

A LEVEL 9084

LAW

The English Legal System

TOPICAL PAPER 1

WITH MARK SCHEME & EXAMINER REPORT

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FOR CAMBRIDGE 2021 and onwards EXAMS

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Legal Advisor



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TOPIC 1: COMMON LAW AND EQUITY

9084/11/June/2011

Q6. 'Equity has little relevance to modern law.' Consider the extent to which you would agree with this statement.

Mark Scheme

Weakest candidates will do no more than consider the historical material, concentrating on the 'Chancellor's foot' and the initial creation of Equity. Candidates should then go on to discuss intelligently the range of remedies which improved the position of litigants at the time, e.g. mortgages, trusts, the deserted wife's equity. An answer should not reach the top bands without discussion of the remedies which grew up in the 20th century, such as the Anton Piller Orders, Mareva injunctions and their successors, along with equitable estoppel. Illustration from case law is also necessary for answers to enter the top two bands.

Examiner's Report

This question concerned the modern use of Equity. A common issue with Equity questions is that there is an over-reliance on historical detail without really linking to the issues within the question. Many candidates overlooked the reference to modern law in the question and focussed almost entirely on historical development. To access the higher mark bands, candidates needed to explain the remedies in more detail and explain the concepts with full definitions and illustrative case law.

9084/12/June/2011

Q6. In 1990, Lady Carbury purchases a painting from the art dealers Melmotte & Co., which they assure her is the work of the celebrated artist Ghiselli. In 2009 she takes the painting to the television programme 'The Fine Art Roadshow', where an expert advises her that her picture is a worthless fake. She now wishes to recover from Melmotte & Co. the £20 000 she paid for the painting. Discuss briefly whether equity will assist her. To what extent has equity generally assisted those seeking remedies in the civil courts? [25]

Mark Scheme

Candidates need to know something about Leaf v International Galleries and the maxim that 'delay defeats equity', so that they can offer some kind of guidance to both Lady Carbury and to the art dealers. They should then, with the assistance of guided cases, go on to consider how and why equity arose and the development of both remedies and maxims in situations where the law had previously failed to give relief. A wide range of relevant discussion will be rewarded by marks in the higher bands. However, answers which deal exclusively with historical development may achieve no more than 13 marks. Band 5 marks may not be awarded without reference to the scenario.

Examiner's Report

This question concerned Equity. A common issue with Equity questions is that there is an over-reliance on historical detail without really linking to the issues within the question. In some answers the scenario was completely overlooked, while in others the relevance to the question of Leaf and the appropriate maxim needed to be highlighted. Those who did address the scenario often 'read into' the question issues which were simply not there (fraudulent action by Melmotte for example), which complicated matters unnecessarily. To access the higher mark bands, candidates needed to explain the remedies in more detail and explain the concepts with full definitions and illustrative case law.

9084/11/November/2011

Q2. Equity has always adapted to the needs of those seeking assistance from the courts, for whom the common law has not always provided appropriate remedies.’ Referring to decided cases, consider the extent to which you would agree with this statement.

Mark Scheme

An historical account of the development of equity is needed, considering the deficiencies in the common law and the way in which equity countered these. Some general understanding of the fact that equity came to assist those traditionally at a disadvantage is needed, e.g. mortgagees, beneficiaries of a trust. Examples, using decided cases, should be given of the principal remedies, such as injunction and rescission, and of the development of a moral framework to the law by way of the application of equitable maxims. Full credit should be given for more ‘recent’ developments such as estoppel, the deserted wife’s equity, the Mareva injunction and the Anton Piller Order.

Examiner’s Report

This question focused on the rules of equity. It is always a popular question and, as always, the candidates had no difficulty in discussing the historical background to the question, which in this case was an integral part of the answer. In this cohort of answers far too few of the candidates referred to the new rights introduced through equity and there were few detailed answers on the modern developments through equity. Although the question specifically required reference to recent case law, a number of candidates did not refer to any cases or confined themselves to one or two cases only, such as D.C. Builders v Rees. On the whole, though, this question was answered well and the most competent candidates were able to relate the way equity has adapted to the needs of those seeking assistance from the courts and reference was made to their modern usages with some useful supporting cases, particularly on remedies.

