



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: SAULIUS DAUKINTIS** and **Document 1** of the case study materials.

You speak on the telephone to the officer in the case, who informs you that the police propose to administer a further breath test to ascertain conclusively whether your client is over the alcohol limit. Saulius Daukintis appears not to understand why a further test is required. The officer is willing to let you speak to him on the telephone in relation to this matter.

- (a) Explain the action you will now take to represent and protect the interests of Saulius Daukintis, both in relation to the breath alcohol test and generally.

(7 marks)

After your telephone conversation, a further breath test is administered. When you arrive at the police station, you are advised that this test has proved negative. When you speak to Saulius Daukintis, he explains to you that he was driving the car. He had asked his friend if he could try driving in England. He is an experienced driver, but this was the first occasion on which he had driven in British conditions. He lost control of the car while accelerating and then panicked. He appears genuinely shocked that he could have done something so potentially dangerous, and appears sincerely remorseful. The police now wish to interview him.

- (b) Advise Saulius Daukintis as to the options available to him in relation to the interview and how he should approach it.

(6 marks)

In due course, Saulius Daukintis is charged with dangerous driving, driving without insurance, failing to stop at the scene of an accident and failing to report an accident. He is bailed to appear at court. You are subsequently informed that the cost of repair of the bus shelter and restaurant window is approximately £3,500. He tells you that he will admit all the allegations.

- (c) Explain the procedure at the first court appearance, including the criteria on which any decisions will be made.

(7 marks)

In the event, the case is committed to the Crown Court for sentence. Saulius Daukintis is granted conditional bail, with a condition of residence at his friend's address and surrender of his passport. You obtain a certificate from the Lithuanian authorities, confirming that he has no convictions other than for speeding. Saulius Daukintis produces a bank statement showing that he has available savings of approximately £15,000.

- (d) Outline the plea in mitigation to be presented on behalf of Saulius Daukintis, having regard to the sentencing options which the court is likely to have in mind.

(7 marks)

(Total: 27 marks)

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Question 2

Reference: Question relates to **CASE TWO: MARK POTTER** and **Document 2** of the case study materials.

After you have taken instructions from Mark Potter and discussed the situation with him, he indicates that he will give a no comment interview but wishes to present a written statement.

- (a) Draft an appropriate statement based on the information in your possession.

(6 marks)

At this point, the officer in the case indicates that the police propose to undertake a VIPER identification procedure.

- (b) Advise Mark Potter as to the options available to him and the considerations he should take into account, when deciding whether or not to agree to participate in the VIPER procedure.

(6 marks)

Mark Potter agrees to participate in the VIPER procedure, and is then granted police bail. A positive identification is made by both of the eyewitnesses. When he answers bail, Mark Potter is charged with an offence of assault occasioning actual bodily harm to Jack Shaw and given unconditional bail pending his appearance in court. When he appears in court, he indicates a plea of not guilty.

- (c) Advise Mark Potter as to the allocation procedure applicable in this case. Your advice should include: consideration of the roles and responsibilities of the court, the prosecution and the defence; the criteria to be applied; and the implications of any options your client may be able to exercise.

(10 marks)

(Total: 22 marks)

Question 3

Reference: Question relates to **CASE TWO: MARK POTTER** and **Document 2** of the case study materials.

Following the allocation procedure, the case of Mark Potter is to proceed in the Crown Court. Mark Potter is again granted unconditional bail. The prosecution has provided primary disclosure, and you are satisfied that all relevant information and documents have been disclosed.

(a) Draft Part 2 (Nature of the defence) of the defence statement in this case.

(6 marks)

Mark Potter continues to maintain his plea of not guilty.

(b) Explain the nature and purpose of the first appearance before the Crown Court.

(5 marks)

Mark Potter contacts you to inform you that he has now fallen out with the individual who, he maintains, committed the offence of assault on Jack Shaw. He informs you that this individual, Luke Williams, has failed to pay the price of a motorbike that Mark Potter sold to him. He makes an appointment for Emma Parsons to see you, and states that she was an eyewitness of the offence and can confirm that Luke Williams was the perpetrator.

You start to take a witness statement from Emma Parsons, but her account of the incident seems inconsistent with the information you already have from Mark Potter and from the prosecution statements. You tell Emma Parsons that you are concerned about these inconsistencies, and she bursts into tears and tells you that she is only trying to help Mark Potter, but he has asked her to say that she was at the scene when she was not.

(c) Explain the action you must now take in relation to the further conduct of the case.

(5 marks)

You are able to resolve the issues relating to Emma Parsons and continue to act for Mark Potter.

(d) Explain the legal and evidential issues that are likely to arise at trial.

(10 marks)

(Total: 26 marks)

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Question 4

Reference: Question relates to **CASE THREE: OLIVER KINGSTON** of the case study materials.

- (a) Explain in which court (or courts) Oliver Kingston will make his initial appearance and will (or may) be dealt with in relation to these alleged offences.

(8 marks)

The prosecution continues to oppose bail for Oliver Kingston. His placement at the children's home where he has been living remains available.

- (b) Explain what options the court has in relation to remanding Oliver Kingston on bail or otherwise, the criteria that will apply, and the nature of any representations as to bail that you will make.

(6 marks)

The Youth Court, when considering allocation, determines to allocate this case to the Crown Court. You are of the opinion that there is no rational basis for assuming that the criteria for making this allocation have been met.

- (c) Explain the procedure for challenging this decision, and the criteria that the court will use.

(5 marks)

Oliver Kingston denies the allegations. The prosecution indicates that it proposes to rely on the evidence of the young child who allegedly witnessed one of the offences.

- (d) Explain how this evidence can be admitted including any safeguards to protect the witness.

(6 marks)

(Total: 25 marks)

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