

 CILEX



P3 – Criminal Litigation

Professional Stage

2025- 2026

P3: Criminal Law and Litigation

The aim of this module is to give you a detailed knowledge and understanding of the criminal litigation process from the initial investigation through to trial and how to deal with outcomes such as acquittal or conviction and sentence, and then the appeal process. On completion of this module, you will be able to challenge appropriately and give advice, in the client's best interests. Through the development of drafting and tactical awareness skills, you will be able to prepare and take steps to resolve the case. You will develop your communication and advocacy skills to present cogent and clear arguments.

The module covers:

1. Fundamental principles of criminal liability
2. Common criminal offences and their composition
3. General criminal defences
4. Criminal law practice and procedures
5. Police powers, procedures and rights of the suspect
6. Rules of evidence
7. Criminal justice process
8. Magistrates court procedures
9. Criminal law and procedure relating to youths
10. Crown Court
11. Proceeds of crime
12. Professional criminal litigation skills - knowledge of role and duties
13. Building the client relationship and professional criminal litigation skills

Learning Outcomes

By the end of this module you will be able to:

1. Understand police powers and criminal justice procedures
2. Explain how to represent a client at a police station and in court, including taking detailed and relevant instructions
3. Analyse and synthesise a range of materials including all the served prosecution evidence and unused material in order to give accurate and appropriate advice and guidance to clients regarding liability for a range of alleged offences
4. Formulate a criminal defence or prosecution case competently from inception to its conclusion across the range of criminal offences, including a regulatory offence or professional conduct case.
5. Develop communication and written skills in the obtaining of client's instructions, delivering appropriate advice where necessary and building a trusting professional relationship with the client
6. Identify situations that potentially give rise to conflicts of interest, issues of professional ethics or other issues under the applicable Codes of Conduct
7. Support a criminal litigator/advocate

Linked online assessment: P3

TQT: 300 hours

Prerequisite knowledge: Advanced Stage Criminal Law and Litigation

Module Resources

In addition to the VitalSource manual, there is a reading list to accompany the module which is located in the 'Study Guide and Content Updates – Professional Stage 1st Editions' document in the VitalSource bookshelf, Training Provider hub and in myCILEX.

Details of updates included in 2025-2026 Module Specification

- 1a: removal of “acts”
- 2a: removal of “Violent” and re-wording
- 2c: removal of Homicide Act 2007
- 10a: change of wording ‘Youth courts, procedures and powers including powers to send to the Crown Court for trial.’

1. Fundamental principles of criminal liability	In order to provide the appropriate and relevant advice and guidance to clients regarding the liability of alleged offences you need to understand certain fundamental principles of criminal liability. These principles have been introduced at Advanced Stage and are further developed. Therefore, you will need to know the following: a) The actus reus • Liability for omissions • General principles and exceptions to the rules of causation b) The mens rea • Coincidence of the actus reus and the mens rea • The concept of transferred malice c) Elements of criminal liability • Secondary participation • Accomplice liability • Encouraging or assisting • Innocent agents • Conspiracy • Attempts • Impossibility
2. Common criminal offences and their composition	You must be able to advise a client on their liability by assessing the strength of the prosecution case and on the basis of the client's account, the evidence against them and available defences. You will need to know the following: a) Non -fatal offences against the person • Inflicting grievous bodily harm and wounding s. 20 Offences Against the Person Act 1861 (OAPA) and causing grievous bodily harm and wounding with intent s18 OAPA • Stalking - Protection from Harassment Act. 1997 b) Property Offences • Arson • Aggravated criminal damage • Robbery • Burglary • Fraud ○ Offences under the Fraud Act 2006 ○ False representation: failure to disclose information; abuse of position; composition of fraud; ○ Theft Act 1978 and its relationship with s11 Fraud Act 2006

- c) Additional homicide offences
 - Infanticide
 - Causing death by dangerous driving; causing death by careless or inconsiderate driving,
 - Corporate manslaughter
- d) Drug offences under the Misuse of Drugs Act 1971
 - Possession
 - Possession with intent to supply
- e) Sexual Offences
 - VAWG strategy including: stalking, harassment, 'honour based' violence and the availability of Domestic Violence Protection Orders and Notices
 - Sexual offences involving images/data e.g. 'revenge porn' and 'upskirting'
- f) Statutory and Regulatory Offences; overview of different regulators and key offences e.g.
 - The Food Safety and Hygiene (England) Regulations 2013- prosecuted by Food Standards Agency/Local Authority
 - Health and Safety at Work Act 1974 – prosecuted by Health and Safety Executive/Local Authorities
 - Consumer Protection Act 1987 (product liability, consumer safety), prosecuted by Local Authorities/Trading Standards
 - Trade Marks Act 1994 – prosecuted by Local Authorities (Trading Standards)
 - Environmental Protection Act 1990 – prosecuted by the Environment Agency and Local Authorities
 - Prosecutions brought by the Department of Business, Energy & Industrial Strategy, Director of Public Prosecutions and HMRC (Her Majesty's Revenue & Customs) for offences relating to bankruptcy/winding up procedures under the Insolvency Act 1986, and applications by prosecuting body under the Company Directors Disqualification Act 1986
- g) Specific liabilities for individuals e.g. directors, partners, sole traders
- h) Protections available for individuals, limited companies, PLCs, LLPs and charities
- i) Potential implications of conduct and disciplinary proceedings brought by professional bodies for particular types of client