9084/11/November/2011

Q5. Mrs Norris agrees to pay £5000 for the landscaping of her garden. Rushworth completes the work satisfactorily. Aware that Rushworth has gambling debts and is in urgent need of money, Mrs Norris tells him ‘You can have £4000 immediately – but not a penny more! Ever!’ Would equity assist either party in this situation? To what extent have equitable remedies and maxims promoted fairness in the law? [25]

Mark Scheme

Mrs Norris has obviously read the case of D & C Builders v Rees and candidates should compare the two cases in the light of the maxim that ‘he who comes to equity must come with clean hands’.

A conclusion is not difficult and should be given before the candidate embarks on the second part of the question. This requires a basic understanding of how equity arose and, using examples, of the ways in which a range of remedies and other maxims have clearly helped litigants to achieve justice.

To reach BAND 5, candidates need to mention both remedies and also maxims.

MAX 13 marks: for purely historical approach.

MAX 19 marks: for general answer on equity, correct maxims, correct remedies but not related to the question.

Examiner’s Report

There were a large number of good responses to this question. Candidates were expected to focus on a scenario involving Mrs Norris and Rushworth, who had agreed to landscape her garden for the sum of £5000. The scenario then developed, showing that Mrs Norris reneged on her promise and offered him only £4000 for the work done. Candidates were expected to use the scenario and to show how equity would assist either party in this situation and also to explain how equitable remedies and maxims would promote fairness in the law. This question concerned the role of equity, in particular whether it has made the law fairer. Candidates frequently ignored the scenario and concentrated on a general discussion of equity. As in previous years, there was a heavy emphasis on the historical development of equity, in particular the use of the writ system, the variance of the



remedies granted, and the variety of approaches according to who was the Lord Chancellor. Candidates needed then to look at the position today and to consider if equitable remedies and maxims have made the law fairer. Many candidates mentioned the rights granted by equity, such as trusts and mortgages, which were not part of the question and were often included at the expense of the remedies and maxims of equity which should have been included. On the whole, the maxims were largely well known and many answers were supported by a good range of case law and applied those maxims which were of particular relevance to this question, such as 'he who comes to equity must come with clean hands'. Some candidates would have benefited from reading the question set more carefully.

9084/11/June/2012

Q5. Explore critically some of the ways in which equity ensures that fairness is a fundamental principle of English law.

Mark Scheme

The focus of this question is the reasons for the growth of equity and its impact on fairness in the legal system. There needs to be some historical discussion of the shortcomings of the common law system which preceded equity, in particular the contribution of equity to conscience and fairness. Clearly, candidates must discuss the remedies which came about in an effort to promote justice from case to case. No answer will be complete without consideration of the equitable maxims, whose moral basis is clear. Relevant cases should be considered and students may wish to consider equitable concepts such as estoppel, trust and the mortgage which also reflect ideas of fairness. Very general answers, or answers which fail to both use and explain relevant citation will not reach the higher mark bands.

Examiner’s Report

This question concerned the fairness of Equity. Many candidates were over reliant on historical detail and the creation of customary law, which was not able to be well rewarded. Where this historical information was used to illustrate unfairness or injustice with the common law system candidates fared better. Some accounts were wide ranging and detailed covering remedies, maxims and concept with ease and excellent citation. However, the weaker candidate would often leave key terms (estoppel, trust, specific performance etc.) not defined and unexplained. Answers which failed to define or illustrate with explained case law were not rewarded well. To access the higher mark bands, candidates needed to explain the remedies in more detail and explain the concepts with full definitions and illustrative case law.

9084/12/June/2012

Q1. ‘Equity has its roots in morality.’ Discuss. [25]

Mark Scheme

Candidates should discuss the growth of equity and its impact on the legal system. There needs to be some historical discussion of the shortcomings of the common law system which preceded equity, in particular its roots in conscience and fairness. Candidates must discuss the remedies which came about in an effort to promote justice from case to case. No answer will be complete without consideration of the equitable maxims, whose moral basis is clear. Relevant cases should be considered. Very general answers will not reach the higher mark bands. Candidates who present a purely historical account with no reference to the question will gain no more than 13 marks. Conversely, those who focus purely on a discussion of morality will be unlikely to gain more than 14 marks. If a candidate presents a purely factual account of Equity and its maxims/remedies with no reference to the analytical aspects of the question they will be unable to access the top band of marks.

