



CHIEF EXAMINER COMMENTS WITH SUGGESTED POINTS FOR RESPONSES

NOVEMBER 2023

LEVEL 3 UNIT 11 – CRIMINAL LITIGATION

Note to Candidates and Learning Centre Tutors:

The purpose of the suggested points for responses is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the November 2023 examinations. The suggested points for responses sets out a response that a good (merit/distinction) candidate would have provided. Candidates will have received credit, where applicable, for other points not addressed by the marking scheme.

Candidates and learning centre tutors should review the suggested points for responses in conjunction with the question papers and the Chief Examiners' **comments contained within this report**, which provide feedback on candidate performance in the examination.

CHIEF EXAMINER COMMENTS

There were a small number of entries to this November 2023 paper, being the last in the series. Candidates managed their time well in the paper, however some candidates did not answer all the questions. Candidates showed some poor knowledge on certain areas of the specification such as defence statements, funding and unused materials where candidates were unable to expand on what this is to state when this needs to be disclosed.

Candidates once again struggled with correctly identifying timeframes and outcomes for appeals. Candidates should ensure that they use correct terminology throughout their answers in the paper otherwise they risk losing marks.

A number of marks were available for application to the scenario and this was all material which was freely available in the case study materials (CSM) so careful attention must be paid to these.



CANDIDATE PERFORMANCE FOR EACH QUESTION

Question 1(a) A lot of marks here were awarded for picking out the relevant points from the scenario, however some candidates were unable to find all these and need to focus on application of their knowledge as this is a key skill which will be required in their legal work.

(b) The majority of candidates did correctly identify the issues here.

(c) Candidates again were able to correctly cite the answer here.

(d) Candidates were in the majority able to identify that this was a right.

(e) Candidates were often unable to identify the full procedure for taking blood from a suspect and only gained partial marks.

(f) Candidates did on the whole identify a right to silence but then were unable to use the correct terminology when explaining this.

(g) This was answered well as there were lots of marks available to choose from in terms of applying where there the interview was unlawful.

Question 2(a) In previous series citing the correct legislative provision had not always been done with success, but the majority of candidates were able to do this here.

(b) This was a poorly answered by a number of candidates. This is surprising as two coupled options were available.

(c) This was another funding question. This was an area candidates on which candidates did not appear to focus their revision.

Question 3(a) Candidates were on the whole able to advise Lily on what could occur if her case was tried summarily.

(b) Candidates answered this question on bail procedure well, possibly as there were a number of points, they could have made to gain marks.

(c) Surprisingly candidates were not able to identify relevant bail conditions applicable to this scenario and were either giving generic conditions without conditions or were giving punitive options which would not be applicable for bail.

(d) Nearly all candidates answered this correctly.

(e) Unfortunately, candidates could not expand on their knowledge of unused material shown in the past question explaining this to state when this had to be disclosed, which showed a failure of deep understanding.

(f) This was very poorly answered as candidates were not able to adequately state what a defence statement should contain.

(g) Being on the same topic as the previous questions candidates on the whole, were not able to answer this.

(h) Again focussing on defence statements this was not a question which was answered well and showed a lack of knowledge in this area.

Question 4(a) Despite this drawing on aspects in the scenario this question was poorly answered.

(b) - Appeals, timeframes and outcomes has always been a difficult area for candidates in this unit, and this was again shown by the poor answers provided by candidates to this question.

SUGGESTED POINTS FOR RESPONSE

NOVEMBER 2023

LEVEL 3 UNIT 11 – CRIMINAL LITIGATION

Question Number	Suggested Points for Responses	Marks (Max)
1(a)	<ul style="list-style-type: none"> - s.24 PACE 1984 - grounds must be 'reasonable' - enable offender's name to be ascertained - application – she refused to give her name - enable offender's address to be ascertained - application – she refused to give her address - prevent offender causing loss to property - application – she may get rid of the bicycle - to allow prompt and effective investigation of offence - application – may destroy/get rid of bicycle or any other sensible application - to prevent any prosecution for the offence being hindered by the disappearance of the person in question 	8
1(b)	<ul style="list-style-type: none"> - s.28 PACE 1984 - fact of arrest - and grounds for arrest - Code C - must be cautioned 	4
1(c)	<ul style="list-style-type: none"> - custody officer at least sergeant rank 	2