3. General criminal defences	You must be able to recognise the defences and seek guidance on how evidence can be constructed/supported in order to advise clients on the offences and circumstances of the case, ensuring procedure is observed. Therefore, you will need to know the following: a) Criminal incapacity • General defences and their application • Difference between justification and excuse • Duress by ○ Threats ○ Circumstances • Necessity b) Private and public defence • Common Law • s 3 Criminal Law Act 1967 • s 76 Criminal Justice and Immigration Act 2008 c) Denial of Offences • Non-insane automatism • Insanity (as a denial of offending) • Impact of burden of proof (reverse burden) d) Potential defences to regulatory procedure prosecutions; reasonably practicable; fault of another, due diligence
4. Currency of law relating to offences, defences and sentencing	It is helpful to have an awareness of key changes and developments to the law in relation to criminal offences and defences, and legal tests • Sentencing and the impact of planned reforms • Impact of high-profile and historic offences, especially sex offences • An awareness of inspections and reports by HMICFRS (His Majesty's Inspectorate of Constabulary and Fire & Rescue Services)
5. Criminal law practice and procedures	You will need to know the practice and procedures that underpin criminal law, the criminal justice process, and its potential impact on other areas of the client's case. Therefore, you will need to know the following: a) Key personnel b) Criminal Procedure Rules 2020 c) Professional conduct and ethics - personal responsibilities d) Legal professional privilege

	• Confidential communication between lawyer and client (written or oral)-purpose e) Human rights • Recognition of the impact of the relevant Articles of the Human Rights Act 1998 on Criminal Law i.e. Art 6 Right to a fair trial, Art 8 Right to respect for private and family life f) Appropriate use and accurate completion of documents and forms prescribed by the CrimPR
6. Police powers, procedures and rights of the defendant	You should know what powers the police have outside the police station, how police should support, guide and advise a client in custody. You may also be required to monitor all detention procedures to ensure compliance with the Police and Criminal Evidence Act 1984 (PACE 1984) and your client's rights. Therefore, you will need to know the following: a) Powers of the police outside the police station; Stop, Search, Arrest, Entry, Seizure (exercised under PACE and other provisions e.g. mobile phone/computer PIN requests under Regulation of Investigatory Powers Act 2000) b) Codes of Practice applying to persons detained in a police station • The rights of suspects including appropriate access to client by representative, and appropriate adult where the detainee is juvenile or vulnerable • Steps to ensure Codes of Practice is complied with: ○ Adverse issues entered on custody record ○ Complaints to senior officers ○ Maintaining detailed record of attendance (acting in or supervising role of Police Station Accredited Representative) c) Application of PACE Codes of Practice to suspects interviewed by investigating officers from regulatory bodies who are authorised by statute (who are not police officers)

7. Rules of evidence	You will need to demonstrate a practical knowledge and understanding of the different types of evidence and when they are admissible. Therefore, you will need to know the following: a) Recognise different forms of relevant evidence and obtaining and/or applying them to case preparation b) Admissibility of evidence and the court's discretion to exclude evidence • Distinction between s76 and s78 PACE 1984 c) Circumstances where inferences may be drawn • Criminal Justice and Public Order Act 1994 • Criminal Procedure and Investigations Act 1996 d) Legal professional privilege e) Corroboration f) Use and application of the relevant provisions of the Criminal Justice Act 2003 to apply for or resist the inclusion of specific types of evidence – hearsay, character
8. Criminal justice process	You will need to understand how the criminal justice process works. Therefore, you will need to know the following: a) Crimes commonly dealt with at magistrates' courts and the ability to locate definition where not known b) Classification of offences by mode of trial c) Methods of commencing criminal proceedings and their legal requirements d) Methods of funding criminal representation e) Restricted powers of single justice/justices' clerks f) Special procedures regarding mentally disordered or disabled witness and defendants. g) Recognise the scope of other legal bodies beyond the Crown Prosecution Service to investigate, and institute private prosecutions