Examiner’s Report

This question concerned equity and morality. This was a very popular question – indeed it was answered by the vast majority of candidates. Many were very good indeed, mixing the historical



background with the more modern aspects of equity. Some weaker candidates wrote all they knew about equity and threw in a few comments about morality at the end, which inevitably meant that they were awarded fewer marks. Generally candidates were able to show good knowledge of history, maxims, remedies and one or two cases but better candidates provided a much wider range of examples drawing from maxims, remedies and concepts such as trusts and estoppel. There continues to be far too great an emphasis on the historical origins of equity but candidates generally related well to the issue of morality.

9084/13/June/2012

Q1. 'It is no longer accurate to say that equity varies according to the length of the Chancellor's foot.' With reference to decided cases, consider critically the role of equity in modern law.

Mark Scheme

Candidates should consider the accuracy of this familiar statement. The quotation needs to be placed in its context, with some account of the historical development of equity and its ad hoc origins as a response to the rigidities of the common law. There needs to follow an account, supported by examples from the case law, of the development of equity into modern times and an assessment of its assimilation into the law as a whole, in particular through its remedies and maxims. Candidates will achieve a maximum of 13 marks for a purely historical account. Good levels of citation will lift answers into the higher mark bands.

Examiner's Report

This question concerned equity and its role in modern law. This was a very popular question indeed and answered by the vast majority of candidates. Many were very good indeed mixing the historical background with the newer more modern aspects of equity. Some weaker candidates wrote all they knew about equity and added a few comments about modernity at the end, which inevitably meant that they were awarded fewer marks. Generally candidates were able to show good knowledge of history, maxims, remedies and one or two cases but better candidates provided a much wider range of example drawing from maxims, remedies and concepts such as trusts and estoppel. Responses that made good use of case citation achieved the highest level but it was disappointing that even these scripts did not engage substantially with the analytical aspect of the question.

9084/13/June/2013

Q5. Using illustrations from case law, trace the historical development of Equity and evaluate its contribution to the development of English Law.

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of the concept, unlikely to have any case illustration and no reference to the issues within the question.
Band 3 (7–12)	Candidate gives a basic explanation of the concept and a mostly accurate historical account of the development of Equity. There is unlikely to be any case illustration and little or no reference to the modern development of Equity as mentioned in the question or any evaluative content.
Band 4 (13–19)	Candidate gives a reasonable explanation of the concept and an accurate historical account. Some reference to and definition of remedies, maxims, trusts and mortgages with some modern case illustration may be included. Candidate makes some reference to modern development (i.e. Anton Pillar, Mareva, deserted wives equity, promissory estoppel) but with little illustration. There may be some attempts to link to the evaluative component of the question.
Band 5 (20–25)	Candidate gives a clear explanation of the concept and an accurate and relevant historical account. Defines and illustrates remedies, maxims, trusts, mortgages. Good reference to modern applications (as in Band 4) with



appropriate citation. Clear and informed links to the effectiveness and development of equitable concepts and remedies are included.

Examiner’s Report

This was another very popular question. Candidates offered varying levels of history - some very good, others very vague. Many responses contained little explanation or indeed illustration of modern remedies, despite this being specifically asked for in the question. This remains a common failing from year to year and Centres should ensure that candidates have enough illustrative knowledge to attempt this type of question successfully. Many candidates offered pre- prepared answers - losing the opportunity to gain higher marks.

9084/12/November/2013

Q5. ‘The contribution of Equity to the development of the law lies in the creation of new rights and remedies, but the maxims of Equity have also played an important role in many areas of law.’ Discuss this statement giving examples of rights, remedies and maxims introduced by Equity. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of Equity and some limited examples of any rights, remedies or maxims.
Band 3 (7–12)	Candidate gives a basic explanation of the concept and perhaps a mainly historical account of the development of Equity. Reference to some of the main rights, remedies or maxims would be expected. Limited reference to the substance of the question.
Band 4 (13–19)	Candidate gives a reasonable explanation of Equity and perhaps a concise historical account. Perhaps a reference to trusts and mortgages. Definition of remedies and maxims with some case illustration. Reference to modern applications (i.e. Anton Pillar, Mareva injunctions) as examples of remedies. Some attempt to link to the analytical component of the question.
Band 5 (20–25)	Candidate gives a good explanation of Equity and a concise and relevant historical account. A good explanation of rights, remedies and the maxims. Some good references to modern applications (as in band 4). Clear conclusion on the issues raised in the question.