Question Number	Suggested Points for Responses	Marks (Max)
1(d)	<ul style="list-style-type: none"> - S.56 PACE - Code C - right to have someone informed of her arrest - police only have the right to withhold the right if it hinders their investigation 	2
1(e)	<ul style="list-style-type: none"> - S.62 PACE - Code D - blood is an intimate sample - police may obtain an intimate sample if authorised by an inspector or above - reasonable grounds needed to prove suspect's guilt or innocence - application – applies here as suspect allegedly cut herself at the victim's property - consent will be needed from suspect must be taken by medical practitioner 	5
1(f)	<ul style="list-style-type: none"> - S.34 Criminal Justice and Public Order Act 1994 - Code C - should mention a fact/alibi which he later relies on in court - if she doesn't, adverse inferences may be drawn 	3
1(g)	<ul style="list-style-type: none"> - s.76 PACE 1984 - can be excluded if obtained by oppression - or unreliable because of things said or done - in Lily's case, obtained by oppression given details of transcribed interview, e.g: <ul style="list-style-type: none"> - shouting at Lily - repeating accusations - banging fists on table - length and time of interview - inducement- saying could go if admitted guilt - confession evidence in breach of PACE not automatically excluded - s.78 PACE 1984 - may be excluded if has adverse effect on fairness of proceedings - s.82 PACE 1984 - can exclude evidence where prejudicial effect outweighs its value - confession <u>not</u> obtained lawfully 	6
Question 1 Total: 30 marks		



Question Number	Suggested Points for Responses	Marks (Max)
2(a)	LASPOA 2012	1
2(b)	<ul style="list-style-type: none"> - loss of liberty - application – may go to prison as has a number of offences - loss of livelihood application – does not apply as says she is unemployed 	2
2(c)	<ul style="list-style-type: none"> - Crown Court has a contributory system - it is assessed on the applicants income and capital - defendants may have to contribute to some or all of their defence - submitted on Form CRM14 there is a passported scheme for those under 18 or in receipt of qualifying benefits 	4
Question 2 Total: 7 marks		
3(a)	<ul style="list-style-type: none"> - decide if to be tried in Magistrates’ Court or Crown Court 	2
3(b)	<ul style="list-style-type: none"> - defence asks the court to grant bail - prosecution is asked if there are any objections - if no objections, bail is granted - if objections, prosecution makes submissions - defence counters these submissions - magistrates make a decision, stating reasons possibility of appeal 	4
3(c)	<ul style="list-style-type: none"> - reporting to a police station - has a history of failing to surrender - Lily does not approach named witnesses - e.g. parents she may interfere with the witness - Lily does not approach particular place e.g. parents home 	4
3(d)	material which has been generated as part of the investigation but which will not be used by the prosecution as evidence	1

Question Number	Suggested Points for Responses	Marks (Max)
3(e)	<ul style="list-style-type: none"> - s.3 Criminal Procedure and Investigations Act 1996/Criminal Procedure Rule 2015 Part 15 - prosecution must disclose any material not previously disclosed which might reasonably be considered capable of undermining the case or assist the case of the defence - must be as soon as practicable after defendant pleads not guilty - if no such material exists, prosecution must inform defendant - s.4 CPIA - prosecution must give defendant a schedule of all non-sensitive prosecution material - s.7 CPIA <p>prosecution has a continuing duty to disclose</p>	3
3(f)	<ul style="list-style-type: none"> - S.6A Criminal Procedure and Investigations Act 1996 - nature of accused's defence - any matters of fact with which defendant takes issue and the reason. - any matters of fact defendant intends to rely on - disclose relevant points of law - any alibi defendant intends to rely on 	5
3(g)	adverse inferences may be drawn	1
3(h)	<ul style="list-style-type: none"> - s.7A CPIA 1996 - Must serve any further unused material in light of defence <p>Under ongoing obligation to keep disclosure under review</p>	3
Question 3 Total: 23 marks		
4(a)	<ul style="list-style-type: none"> - previous history - Lily has two theft offences - theft value - bicycle is expensive - has been fined on previous occasions and likely to receive a heavier sentence - likely to be custodial sentence/community service 	5
4(b)	<ul style="list-style-type: none"> - Court of Appeal (Criminal Division) - Within 28 days of sentencing or conviction - Apply for permission to appeal - Overturn conviction - Sentence Decrease <p>No change in conviction or sentence</p>	5
Question 4 Total:10 marks		