto legislation if, for example, it disagrees with liberties. This was exemplified in 2005 when the commons vetoed legislation attempting to hold prisoners for 90 days without trial, as this would have contravened with the rule of law and the rights to a fair trial.

The use of Parliamentary debates are important in protecting civil liberties as key issues are brought to the executive's attention, which are then able to be amended in the commons. Parliamentary debates and the use of select committees ensure that legislation is

properly scrutinised before it is approved. This is essential in ~~ensuring~~ ensuring that various groups and interests have been voiced, and that the executive can take this into account when formulating policy.

~~The Parliament is also an effective check on govt power through the House of Lords, who are also~~

Additionally, judges are not that of an effective check on government power as they cannot ~~be seen~~ and protector of civil liberties as they cannot be said to be wholly independent and neutral. Within the Supreme court, 11 out of the 12 members are Oxbridge education, they are all white and there is only one woman. therefore, it is hard to imagine that the Supreme court is

completely neutral as there is a lack of social representation and diversity - and thus the idea that they will favour middle-class conservative groups rather than act on a completely neutral basis. This was strongly exemplified back in the 1990's when ~~the~~ a number of cases came about on behalf of the central government as opposed to trade unions. This highlights the conservative ideology that affects their judgements, meaning they cannot rule neutrally in the protection of rights.

consequently, the judges are to some extent a more effective guardian of civil liberties as they remain independent, ~~and~~ ^{ensured} by the ~~and~~ ^{by the} creating of an independent appointments committee in 2005 ensured they judges are not subject

to political patronage and so are ready to desert when people's rights are being constrained. However, Parliament also fulfils the role of guardian ~~to~~ effectively, as it remains sovereign, and ultimately has the political authority to decide whether a policy is unjust, and amend it. Additionally, the judiciary is not able to set aside laws - only express opinions, therefore they are at will of Parliament. The two chambers of the ~~lower~~ Parliament have the power to scrutinise legislation to ensure it protects ~~for~~ various groups and rights - a role carried out effectively. Thus it can be said they are both important and effective in protecting rights.



ResultsPlus
Examiner Comments

This is a wide ranging essay and covers a broad range of topics, linked clearly to the question.

It brings in examples and uses them in a very effective manner.

The level of communication (AO3) is impressive.

We could ask for little more than this from the notional 16-17 year old in the time allocation given.



ResultsPlus
Examiner Tip

This is good but by no means perfect and we could add more - getting maximum marks is not impossible or unobtainable and with work and application it is within reach of many candidates.

Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- Examiners pointed out that the old adage of read and then re-read the question was never more appropriate than on 6GP02 this year. Many candidates, even otherwise strong candidates penalised themselves by not answering the question as set, misinterpreting the question, interpreting the question too narrowly or restricting themselves to one side of a debate. There were numerous examples to illustrate this.
- On Q1(a) candidates frequently failed to identify *types* of committee yet provided ample illustration of examples of such committees and unfortunately often received zero reward. On Q1(c) a number of candidates included committees in their response though the question specifically excluded them. On Q2(c) the most common error was to deal with only one side of the question on the PM whereas on Q3 a considerable number of candidates interpreted this as an essay on the arguments for and against codification, too narrow an interpretation. Finally on Q4 many candidates interpreted the essay solely on the role of judges and did not include reference to Parliament and /or the executive as required by the question. It is frustrating for examiners to see these sort of mistakes which have a considerable impact on the marks awarded.
- The message to Centres is clear; please stress the importance of reading the question thoroughly and answering the precise question that has been set.
- Examiners were again a little disappointed in the level of response of some candidates to the two part (b) sections in Q1 and Q2. Many candidates tended here to be very 'source reliant' failing to advance and develop their own knowledge as required by the question. Candidates need to be aware that each question requires information from the source and their own knowledge. Candidates frequently do not quote information which is clearly in the source nor do they develop points from their own knowledge or develop the points made in the source as own knowledge and therefore move into Level 3. This is a point that has been made before but it does bear repetition with many candidates limiting themselves to level 2.
- The question on the Judiciary, here Q3, again continues to be of concern. This year it was linked to the extent to which judges are better guardians of rights and civil liberties than Parliament and /or the executive. Although there has been a small increase in the take up of this question from 20% to 27% it is still the province of the few. There continue to be more very good/ excellent answers but the general message from examiners is that questions on the judiciary and civil liberties tend to produce a binary outcome, the very good and the very poor. We are now beginning to see more of a gradient in the responses but the overall picture remains the same in that there were a large number of poor responses, many failing to rise above Level 1 or low Level 2. Many answers were brief and some candidates seemed to have little understanding of and were extremely confused about the role of the judiciary. Examiners believe that the role and increased importance of the Judiciary and the issues of the protection of rights and liberties are of fundamental importance in the UK political system, it is a regular topic which is asked each year and it deals with the sorts of issues that should be of relevance and concern to candidates. It is clear that a number of centres either fail to prepare for this section of the syllabus or deal with it in a compressed manner towards the end of the course. There is a clear message here to centres that should be taken on board when considering the preparation of candidates for this section of the syllabus in terms of the allocation of time and resources.
- Examiners commented on an increased use of relevant examples this year but it remains a critical area for development for all candidates and all centres. Higher level responses invariably use more up to date and informed examples which clearly lift the overall mark and grade in all questions.

- Examiners commented that candidates seem to perform better when there is clear evidence that essays have been planned. The better responses invariably do commence with a plan and examiners believe that a few minutes thought prior to the essay to marshal ideas together is one of the keys to success. This, they feel could well impact positively on the issue raised in the first bullet point concerning answering the question as set.

Grade Boundaries

Grade boundaries for this, and all other papers, can be found on the website on this link:

<http://www.edexcel.com/iwantto/Pages/grade-boundaries.aspx>

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