Examiner’s Report

This was another very popular question which was generally done quite well. Better candidates offered good coverage of history, maxims, rights and remedies. Some candidates lacked balance and spent too many words on history to the exclusion of the main focus on rights and remedies. There was also too many ‘lists’ of typical remedies and not enough on the ‘newer’ ones such as Trusts and Freezing injunctions. Candidates who failed to address the evaluative direction to discuss development were generally unable to access marks in band 5. Many weaker responses contained little explanation or indeed case illustration of modern aspects of Equity, despite this being specifically asked for in the question. This remains a common failing from year to year and Centres should ensure that candidates have enough illustrative knowledge to attempt this type of question successfully. Many candidates offered pre- prepared answers - losing the opportunity to gain higher marks.



9084/11/June/2014

Q1. How far is it true to say that Equity continues to have relevance today? Illustrate your answer with examples and case law. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this Band.
Band 3 (7–12)	Candidate gives a basic and generally accurate explanation of the historical development of Equity, but this is unlikely to have any detailed case/concept explanation and there will be little or no reference to the question. Candidates who give a purely historical account can receive no more than 12 marks. Candidates who fail to include any case law or example can receive no more than 12 marks.
Band 4 (13–19)	Candidate gives an adequate explanation of the concept of Equity, and provides a concise and relevant historical account. There will be reference to and a definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern applications and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, trusts), but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Candidate defines and illustrates maxims and remedies with appropriate case illustration throughout. Candidate makes good reference to modern application (as in Band 4), with clear and informed links to the question.

Examiner’s Report

This was a popular choice of question. Some candidates appeared well prepared for this question and were able to tailor their material to fit the demands of the question. However, the historical background offered by some candidates was often unnecessarily extensive and not clearly focused on the requirements of the question. Many answers showed awareness of maxims and remedies, but these were not always explained or fully illustrated. Case citation was clearly in evidence in some responses, but again these were not always elaborated on or made relevant to the concept being discussed. Modern applications although named were rarely developed. Although mortgages and trusts were mentioned, candidates seldom managed a coherent explanation of the concepts. Analysis was often rushed or completely missing, meaning that candidates could not access the upper bands of marks, it is important to stress that the command in a question will direct the candidates towards a specific aspect of analysis (in this case whether Equity was still relevant today) and to access the higher band of marks it is important that the candidate address these issues.



9084/11/June/2014

Q1. How far is it true to say that Equity continues to have relevance today? Illustrate your answer with examples and case law. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this Band.
Band 3 (7–12)	Candidate gives a basic and generally accurate explanation of the historical development of Equity, but this is unlikely to have any detailed case/concept explanation and there will be little or no reference to the question. Candidates who give a purely historical account can receive no more than 12 marks. Candidates who fail to include any case law or example can receive no more than 12 marks.
Band 4 (13–19)	Candidate gives an adequate explanation of the concept of Equity, and provides a concise and relevant historical account. There will be reference to and a definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern applications and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, trusts), but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Candidate defines and illustrates maxims and remedies with appropriate case illustration throughout. Candidate makes good reference to modern application (as in Band 4), with clear and informed links to the question.

Examiner’s Report

This was a popular choice of question. Some candidates appeared well prepared for this question and were able to tailor their material to fit the demands of the question. However, the historical background offered by some candidates was often unnecessarily extensive and not clearly focused on the requirements of the question. Many answers showed awareness of maxims and remedies, but these were not always explained or fully illustrated. Case citation was clearly in evidence in some responses, but again these were not always elaborated on or made relevant to the concept being discussed. Modern applications although named were rarely developed. Although mortgages and trusts were mentioned, candidates seldom managed a coherent explanation of the concepts. Analysis was often rushed or completely missing, meaning that candidates could not access the upper bands of marks, it is important to stress that the command in a question will direct the candidates towards a specific aspect of analysis (in this case whether Equity was still relevant today) and to access the higher band of marks it is important that the candidate address these issues.

