



**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**

**Question paper**

**January 2023**

**Time allowed: 3 hours and 15 minutes (includes 15 minutes' reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- You must answer **all** questions.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- You are allowed to make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book; ***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.

## Answer ALL questions

### Question 1

Reference: Question relates to **CASE ONE – TONY FRENCH and Document 1** of the case study materials.

Tony French has been re-arrested and the police propose to interview him shortly. The officer in the case advises you that one of the victims and an independent eyewitness identified Tony French in a VIPER identification procedure but the other two victims and one independent eyewitness failed to make an identification, and the third independent eyewitness picked out one of the comparators.

- (a) Advise Tony French of the options open to him in dealing with the interview and the implications of exercising each of them.

**(7 marks)**

Following the interview, Tony French is charged with an offence of wounding contrary to s20 of the Offences Against the Person Act 1861. He is unconditionally bailed to appear at the local Magistrates' Court a few days later. He advises you that he continues to maintain a plea of not guilty.

- (b) Explain the criteria for the grant of a representation order and how they will apply in relation to Tony French.

**(5 marks)**

On the date of the first court hearing, which is in the afternoon, Tony French fails to appear. A warrant not backed for bail is issued. Later that day, Tony French contacts the office and states that he was involved in an accident at work early in the morning and was taken to hospital for treatment in the accident and emergency department for a fractured wrist. He was not released from hospital in time to attend court.

- (c) Advise Tony French as to the legal consequences of his failure to appear in court and the actions that he should now take in his own best interests.

**(6 marks)**

In the event, Tony French is re-bailed with certain conditions until the next substantive court hearing. Initial Details of the Prosecution Case have been provided. He maintains his plea of not guilty.

- (d) Explain the nature and purpose of this hearing, the decisions that the court will or may make, the criteria on which those decisions will be made, and how Tony French should exercise any options that may be open to him.

**(10 marks)**

**(Total: 28 marks)**

## Question 2

Reference: Question relates to **CASE TWO – GRANT SHAW** and **Documents 2 and 3** of the case study materials.

Grant Shaw continues to maintain a not guilty plea.

- (a) Explain the nature and purpose of the first hearing scheduled in the Crown Court in this case. **(6 marks)**

Sarfraz Butt, the owner of an Indian restaurant, and another of those charged with handling stolen meat, contacts Kempstons to request that they represent him. He has indicated a plea of not guilty, but when you first speak to him it is clear that he is actively considering changing his plea to guilty.

- (b) Explain whether you can, and should, accept his instructions. **(6 marks)**

Following initial disclosure, a defence statement is filed for Grant Shaw. The essence of the defence is that, to the best of the defendant's knowledge, his transactions with Meatforce were legitimate commercial transactions and he was not acting dishonestly. The prosecution responds that there is no further disclosable material. Grant Shaw advises you that on one occasion when he visited Helpston Meats to pick up an urgent order, Keith Lewis showed him an email concerning a special offer available through Meatforce, and that email was copied to two directors of Helpston Meats. Although a considerable number of emails have been disclosed, this one has not. You consider that it supports the defence case for Grant Shaw that these were legitimate commercial transactions.

- (c) Explain the steps which can be taken to address this situation. **(8 marks)**

**(Total: 20 marks)**

**Turn over**

### Question 3

Reference: Question relates to **CASE TWO – GRANT SHAW** and **Documents 2 and 3** of the case study materials.

The prosecution serves on you a statement of Keith Lewis, who has now been convicted in relation to his role in the offences. He states that he made clear to those who purchased from Meatforce that they were part of a criminal enterprise.

- (a) Explain the implications of this development for the conduct of the defence. **(6 marks)**
- (b) Indicate what direction as to character should be given for Grant Shaw and the implications of this for the case. **(6 marks)**
- (c) Indicate how the issue of dishonesty will be handled at trial. **(8 marks)**

Grant Shaw is convicted. The sentence imposed is entirely in accordance with the relevant guidelines, but you consider that the directions of the judge in relation to dishonesty were incorrect and disadvantaged Grant Shaw.

- (d) Explain the procedure for an appeal against conviction and the criteria on which such an appeal will be decided. **(6 marks)**

**(Total: 26 marks)**

#### Question 4

Reference: Question relates to **CASE THREE – JANIS POGA** and **Document 4** of the case study materials.

Janis Poga continues to deny all involvement in the robberies.

- (a) Explain in which court or courts Janis Poga will or may initially appear, where any allocation decision will or may be made, and where trial and sentencing will or may take place. **(8 marks)**
- (b) Explain the options available to the court when remanding Janis Poga following his initial hearing. **(6 marks)**

On the assumption that evidence from PC Rathore's body-worn camera confirms Janis Poga's account of their encounter:

- (c) Explain what implications this has for the charge of police obstruction. **(6 marks)**

Janis Poga instructs you that he actually saw two people, who he now assumes were the robbers, discarding the items in the alleyway, and he looked through them as soon as they had gone. He is prepared to plead guilty to handling stolen property, namely the wallets.

- (d) Explain the steps you can take to give effect to these instructions and what the implications of them will be. **(6 marks)**

**(Total: 26 marks)**

**End of the examination**

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