



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

June 2022

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.

Turn over

Answer ALL questions

Question 1

Reference: Question relates to **CASE ONE: DONNA FRANKLIN** of the case study materials.

The police indicate that they wish to undertake an identification procedure in relation to Donna Franklin.

- (a) Explain the nature of this procedure, the options available to Donna Franklin in relation to it, and your role in protecting her interests.

(7 marks)

Donna Franklin is identified by the alleged victim, but not by the coffee shop employee. She is interviewed and gives a no comment interview. She is then charged with theft of the laptop and bailed pending her initial appearance before the court. She continues to maintain a not guilty plea.

- (b) Explain the nature and purpose of the initial appearance before the court. Indicate the criteria on which the court will make any decisions in relation to the progress of the case and the factors that should influence Donna Franklin in exercising any option which may be open to her in relation to the proceedings.

(10 marks)

The case is proceeding in the magistrate's court. On the day of the trial Donna Franklin changes her plea to guilty. The case is adjourned for a pre-sentence report. This indicates that Donna Franklin has now accepted responsibility for the offence and has also made some efforts to deal with her drug problems. She is considered suitable both for an unpaid work requirement and a drug rehabilitation requirement. Donna Franklin has a number of previous convictions for offences of dishonesty, which she has explained were committed in order to provide funds to enable her to indulge her drugs habit.

- (c) Outline the plea in mitigation that you would make on behalf of Donna Franklin.

(7 marks)

(Total: 24 marks)

Question 2

Reference: Question relates to **CASE TWO: AJAY KUMAR and Documents 1 and 2** of the case study materials.

At the next hearing before the magistrates, the prosecution objects to bail on the grounds that the arson offence is one committed on bail and that there are serious grounds for considering that the defendant will commit further offences if released.

(a) Explain the legal position with regard to the grant or withholding of bail and the representations you will make on behalf of Ajay Kumar in relation to bail. **(6 marks)**

(b) Explain the procedure for applying for a representation order for Ajay Kumar and the criteria that will be applied. **(5 marks)**

At this stage Ajay Kumar and Meles Gjeraj are pleading not guilty to all charges.

(c) Explain in which court or courts each defendant may be tried and, where necessary, sentenced. **(11 marks)**

You make arrangements to take a statement from Jas Patel, the potential alibi witness named by Ajay Kumar. Jas Patel initially gives a clear and confident account of playing pool with Ajay Kumar in a local pub from 6 pm to 8 pm on 17 April. However, at one point he says he can distinctly remember it because it was the day after he and Ajay Kumar went to London to see a concert at the O2 Arena. You are familiar with this event and point out that it took place on Friday 15 April, not Saturday 16 April. Jas Patel becomes confused and finally admits that what he has been describing did take place, but on Saturday 16 April not Sunday 17 April as he originally said.

(d) Explain how you should respond to this turn of events. **(5 marks)**

(Total: 27 marks)

Turn over

Question 3

Reference: Question relates to **CASE TWO: AJAY KUMAR and Documents 1 and 2** of the case study materials.

The cases involving Ajay Kumar have been allocated to the Crown Court. Meles Gjeraj has pleaded guilty and has been sentenced in relation to the arson. The prosecution has served a statement from Meles Gjeraj in which he asserts that he committed the offence jointly with Ajay Kumar and that Ajay Kumar was the prime instigator as he had a grievance against the nephew of the business owner. Ajay Kumar instructs you that he has heard that the reason why Meles Gjeraj is implicating him is that the actual co-offender was his elder brother Enver Gjeraj, and various members of the family are pressuring him to give false evidence in order to protect his brother, who would be liable to deportation if convicted.

- (a) Explain the legal and evidential issues which arise between the prosecution and defence in relation to the charges of arson and possession of a bladed article, including the measures which the defence should take to protect the interests of Ajay Kumar.

(16 marks)

Ajay Kumar is acquitted of arson and convicted of possession of a bladed article in a public place. He has been asked whether he wishes to plead guilty to the charge of obstructing a police officer and states that he does not.

- (b) Explain what will or may now happen in relation to the charge of obstructing a police officer.

(5 marks)

In the event, the charge of obstructing a police officer is to be proceeded with.

- (c) Explain the legal issues which arise in relation to the charge of obstructing a police officer, with particular reference to the exercise of stop and search powers.

(8 marks)

(Total: 29 marks)

Question 4

Reference: Question relates to **CASE THREE: LIAM WHITE** of the case study materials.

At a preliminary hearing in the Crown Court counsel for Liam White makes a successful application to exclude the evidence of the undercover police officers, which forms the only substantive evidence against Liam White, on the grounds that their behaviour in dealing with Liam White constituted improper entrapment.

- (a) Explain the steps which the prosecution can now take and the criteria on which any application they may make will be determined.

(7 marks)

In the event, as a result of the action taken by the prosecution, the case against Liam White is now proceeding to trial.

- (b) Explain the significance of Liam White's previous good character and the nature of the direction which the judge should give to the jury in this respect.

(7 marks)

Liam White is convicted and sentenced to a term of custody which is the same as sentences imposed on co-accused who also pleaded not guilty, but who were clearly more senior in the drug dealing network and had previous convictions for similar offences.

- (c) Explain the procedure for appeal against sentence and the criteria on which an appeal will be determined.

(6 marks)

(Total: 20 marks)

End of the examination

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