



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 18 – Criminal Litigation

Case study materials

June 2024

Information for candidates

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relate to these materials.
- In the examination, you will be presented with a set of questions which will relate to these materials.
- You may discuss these materials with your tutor(s).

Instructions and information to candidates during the examination

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are allowed to take your own unmarked copy of the following designated statute book into the examination – ***Blackstone’s Statutes on Criminal Justice and Sentencing, 6th edition, Nicola Padfield, Oxford University Press, 2016.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

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CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are employed as a trainee lawyer by Kempstons LLP. You are currently working in the criminal litigation department. Kempstons holds a standard criminal legal aid contract with the Legal Aid Agency and participates in several local duty solicitor schemes. The following cases are among those being dealt with in the department.

CASE ONE – Levi Carter

This client, a dark-haired male aged 25, has been arrested on suspicion of burglary. He is currently being held in custody. He is an established client of Kempstons and has requested the firm to act as duty solicitor. You have ascertained from the police that they are proposing to interview Levi Carter and that they also propose to undertake an identification procedure. You make arrangements to attend at the police station and you have a discussion with one of the officers in the case. Your notes of this discussion are provided as **DOCUMENT 1**. You have also added to this document your notes of a discussion that you subsequently have with Levi Carter prior to the interview.

CASE TWO – Marie Novotna

This client, aged 45, and of previous good character, is awaiting trial in the Crown Court. She has been charged with a number of offences of theft, allegedly committed in the course of her employment with a local Credit Union. She entered pleas of not guilty when arraigned at the Plea and Trial Preparation Hearing. Kempstons were instructed only after this stage had been reached.

The allegations are that the client, acting together with one of her colleagues, created a number of false client accounts and arranged for payments to be made. The prosecution case is that Marie Novotna used her understanding of the computer systems in use to create these false accounts, recruited her colleague to assist by countersigning documents necessary for funds to be released and received the majority of the proceeds. The co-accused has made full admissions and implicated Marie Novotna to the extent indicated above. The prosecution has accessed Marie Novotna's bank account details. There are a number of cash credits to the account that Marie Novotna did not account for at interview.

Marie Novotna instructs you that, while she did become involved in the creation of false accounts, she was recruited by her colleague to join a scheme that was already established. She reluctantly went along with the scheme and benefited only to a very limited extent. The cash deposits to her bank account were money from her brother, Jan Gnatek. He was undergoing matrimonial difficulties and was trying to conceal money from his wife to prevent her from spending it on activities related to the affair that she was conducting with one of her work colleagues. Marie Novotna informs you that her brother is willing to make a statement and give evidence to this effect.

Marie Novotna has been separated from her husband for several years and he has returned to live in Poland. She is a single mother of two children aged nine and seven. There are no other family members who could look after the children. Marie Novotna became a naturalised British citizen three years ago. She is currently in receipt of Universal Credit.

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CASE THREE – Louise Thornton

This client, aged 16, has been charged with an offence of wounding the complainant, Desiree Banton, with intent contrary to section 18 of the Offences Against the Person Act 1861. The circumstances are that the client and the complainant fell out because the client had previously been in a relationship with Jared Carter and he had transferred his affections to the complainant. The prosecution case is that the client sent a message to the complainant asking to meet her to discuss something important that the complainant ought to know about Jared Carter. When the complainant met the client in accordance with the message in a secluded area of the local park, it is alleged that the client attacked the complainant and slashed her on the face with a blade. The incident was witnessed at a distance by several individuals, including two girls who were at school with the participants and who were able to identify both of them. The accounts given by the witnesses are broadly similar and each states that the complainant was sitting on a park bench when the client approached. She sat down next to the complainant and there was a short conversation, although none of the witnesses could hear anything that was said. After a short while, the complainant stood up and then leaned forward towards the client. The client then also stood up and hit the complainant in the face. The complainant then screamed and ran away. She ran towards two of the witnesses who could see that her face was covered in blood.

The complainant was taken to hospital and found to have a three-inch slash wound on her left cheek. This has been sealed but there is likely to be a significant residual scar, which will be disfiguring to an extent.

The client was arrested and interviewed in the presence of her mother as appropriate adult but without legal representation. She gave a no-comment interview.

The client's instructions to you are that, although the initial contact to discuss matters relating to Jared Carter came from her, the meeting in the park was actually at the request of the complainant, who said that she had some items to return to the client that the client had originally given to Jared Carter during their relationship. However, the complainant did not bring these items with her and started to taunt the client, saying that Jared Carter had told her that she, the complainant, was a hundred times better at kissing than the client. When the complainant got up to leave, she stood over the client and said "Oh and by the way, Jared said I should give you a good slap and say it came from him." The complainant then raised her arm and at that point the client hit her in the face. The client was wearing a sharp-metal finger ring and it was this that caused the injury.

The client informs you that she gave a no-comment interview because her mother told her that she should never say anything to the police as it would always be twisted and used against her.

The client has several previous cautions and one conviction for an offence of street robbery for which she received a youth referral order, which was completed approximately six months ago.