9084/12/June/2014

Q2. Equity is merely a gloss on the Common Law. Discuss the accuracy of this statement, using cases and examples. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate provides a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this band.
Band 3 (7–12)	Candidate provides a basic and generally accurate explanation of the historical development of Equity and there is a reference to maxims and



	remedies. This is unlikely to have any case/concept illustration or development, and there will be little or no reference to the question. Candidates who only discuss historical development may receive no more than 12 marks.
Band 4 (13–19)	Candidate provides an adequate explanation of the concept of Equity, and includes a concise and relevant historical account. Candidates may link the historical development to the need to improve the defects of the Common Law. There will be reference to and definition of maxims, remedies and concepts, with some case illustration. There may be limited reference to modern applications (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, and trusts), but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Makes good reference to modern application and relationship to Common Law (as in Band 4) with clear and informed links to the question.

Examiner’s Report

This was a popular choice. Some candidates appeared well prepared for this question and able to tailor their material to fit the demands of the question. However, the historical background offered by some candidates was often unnecessarily extensive and not clearly focused on the requirements of the question. Many answers showed awareness of maxims and remedies but these were not always explained or illustrated fully. Case citation was clearly evidenced in some responses, but again not always elaborated on or made relevant to the concept being discussed. Modern applications although named were rarely developed. Although mortgages and trusts were mentioned, candidates seldom managed a coherent explanation of the concepts. It is important to stress that the command in a question will direct the candidates towards a specific aspect of analysis (in this case whether Equity was merely an addition to Common law or an important concept in its own right) and to access the higher band of marks it is important that the candidate address these issues.

9084/11/13/November/2014

Q2. How can we account for the growth in Equity? Assess its relevance to the law today.	
Mark Scheme	
Band 1 (0)	Irrelevant answer
Band 2 (1–6)	Candidate gives a very basic explanation of equity. Possibly mainly an historical account, unlikely to have any reference to the analytical component of the question.
Band 3 (7–12)	Candidate gives a basic explanation of equity and the historical background of its introduction. Some basic understanding of the relevance of equity today.
Band 4 (13–19)	Candidate gives a reasonable explanation of equity and the historical background of its introduction. Explanation of the introduction of new rights e.g. the trusts and the mortgage and new remedies e.g. the injunction, specific performance. These should be illustrated with relevant case law. An attempt to discuss the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear explanation of the growth of equity, explanation of the introduction of new rights e.g. the trusts and the mortgage and new remedies e.g. the injunction, specific performance and some reference to



maxims. Well used case law to illustrate. Clear and informed link to the analytical component of the question e.g. equity remains relevant today.

Examiner’s Report

This proved an exceptionally popular question which produced some excellent answers. Many candidates offered good levels of detail and this was credited generously, especially where there was some reference to the growth and relevance of equity today. Some good citation was presented in support of the better answers. Stronger candidates were more likely to mention three or four maxims, with solid reference to case law and a good explanation of their relevance. Similarly these candidates were able to explain the remedies in detail alongside the modern day application of injunctions, trusts and mortgages. However, weaker candidates often gave well-rehearsed and rather generic answers with an over reliance on historical detail without linking this to the evaluative aspects of the question. Many of these weaker candidates then went on to discuss maxims and remedies but offered little beyond a short definition and little case citation. Here, again, analysis was often painfully thin or ignored.

9084/12/November/2014

Q6. ‘Equity was, and in many ways still is, common law’s safety valve. Assess whether this accurately describe the role of equity both in the past and today?’

Mark Scheme

Band 1 (0)	Irrelevant answer
Band 2 (1–6)	Candidate gives a very basic explanation of what constitutes equity.
Band 3 (7–12)	Candidate gives a basic explanation of what constitutes equity and some basic discussion of its overlap with common law.
Band 4 (13–19)	Candidate gives a reasonable explanation of what constitutes equity and a reasonable discussion of its overlap with common law. An outline of the historical growth of equity and also a discussion of its role today with some reference to what is meant by a safety valve
Band 5 (20–25)	Candidate gives a very good explanation of what constitutes equity and a very good discussion of its overlap with common law. A clear outline of the historical growth of equity and also a discussion of its role today. A clear analysis of the modern role of equity and some analogy drawn with a safety valve.

