



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**

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Question 1

Reference: Question relates to **CASE ONE: HOWARD GROVES** of the case study materials.

The day before Howard Groves is due to appear in court, the officer in the case telephones to inform you that the police have linked him to a further seven similar offences, involving property of a total value of £4,000. It is proposed that these be taken into consideration. You take your client's instructions and he confirms that he is responsible for these additional offences.

- (a) Advise Howard Groves on the procedure for taking offences into consideration and the effect this will have on the outcome of the proceedings.

(5 marks)

- (b) Describe the procedure at the initial court appearance in the magistrates' court. Your answer should indicate the options available to the court and the criteria on which the court will determine how to proceed.

(8 marks)

The magistrates' court concludes that it is in a position to proceed to sentence, following a short adjournment for a stand down pre-sentence report. The court indicates that such a report should consider all sentencing options. The report confirms that Groves is considered suitable for a community sentence and that this should include a drug rehabilitation requirement.

- (c) Outline the matters which you would include in a plea in mitigation on behalf of Howard Groves.

(8 marks)

In the event, the magistrates' court imposes a custodial sentence, which you consider to be excessive, having regard to the relevant sentencing guidelines and to the available mitigation.

- (d) Explain the procedure for appeal, and the criteria on which the appeal will be determined.

(5 marks)

(Total: 26 marks)

Turn over

Question 2

Reference: Question relates to **CASE TWO: MIRANDA OJOMOH** of the case study materials.

You attend the police station and speak to Miranda Ojomoh.

- (a) Explain the VIPER identification procedure, indicating its advantages and disadvantages for the client.

(5 marks)

Miranda Ojomoh makes it clear that she does not wish to collaborate with the VIPER identification procedure or with any other form of identification procedure, so far as it is within her power.

- (b) Explain the alternative identification procedures that the police could adopt, indicating their advantages and disadvantages for the client.

(5 marks)

After giving a 'no comment' interview, Miranda Ojomoh is charged with causing grievous bodily harm to the victim, Francesca Fowler, and is released on conditional bail to appear before Luton Magistrates' Court. She instructs you that she intends to plead not guilty on the basis that it is a case of mistaken identity and she is not responsible for the injuries to Francesca Fowler.

The advanced disclosure given indicates that these injuries amount to superficial burns to the face, which are unlikely to have any permanent cosmetic implications, loss of most of the complainant's hair and third-degree burns to the hands, which are likely to result in limited permanent scarring. You have also established that Francesca Fowler is single and is employed part-time as a beautician with annual gross earnings of £12,000. She has no savings or other assets.

- (c) Explain the criteria for the award of a representation order in respect of Miranda Ojomoh.

(5 marks)

You attend court on the date when Miranda Ojomoh is due to make her first appearance. She does not appear, and you are unable to contact her by telephone. The prosecution successfully applies for a warrant for her arrest not backed for bail. Later that day, Miranda Ojomoh telephones you and tells you that she mistook the date and has only just realised that she should have been in court that morning.

- (d) Advise Miranda Ojomoh as to the consequences of her failure to appear and how this issue will be resolved.

(9 marks)

(Total: 24 marks)

Question 3

Reference: Question relates to **CASE TWO: MIRANDA OJOMOH** of the case study materials.

Miranda Ojomoh maintains her plea of not guilty at the plea before venue hearing, and the court proceeds to an allocation hearing.

- (a) Explain the procedure for allocation in this case, including the role of the prosecution, defence and court respectively, the criteria that will be applied, and what options should influence the exercise of any discretion which Miranda Ojomoh may have.

(9 marks)

The case is allocated to the Crown Court for hearing. The prosecution serves the full case file. There are statements from three witnesses, who have positively identified Miranda Ojomoh as the assailant. The complainant, Francesca Fowler, has not made a positive identification. Only one of the identification witnesses asserts that she saw Miranda Ojomoh actually attack Francesca Fowler with the ignited aerosol. The others both say that they saw her in a heated discussion with Francesca Fowler earlier, and also saw her running away from the scene of the attack.

Miranda Ojomoh instructs you that these witnesses are all friends of Francesca Fowler and have wrongly identified her, although she accepts that she was part of a dispute that occurred earlier between her group of friends and Francesca Fowler and her group. She continues to deny any involvement and that it is a case of mistaken identity.

- (b) Outline the matters which should be included in the defence statement.

(5 marks)

- (c) Indicate the legal and evidential issues which arise in this case and explain how you think the defence should deal with these.

(10 marks)

(Total: 24 marks)

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Question 4

Reference: Question relates to **CASE THREE: PAUL CRAIG** of the case study materials.

- (a) Indicate the steps you need to take to ensure that you can properly and effectively represent Paul Craig and that his interests are properly protected.

(6 marks)

You ascertain that the prosecution case is that Paul Craig, with four others who have not yet been apprehended, approached the complainant. She alleges that she was pushed up against a wall and held there by two of the offenders. A third offender threatened her with what she thinks was a knife. The other two stood just behind him. The offender with the knife then put his hand into her pocket and took her smartphone and purse. He then said words to the effect that if she tried to follow them or contact the police, he would cut her.

They all then ran away. Paul Craig was arrested because a passer-by, who is the father of another player in a basketball team in which Paul Craig plays, identified him. He saw the actual robbery at a distance, but cannot say what part Paul Craig played. He did see all five clearly, because they ran past him as they left the scene of the crime.

Paul Craig tells you that he was present at the scene, but played no part in the actual robbery and ran away with the others because he was frightened. He does know who the others involved were, but is afraid to give their names to the police, because he is worried that they will beat him up.

- (b) Advise Paul Craig as to his options when he is interviewed in relation to this matter.

(6 marks)

In the event, Paul Craig gives a 'no comment' interview. Subsequently, the complainant identifies him as the offender with the knife who actually stole the smartphone and purse.

- (c) Explain in which courts this case may be heard and the criteria on which the allocation decision will be made.

(8 marks)

Initially, Paul Craig maintains that he played no part in the robbery, and a plea of not guilty is entered. Shortly before the trial is due to take place, Paul Craig contacts you and indicates that he accepts that he was an active participant in the robbery, but continues to deny that he was the principal offender.

- (d) Advise Paul Craig as to the procedures that could be used to resolve the case on this basis.

(6 marks)

(Total: 26 marks)

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