



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 12 – PUBLIC LAW\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Public Law and Human Rights, 2020-2021, 30th edition, Robert G. Lee, Oxford University Press, 2020.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. Critically analyse the principle of parliamentary sovereignty and the extent to which the doctrine of implied repeal and the provisions of the Human Rights Act 1998 constitute a limitation on the principle.

**(25 marks)**

2. (a) Describe 'constitutional conventions' as a source of the UK constitution.

**(5 marks)**

- (b) Critically analyse, with reference to other sources of the constitution, the functions of constitutional conventions.

**(20 marks)**

**(Total: 25 marks)**

3. Critically evaluate the extent to which the law of defamation provides an effective balance between the reputation of an individual on the one hand and the freedom of the press on the other.

**(25 marks)**

4. Critically evaluate the extent to which the Freedom of Information Act 2000 enables the public to obtain access to information held by the government.

**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

**26 February at 9.45pm**

A fight broke out between supporters of Grahamstown Wanderers and Grahamstown Athletic football clubs, and one of the Wanderers' supporters was stabbed. The police were called but by the time they arrived, the Athletic supporters had all fled. The police went to the Bathurst Arms, a pub popular with Athletic supporters. Robbie, aged 19, was wearing an Athletic shirt, which appeared to have bloodstains on it. PC McKenzie, one of the police officers on the scene, told Robbie that he was under arrest 'for being a violent hooligan'.

PC McKenzie took Robbie to the police station, while PC Dawson searched the Bathurst Arms. During her search, PC Dawson discovered a bloodstained knife down the back of the seat where Robbie had been sitting. She then pushed past the landlord and, despite his protests, searched his flat above the pub, where she found a large quantity of smartphones, which she suspected were stolen. She seized both the knife and the phones.

**26 February at 11.00pm**

PC McKenzie and Robbie arrived at the police station, and Robbie was taken before the custody officer. The custody officer, Sergeant Tyzack, told Robbie that he was under arrest for wounding with intent to do grievous bodily harm during a fight between Athletic and Wanderers football supporters at 9.45pm on 26 February, cautioned him and told him of his rights.

Sergeant Tyzack told Robbie that he was being detained without charge, as this was necessary to obtain evidence of the offence by questioning him. Robbie asked to see his solicitor, but this request was refused by Sergeant Tyzack on the basis that access to legal advice would alert other Athletic supporters, suspected of involvement in the stabbing, who had not yet been arrested.

**26 February at 11.15pm**

PC McKenzie then interviewed Robbie. PC McKenzie told him that the police had found the knife used in the stabbing. Robbie confessed to his involvement in the stabbing, was charged and released.

**[Note to candidates:**

- 1. You may assume that nothing further of legal significance occurred.**
- 2. Wounding with intent to do grievous bodily harm is an indictable offence.]**

Advise the police on the legality of their conduct and whether, at Robbie's subsequent trial for wounding with intent to do grievous bodily harm, it will affect the admissibility of the confession he made at the police station.

**(25 marks)**

## Question 2

To promote environmentally friendly food production, Parliament passed the (fictitious) Organic Foods Production Act 2019 ('the Act'). The Act created the National Nutrition Agency ('the NNA') and gave it powers to grant or refuse licences for commercial trials of new organic fertilisers. The Act states that, in deciding whether to grant or refuse a licence, the NNA must take into account the environment and also human health and food safety.

There is no mechanism in the Act to appeal against decisions of the NNA. Section 22 of the Act provides that decisions of the NNA 'shall be final and cannot be challenged in any court proceedings whatsoever'.

The NNA also produced guidance, stating that it would license fertilisers which were similar to fertilisers it had previously licensed.

- (i) Celia (Lancashire) Ltd ('CLL') applied for a licence to trial QuillGrow, a fertiliser made from old feather-filled duvets and pillows. Last week, the NNA refused CLL's application, but declined to give any reason for its decision.

CLL learnt yesterday that, earlier in the year, the NNA had awarded a licence to Orgco Innovations Ltd ('Orgco'). Orgco's fertiliser is identical to that which CLL had developed. After making some informal enquiries, CLL discovered that Alan, a member of the NNA panel that considered CLL's application, is the father of Orgco's managing director.