Examiner’s Report

This proved an exceptionally popular question which produced some excellent answers. Many candidates offered good levels of detail and this was credited generously, especially where there was some reference to equity acting as the “safety valve” for the common law. Some good citation was presented in support of the better answers. Stronger candidates were more likely to mention three or four maxims, with solid reference to case law and a good explanation of their relevance. Similarly these candidates were able to explain the remedies in detail alongside the modern day application of trusts and mortgages. However, weaker candidates often gave well-rehearsed and rather generic answers with an over reliance on historical detail without linking this to the evaluative aspects of the question. Many of these weaker candidates then went on to discuss maxims and remedies but offered little beyond a short definition and little case citation. Here, again, analysis was often painfully thin or ignored.

9084/11/June/2015

Q3. Equity is an historical source: it has no role in the modern legal system. Critically consider the accuracy of this statement. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer
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Band 2 (1–6)	Candidates give a very basic explanation of the concept of Equity. Candidates are unlikely to offer much case/concept illustration and little or no developed reference to the analytical issues within the question is expected.
Band 3 (7–12)	Candidates give a basic and generally accurate explanation of the historical development of equity but this is unlikely to have much case/concept illustration and little reference to the analytical issues within the question.
Band 4 (13–19)	Candidates give a reasonable explanation of the concept of Equity, a concise and relevant historical account. There will be reference to and definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern application and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, and trusts) but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.
Band 5 (20–25)	Candidates give a clear and very detailed explanation

Examiner’s Report

This proved an exceptionally popular question which produced some exceptionally strong responses. Many candidates offered good levels of detail and this was rewarded appropriately, especially where there was some reference to the modern usage of equity. Stronger candidates were more likely to mention three or four maxims, with solid reference to case law and a good explanation of their relevance. Similarly these candidates were able to explain the remedies in detail alongside the modern day application of trusts and mortgages. However, weaker candidates often gave rehearsed and generalized answers with an over reliance on historical detail without linking this to the evaluative aspects of the specific question. Many of these weaker candidates then went on to discuss maxims and remedies but offered little beyond a short definition and little case citation. Here, again, analysis was often limited.

9084/12/November/2015

Q5. Describe the development of Equity and discuss its relevance today. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration and no reference to the analytical issues within the question is expected.
Band 3 (7–12)	Candidate gives a basic and generally accurate explanation of the historical development of equity. This may have some reference to cases and/or concepts but may have little or no reference to the question.
Band 4 (13–19)	Candidate gives a reasonable explanation of the concept of Equity, a concise and relevant historical account. There will be reference to and definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern application and case examples (i.e. Mareva, AntonPillar, deserted wives equity, estoppel, mortgages, and trusts) but these may not be extensive or detailed at the lower end of the band. There will be some attempts to link to the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Makes good reference to modern application (as in Band 4) with clear and informed links to the question.

Examiner’s Report



This was a very popular question and candidates produced some strong responses, describing the history clearly and in some detail as well as explaining maxims and remedies. More successful responses illustrated these with a wide range of clearly explained cases and examples, and were rewarded for relevant citation. Candidates who discussed modern application of these as well such as equitable concepts of trust, mortgage, the super-injunction, estoppel and deserted wife's equity were well-rewarded. However, weaker responses often offered one line definitions of the remedies and, apart from Mareva and Anton Pillar had very few other ideas on the implication of Equity as a modern concept. There were many candidates who ignored the analytical aspect of the question altogether, and thus they were unable to reach the higher mark bands

9084/11/June/2016

Q2. Explain the historical development of Equity. Using cases and examples discuss how relevant it is today. [25]

