



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 – LARRY CUTHBERT** of the case study materials.

When you contact the police the morning after Larry Cuthbert was arrested, the officer in the case tells you that enquiries are continuing, in particular in relation to the other alleged linked offences. You attend the police station and speak to Larry Cuthbert, who tells you that he had nothing to do with any of the other offences and could not therefore be identified as being involved. He further states that on this occasion he had asked for a lift to the lorry park, as he had been offered some work as a driver's mate and would be picked up at the lorry park for this. Larry Cuthbert states that he never left the café at the lorry park, and he denies that he could have been caught on CCTV as the police are alleging.

- (a) Advise Larry Cuthbert what identification procedures may be undertaken and what his options are in relation to them.

(7 marks)

Larry Cuthbert then asks you whether you will continue to act for him on a not guilty plea, even if he tells you that he was involved in the earlier offences and was intending to carry out a further theft at the time of his arrest.

- (b) Explain what response you will give to Larry Cuthbert.

(5 marks)

In the event, Larry Cuthbert accepts his responsibility in interview for his part in these offences as a member of the group involved, but not as a leader of that group. He is charged with three offences of theft from vehicles of property to a total value of £78,000. The Initial Details of the Prosecution Case (IDPC) **[not supplied]** contain material pointing to Larry Cuthbert as being a leader of the group, and initial discussions with the CPS indicate that the prosecution intends to proceed on this basis.

- (c) Explain, on the assumption that Larry Cuthbert maintains a guilty plea, the procedure that will take place at court:

- (i) in relation to the allocation of the case;

(6 marks)

- (ii) in relation to the resolution of any issues between the prosecution and the defence concerning the nature of Larry Cuthbert's involvement in the offences;

(5 marks)

- (iii) in relation to sentencing.

(5 marks)

(Total: 28 marks)

Question 2

Reference: Question relates to **CASE TWO – SHAHID MASUD** and to **Documents 1 and 2** of the case study materials.

- (a) Explain the procedure and criteria for the grant of a representation order in the case of Shahid Masud.

(5 marks)

Shahid Masud continues to maintain a not guilty plea.

- (b) Explain the procedure that will take place on the initial appearance before the magistrates' court, with particular reference to the criteria for allocation of the case and advise how Shahid Masud should exercise any choice which he may have in relation to allocation.

(10 marks)

In the event, the case is allocated to the Crown Court for trial.

- (c) Explain the nature and purpose of Shahid Masud's first appearance before the Crown Court.

(5 marks)

(Total: 20 marks)

Question 3

Reference: Question relates to **CASE TWO – SHAHID MASUD** and to **Documents 1 and 2** of the case study materials.

(a) Draft the Defence Statement.

(5 marks)

The prosecutor has indicated that he proposes to call the two children referred to in **Document 1** as witnesses.

(b) Explain how the Crown Court will address:

- (i) whether it can receive the evidence of either or both of these children;
- (ii) whether, if the evidence is receivable, any particular steps should be taken in relation to such evidence.

(8 marks)

(c) Explain the legal, evidential and procedural issues which arise in this case, and how the defence should deal with them.

(12 marks)

Shahid Masud is convicted and sentenced to a term of six months' imprisonment suspended for two years. Counsel advises that the sentence is entirely appropriate in accordance with the relevant sentencing guidelines, but that the Recorder misdirected the jury in relation to the use they could make of adverse inferences, and counsel grounds of appeal accordingly.

(d) Explain the procedure for appeal against conviction and the grounds and criteria upon which such an appeal will be determined.

(5 marks)

(Total: 30 marks)

Question 4

Reference: Question relates to **CASE THREE – JANE PARKER** of the case study materials.

You attend the police station and are invited to review the CCTV footage, which clearly shows Jane Parker removing items from display and concealing them. You then speak to Jane Parker. She seems rather agitated and on edge compared to her demeanour on previous occasions when you have represented her and is incapable of giving you a clear account of what occurred. She accepts that she was in the process of stealing clothing when she was confronted. She accepts that she did spit at the security guard, although she tells you that she was so far away that it could not possibly have reached him. She cannot recall if she said anything about Covid-19. She is worried that she may lose her accommodation. The police will shortly be interviewing her.

- (a) Explain the advice you will give to Jane Parker as to how she should deal with the interview.

(6 marks)

Jane Parker is charged with an offence of theft and an offence of common assault in relation to the spitting incident. She is bailed to appear on the same date as already fixed for the earlier offence. On that date, she does not appear, and a warrant, not backed for bail, is issued for her arrest. The following day, Jane Parker contacts you and explains that she had suffered a panic attack.

- (b) Explain to Jane Parker the consequences of failing to appear and the steps she should now take to minimise those consequences.

(5 marks)

Jane Parker pleads guilty at the first opportunity to all charges, including an offence under the Bail Act which is preferred at court. The magistrates retain jurisdiction and adjourn for a pre-sentence report. The prosecution opposes bail.

- (c) Explain the legal position with relation to bail and the representations you will make on Jane Parker's behalf.

(6 marks)

The pre-sentence report confirms that Jane Parker is continuing to make satisfactory progress in dealing with her substance abuse problems and has been recommended for transfer to accommodation designed to prepare her for fully independent living.

- (d) Outline the matters that you will include in a plea in mitigation.

(5 marks)

(Total: 22 marks)

End of Examination Paper