



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 18 – CRIMINAL LITIGATION*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials 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 are compulsory. You must answer ALL the questions.**
- 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 Criminal Justice and Sentencing, 6th edition, Nicola Padfield, Oxford University Press, 2016.**
- 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, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

Question 1

Reference: Question relates to **CASE ONE – ANTON REYNOLDS** of the case study materials.

(a) Explain the legal basis for:

- (i) searching Anton Reynolds at the scene of the alleged offence;
- (ii) his subsequent arrest.

(8 marks)

(b) Explain the steps which should be taken by the police in relation to Anton Reynolds prior to arranging an interview and outline any representations you will make to protect his interests.

(5 marks)

When you attend at the police station and speak to Anton Reynolds, he informs you that he had gone to his ex-partner's house by appointment in order to collect some items of property. However, his ex-partner refused to allow him in, and a large number of neighbours assembled and started to threaten him, demanding that he leave. He believed that they were about to attack him, so he told them that if they did so, he would protect himself. He denies that he initiated the confrontation with the neighbours. He informs you that he is living with his parents, had been using the knife at home for preparing vegetables, and had forgotten that it was in his pocket. He denies producing the knife at the scene.

You are of the opinion that Anton Reynolds will not be capable of dealing with a police interview, and advise him accordingly. He accepts your advice that he should give a no comment interview and submit a written statement.

(c) Draft an appropriate statement.

(6 marks)

Anton Reynolds is charged with offences of affray and possession of a bladed article in a public place. He informs you that he proposes to plead not guilty.

(d) Explain what publicly funded advice and representation is available to Anton Reynolds.

(5 marks)

(Total: 24 marks)

Question 2

Reference: Question relates to **CASE TWO – SOPHIE SMITH** of the case study materials.

The officer in the case informs you that she proposes to undertake a VIPER identification procedure.

- (a) Advise Sophie Smith what this procedure entails, what her options are and the consequences of exercising them, and what your role is in protecting her interests in relation to the procedure.

(6 marks)

Sophie Smith is positively identified by the two complainants and is charged with an offence of robbery. No other person has yet been charged in relation to this offence. She is released on bail by the custody officer pending her appearance in court, subject to conditions prohibiting any contact with the complainants and preventing her from going within 400 metres of the park where the alleged offence took place.

Sophie Smith is still the only person charged in relation to this matter. She confirms to you that she continues to deny the allegation, asserting that the evidence of identification is either mistaken or malicious.

- (b) Explain which court the first appearance will take place in and the criteria for determining in which court (or courts) Sophie Smith may be tried and/or sentenced.

(8 marks)

Sophie Smith is re-bailed by the court on the same conditions. You are contacted by the police, who inform you that Sophie Smith has been arrested following a complaint that she accosted one of the complainants in the park where the offence took place, and told her that if she did not tell the police that she had been wrong to identify Sophie Smith as an assailant, then she and her younger sister would be beaten up. You take instructions from Sophie Smith, who accepts that she was present in the park, and that she saw the complainant, but denies making the threats alleged. She instructs you that the complainant has 'got it in for her' and has made up the allegations of threats.

- (c) Explain the nature of the hearing that will now take place, the powers of the court, and the representations that you will make on behalf of your client.

(9 marks)

Kempstons is approached by Karleen Ebanks, who has now also been charged with robbery in relation to this incident. She wishes the firm to act for her. Your understanding is that she intends to plead guilty, while Sophie Smith maintains her plea of not guilty.

- (d) Explain what response should be made to this request.

(5 marks)

(Total: 28 marks)

Question 3

Reference: Question relates to **CASE THREE: ANDREW HAWKINS** and **DOCUMENTS 1 and 2** of the case study materials.

- (a) Explain the procedure and grounds for obtaining the search warrants referred to in the statement of PC Parker in **DOCUMENT 1**.

(6 marks)

Andrew Hawkins is maintaining his plea of not guilty. A Plea before Venue and Mode of Trial hearing is about to take place. Andrew Hawkins has been granted a representation order with a nil contribution.

- (b) Explain how the process of allocation will be undertaken, and the criteria which the court and, if appropriate, Andrew Hawkins, will utilise in relation to this procedure.

(10 marks)

In the event, the case is proceeding to trial in the magistrates' court. Carl Rogers pleaded guilty at the Plea before Venue hearing and his case was adjourned for a pre-sentence report. Andrew Hawkins maintains his plea of not guilty. Following the sentencing hearing for Carl Rogers, the prosecution serves on you a witness statement from Carl Rogers, which gives in all material respects the same account of the circumstances of the offence as that in **DOCUMENT 1**.

- (c) Explain the legal and evidential issues which arise between prosecution and defence, including any steps that should be taken by the defence in the interests of Andrew Hawkins prior to the trial.

(12 marks)

(Total: 28 marks)

Question 4

Reference: Question relates to **CASE FOUR: PRAKASH SHARMA** of the case study materials.

Prakash Sharma informs you that he has spoken to Martina Schultz, who is a student who had been studying in England at the time of the incident but has now completed her studies and returned to her native Germany. She told him that the barmaid who is a prosecution witness has been in a relationship with Jason Prince, and that the two patrons who are being put forward by the prosecution as independent are, in fact, work colleagues of Jason Prince.

- (a) Explain the procedures by which the evidence of Martina Schultz can be put before the court.

(7 marks)

The trial is listed before a bench of lay magistrates.

- (b) Outline the advice which the legal adviser will give to the magistrates in relation to the issue of self-defence.

(6 marks)

In the event, Prakash Sharma is convicted. He is fined £500 and ordered to pay £250 compensation to Jason Prince. One week later, Prakash Sharma contacts you to say that, as a result of the reporting of the case in the local newspaper, two other witnesses have come forward, who both support Prakash Sharma's version of events. He wishes to appeal.

- (c) Explain the nature of, and the procedure for, an appeal against conviction in this case.

(7 marks)

(Total: 20 marks)

End of Examination Paper