Mark Scheme

Band 1 [0]	Irrelevant answer.
Band 2 [1–6]	Candidate gives a very basic explanation of the concept and origins of Equity. Candidates are unlikely to offer any illustration or reference to the analytical issues within the question.
Band 3 [7–12]	Candidate gives a basic and generally accurate explanation of the historical development of equity but this is unlikely to have any case/concept illustration and little reference to the analytical aspects of the question. Candidates will be unlikely to achieve more than 12 marks with a purely historical account.
Band 4 [13–19]	Candidate gives a reasonable explanation of the concept of Equity and a concise and relevant historical account. There will be reference to and definition of maxims and/or remedies and/or concepts with some case illustration. There may be some reference to modern application and case examples (i.e. search and freezing orders, Mareva, Anton Pillar), deserted wives equity, estoppel, mortgages, trusts) but at the lower end of the mark band these may not be extensive or detailed. Better candidates will attempt to link to the analytical component of the question by emphasising the modern use of such concepts.
Band 5 [20–25]	Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Defines and illustrates maxims and remedies with appropriate case illustration throughout. Candidate makes good reference to modern application (as in Band 4) with clear and informed links to the analytical aspect of the question.

Examiner's Report

This proved an exceptionally popular question which produced some excellent answers. Many candidates offered good levels of detail and the best responses also made reference to the modern usage of Equity. Some good citation was presented in support of the better answers. Stronger candidates were more likely to mention three or four maxims, with solid reference to case law and a good explanation of their relevance. Similarly these candidates were able to explain the remedies in detail with case illustration alongside the modern day application of trusts and mortgages. However, weaker responses often gave rehearsed and rather generic answers with an over reliance on historical detail without linking this to the evaluative aspects of the question. Many of these weaker responses then went on to discuss maxims and remedies but offered little beyond a short definition and little case citation. Here, again, analysis was often lacking.



9084/12/June/2016

Q2. Equitable remedies, concepts and maxims still play an important role. Using cases and examples, explain how equity continues to be relevant in the courts today. [25]

Mark Scheme

Band 1 (0)	Irrelevant answer.
Band 2 (1–6)	Candidate gives a very basic explanation of equity but does not begin to address the question.
Band 3 (7–12)	Candidate gives a basic explanation of equity, perhaps with an over reliance on historical development. There may be mention of maxims and/or remedies and/or concepts but these will be poorly explained and lack illustration. There will be little reference to the analytical component of the question.
Band 4 (13–19)	Candidate gives a brief but relevant historical account and gives a reasonable explanation of maxims and/or concepts with some illustration or case citation. Better candidates will begin to address the analytical component of the question.
Band 5 (20–25)	Candidate gives a clear explanation of relevant history and a clear explanation of maxims, remedies and concepts of equity with wide ranging example and citation. Clear and informed links are made to the analytical component of the question.

Examiner’s Report

This proved an exceptionally popular question which produced some excellent answers. It was interesting to note that very few students spent too much time discussing the history of Equity, most giving a fair potted version of events and drawing attention to relevant highlights. Many candidates offered good levels of detail, especially where there was reference to the modern usage of equity. Very few candidates missed out on the maxims and they were normally well illustrated with appropriate cases. Some good citation was presented in support of the better answers. Similarly these candidates were able to explain the remedies in detail with case illustration alongside the modern day application of trusts and mortgages. Higher grades made good use of cases in the remedies and noted the modern link with Equity, providing evaluation and comment in a general fashion.

However, weaker responses often gave rehearsed and generic answers with an over reliance on historical detail without linking this to the evaluative aspects of the question.

9084/11/June/2017

Q2. Critically assess how necessary Equity is in today’s English legal system?

Mark Scheme

Band 1 [0 marks]	Irrelevant answer.
Band 2 [1–6 marks]	Candidate gives a very basic explanation of the concept of Equity, but goes no further. No illustration by way of case law. There may be very limited points of evaluation but these are not developed.
Band 3 [7–12 marks]	Candidate gives a brief but generally accurate explanation of the concept of equity. There may be brief mention of concept, maxims or remedies, but these may be superficial and poorly explained. There is unlikely to be any discussion of detail and very little, if any, reference to the analytical issues within the question.
Band 4 [13–19 marks]	Candidate gives a reasonable explanation of concepts, maxims and remedies, but these may not have wide ranging case or example illustration. Better candidates may begin to address the analytical issues of the modern