9. Magistrates court procedures	You will need to understand the role of the magistrate court and the process and procedures from the first hearing through to summary trial. Therefore, you will need to know the following: Initial hearings a) Role of the prosecution b) Representation of the Defendant • Own solicitor or duty solicitor (DS) including the extent of the role and obligations to the defendant • Attending on bail/answer to summons or in custody • Client's rights as far as duty solicitors are concerned • Building and presenting a case • Funding case ○ Application for legal aid ○ Private funding ○ Provisions in own insurance policy c) Procedural steps • Preparing for trial d) Preparing for effective advocacy • Preparation for the trial • Preparation of arguments • Anticipating and responding to challenge • Awareness of order and techniques
10. Criminal law and procedure relating to youths	You must understand the criminal law as it relates to young people. Therefore, you will need to know the following: a) Youth courts, procedures and powers including powers to send to the Crown Court for trial. b) Obligations of parents and guardians c) Sentencing d) Cautions, conditional cautions and communication resolution

11. Crown Court	You must understand the process and procedures for cases directed to the Crown Court with regard to pleas and trials. Therefore, you will need to know the following: a) Types of offences b) Appeals and committals for sentences from the magistrates' court c) The role of the CPS d) Judge and jury trials e) Plea and trial preparation hearing f) Dealing with vulnerable witnesses g) Case management - preliminary hearings and directions h) CPIA duties (Criminal Procedure and Investigations Act 1996)/Defence Statement; continuing duty of disclosure i) Pretrial hearings e.g. ad hoc applications, ground rules hearings, PII applications (<i>ex parte</i> or <i>intra partes</i>)
12. Proceeds of crime	All criminal trainees must understand the importance of dealings with the proceeds of crime and be able to recognise if an offence has been or is likely to be committed. Therefore, you will need to know the following: a) Proceeds of Crime Act 2002 b) Magistrates' court powers/jurisdiction in relation to cash seizures c) Purpose/aim of legislation in criminal proceedings • Determination of confiscation orders exercised by Crown Court only d) Procedure to support confiscation
13. Professional criminal litigation skills - knowledge of role and duties	It is very important to maintain professional standards of performance. You should consider standards and the CILEX Code of Conduct when taking appropriate instructions from the client in the police station, at court or in the office, and the giving of appropriate advice to ensure you are acting in the client's best interests. Therefore, you will need to know the following: a) Gathering information as client's representative • In the police station

	• As an advocate (or when acting as the magistrates' court duty solicitor) • Prior to court and when at court b) Obtaining information from police/court/prosecution to ensure that the nature of allegation is understood c) Consulting with client and taking instructions d) Advising / Informing client regarding general procedure and likely venue of the case e) Skills and duties relating to the prosecution of offences • Full Code and Threshold Tests from the Code for Crown Prosecutors
14. Communication skills and people management	Building a relationship with your client and adhering to ethical standards are essential to the role of the criminal lawyer and you should develop the appropriate skills. Therefore, you will need to know the following: a) Application of communication skills for a criminal lawyer • Use of appropriate language • Clear and assertive expression • Communicating with vulnerable and diverse clients • Communicating when under pressure • Make appropriate written record • Take appropriate action to gain trust and confidence of client including taking into account diversity • Recognise when an interpreter is required • Be able to understand and explain role of the relationship between client and solicitor/counsel/HCA where appropriate during the conduct of the case • Allow client to explain their position through the skill of active listening • Elicit other relevant information from prosecution and relevant witnesses, experts where appropriate and character evidence • Formulate appropriate advice through correct identification of legal/non legal issues • Have the capacity (but where necessary to refer to trial Counsel) to give appropriate advice to assist client in making decisions including giving advice which is negative to the client's case and which is based on the evidence • Enable client to understand and to agree to the necessary steps to be taken in the preparation of the client's case b) Interviewing and advising skills at court by own solicitor and where relevant duty solicitor c) Recognise and deal appropriately with ethical issues arising • Maintain standards when under pressure

	d) Awareness of advocacy skills • Comply with the rights of audience and conduct rules as they apply in criminal law proceedings • Demonstrate understanding and application of relevant ethical rules, etiquette, and conventions • Act in accordance with the requirements of court etiquette and conventions within advocacy • Identify issues of ethical and professional conduct and take appropriate action. • Demonstrate good practice when dealing with vulnerable clients and witnesses • Demonstrate courtesy and respect for equality and diversity • Examine, cross-examine and re-examine appropriately whilst exercising emotional competence • Identify when it is appropriate to adduce expert evidence • Establish suitable rapport with the court • Deal effectively with uncooperative witnesses • Appropriate body language and speak clearly and at appropriate pace using appropriate language • Present coherent and persuasive case, consistent with client's instructions taking diversity into account • Demonstrate practical understanding of substantive and procedural law • Correctly apply relevant law to facts of case • Demonstrate understanding and application of relevant ethical rules, etiquette, and conventions • Maintain these standards when working under pressure
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