Turn over

Notes of a discussion with DS Singh

The police have been investigating several dwelling house burglaries that have taken place at isolated countryside properties in a number of Midland counties. They are all properties that are normally occupied by their owners but on each occasion the burglary has coincided with a period of absence on holiday or for other reasons. An assessment of the available information disclosed that all the properties had burglar alarm and security camera systems provided and serviced by Verisure Security Systems Ltd (VSS).

On each occasion the security system had malfunctioned and had failed to send a security alert to the police or to VSS headquarters. Enquiries with VSS disclosed that one of their security engineers, Sean O'Rourke, was the only employee who had worked on the security systems of all the properties burgled. The contract between each property owner and VSS provided for the property owner to give notice to VSS if they were going to be absent from their property for more than 48 hours. In the case of an absence of more than seven days, the next scheduled inspection of the system was brought forward to take place before the absence to ensure that the system was in full working order. In respect of each of the burgled properties, it was Sean O'Rourke who had carried out the expedited inspection.

Sean O'Rourke has been arrested and interviewed, and has made full admissions. He has stated that he was short of money because of an addiction to online gambling. He was approached by an individual he knows as Tony Primul (although the police believe this is an alias) who told him that he was aware of his financial difficulties and could provide him with money if Sean O'Rourke could facilitate burglaries at properties where he serviced the security system. Sean O'Rourke agreed to give details of properties that he knew would be unoccupied as he was due to carry out an inspection of the security system in preparation for the absence of the owners. Sean agreed that he would interfere with the proper operation of the system so that it did not alert the police or VSS and the recording system for the security cameras would be switched off.

The police have still not tracked down or positively identified Tony Primul. They have used Sean O'Rourke's mobile phone data and have ascertained that he made calls to a specific number on several occasions prior to each of the burglaries. This number has been linked to a van-hire company. The police ascertained that its owner, Mohammed Aslan, had previous convictions for offences of dishonesty. ANPR records from a number of cameras showed that vehicles registered to this van-hire company had been seen at a number of locations in the vicinity of burgled properties during the period when the burglaries took place. An examination of the records of the company shows that two of these vehicles are recorded as having been hired to Levi Carter at the relevant time. A photocopy of Levi Carter's driving licence is included in the file of documents in each case.

The van, which is of interest because its registration plate, YT67TTT, was captured on an ANPR camera in the close vicinity of the most recent burglary, has been searched. The search has revealed a diamond and sapphire ring, and a charm bracelet under a mat in the passenger footwell. These have been positively identified by the victim of the burglary as being part of the property that had been stolen. The search also resulted in the finding of a black beanie hat under the driver's seat. DNA samples were retrieved from it, which related to at least two males. There was a match between one of these and samples held in the police national DNA register for Levi Carter which had been taken and retained in relation to a previous conviction.

The property stolen in the most recent burglary was jewellery and three expensive watches. The total for which the property was insured is £20,000, exclusive of the two items that have been recovered. In addition to the monetary value, some of the jewellery has sentimental value as it belonged to the daughter of the victim who died of cancer two years ago. Access to the property was obtained by breaking a window and then breaking the lock on a chest of drawers where the valuables were kept.

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The previously mentioned ANPR camera in relation to the most recent burglary was located in a petrol-filling station. The cashier who was on duty has been interviewed and has indicated that she would be able to identify the driver of the vehicle. She has said that he made an impression on her because he spent some time complaining to her that a particular brand of sweets was not available in the shop. She has described him as a dark-haired male, aged 20-30, of average build and approximately 5'10" tall. He was wearing dark clothing and a dark beanie hat.

The police have already taken a further DNA sample for cross-matching. They propose to undertake an identification procedure in relation to the cashier. They also propose to interview Levi Carter in relation to his suspected involvement in these offences.

Notes of a discussion with Levi Carter (LC) following the discussion with DS Singh

LC has confirmed that the information we hold concerning his previous record is correct. He has a number of convictions for offences of dishonesty, including commercial burglaries and one dwelling house burglary over the past 10 years. His last conviction, for the dwelling house burglary, was three years ago. He was sentenced to two years' imprisonment and was released on home detention curfew after serving nine months. He is not currently on bail or under investigation for any other matter. LC is currently unemployed and in receipt of Universal Credit.

LC has instructed that he is not guilty of or involved with these burglaries in any way. In relation to the proposed identification procedure, he points out that he does have a fairly prominent scar running from the corner of his mouth downwards and backwards towards his jaw.

LC informs us that he has not been in possession of his driving licence for a number of months. He has not reported this to the DVLA and as he has not been driving did not consider it an urgent matter. He states that he does not know, and has had no dealings with, Sean O'Rourke, Mohammed Aslan or Tony Primul.

LC is not able to positively account for the beanie hat found in the hired van. He states that he had nothing to do with the hiring or use of these vans. He assumes that he must have lost a hat, which then found its way into the van.

During your discussions with LC, it is clear that he is not a particularly articulate individual. He sometimes misunderstands questions and gives you answers that often need clarification. He also becomes quickly agitated when asked about matters that he cannot immediately deal with effectively.

End of the case study materials