- (ii) Buttershaw Green Ltd ('Buttershaw') applied for a licence to trial Sweet Peas, a fertiliser made from human waste. Yesterday, Buttershaw received a letter from the NNA rejecting its application, on the grounds that it had recently made workers redundant following the closure of one of its three factories, contrary to the NNA's views regarding the need to boost employment opportunities.

Advise CLL and Buttershaw whether each can challenge the NNA's decisions by way of judicial review and, if so, on what grounds.

**(25 marks)**

### Question 3

Adam Price, a lifestyle blogger and social influencer, earns large amounts of money through his blogs about the importance of healthy lifestyles and eating, in particular discouraging the consumption of alcohol and beef. One day, he was called away urgently and left his computer open on his desk in his study. Johanna, who was Adam's cleaner, walked past the open study door and noticed the computer. She took a closer look and saw that Adam was part-way through a supermarket order. Curious to see what groceries Adam bought, Johanna looked at the order and also opened previous orders and discovered that Adam regularly ordered large quantities of red wine and beef. She quickly took some photos with her mobile phone and returned the computer to its original screen. Johanna then leaked the photos to the press.

The next week, the following article appeared in the National Messenger ('the Messenger'), a nationwide daily newspaper.

#### ***Price's Pious Pretence!***

*Everyone's favourite healthy eating blogger, Adam Price, seems to have an unhealthy love of red wine and beef, two things he condemns day in and day out! Our sources disclose that when the Price is right, his online supermarket delivers him enough red wine and beef to keep a hardened wine lover and carnivore happy! It's time to call Adam out for his hypocrisy.*

Adam is very unhappy about the article. He admits that the contents of the article are factually correct but would like to bring proceedings for breach of his right to privacy against the Messenger.

- (a) Advise Adam on the basis upon which he could bring a claim against the Messenger in the UK courts for any breach of his right to privacy and on the basis upon which the Messenger could defend any action brought by Adam.

**(20 marks)**

Assume, for the following part of the question only, that prior to the publication of the article referred to above, the High Court had issued an injunction addressed to the Sunday Argus ('the Argus'), another national newspaper, prohibiting the publication of any information about Adam's shopping habits. The editors of the Messenger and the Argus are former colleagues, who keep in touch with each other. The editor of the Argus emailed details of the story about Adam to the editor of the Messenger.

- (b) Advise the Messenger whether it could incur any liability for contempt of court in relation to its actions.

**(5 marks)**

**(Total: 25 marks)**

#### **Question 4**

A by-election took place last month in the (fictitious) parliamentary constituency of Pinelands North. Ryan Whittaker, the candidate of the governing party, the Technology Party, won the by-election, narrowly beating Najia Khan, the candidate of the opposition Global Party, by 15 votes.

Ryan had waged a very hostile campaign against Najia. Shortly before polling day, Ryan had circulated a leaflet claiming that Najia had received money from a hostile foreign power in support of her election campaign in order to subvert democracy in the United Kingdom. Although Najia strongly denied these claims at the time, she believes that she would have won the by-election if Ryan had not made them. However, Ryan asserts that he regards these claims as credible, as he had been provided with the information by a former diplomat of the foreign power in question. The diplomat is now seeking political asylum in the UK.

(a) Advise Najia of her rights to challenge the by-election result.

**(12 marks)**

Shortly after the by-election took place, Najia was arrested and charged with illegally accepting donations from a foreign source, contrary to British electoral law. While she was out on bail awaiting trial, she received a phone call from Martha, a former police officer. Martha told Najia that she had seen an email from the Home Secretary to a senior police officer, stating that the opposition Global Party was a threat to the country's security and that the police should do all they could to counteract the threat.

Najia's solicitors have sought disclosure of the email, as they consider that it will assist her defence. However, the government has refused to disclose the email, claiming that its contents must be kept secret in the interests of national security.

(b) Advise Najia whether she has any grounds for challenging the government's refusal to disclose the email.

**(13 marks)**

**(Total: 25 marks)**

**End of Examination Paper**