



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 12 – PUBLIC LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper 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 carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- 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 Public Law and Human Rights, 2017-2018, 27th edition, Robert G. Lee, Oxford University Press, 2017.**
- 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** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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SECTION A
(Answer at least one question from this section)

1. (a) Explain how the Human Rights Act 1998 has incorporated the European Convention on Human Rights into UK law.

(6 marks)

(b) Analyse the extent to which the Human Rights Act 1998 has limited parliamentary sovereignty.

(19 marks)

(Total: 25 marks)

2. With reference to the sources of the UK constitution, discuss whether the UK should have a written or a codified constitution.

(25 marks)

3. With reference to the Parliamentary and Health Service Ombudsman's role as Parliamentary Commissioner for Administration, discuss the effectiveness of the Parliamentary Commissioner for Administration in providing redress for the citizen.

(25 marks)

4. (a) Analyse the strict liability offence created by the Contempt of Court Act 1981.

(12 marks)

(b) Analyse with reference to the doctrine of proportionality the extent to which liability under the strict liability offence might breach the press's right to freedom of expression under Article 10 of the European Convention on Human Rights.

(13 marks)

(Total: 25 marks)

Turn over

SECTION B
(Answer at least one question from this section)

Question 1

The UK government adopted a policy of promoting the sale of fairly traded goods. To implement this policy, Parliament enacted the Advancement of Development Act 2014 ('the Act') (fictitious) establishing the (fictitious) Trade Certification Agency ('the TCA'). The Act gave the TCA the power to grant government-backed Fairtrade certification to importers of fairly traded goods.

The TCA issued guidelines that it would normally grant Fairtrade certification to importers who had previously held Fairtrade certification for three years under the non-governmental scheme that had existed before the Act ('the old scheme').

- (i) The TCA recently rejected an application for certification by Freedom Wines Ltd ('Freedom'), a company that imports wine from South Africa, because it had only held Fairtrade certification under the old scheme for two years. Freedom had pointed out in its application that the vineyards in South Africa from which it imports wine were only purchased by a workers' co-operative two years ago; it had also submitted evidence that the working conditions on those vineyards were exceptionally good.
- (ii) The TCA recently granted Menyenangkan Products Ltd ('MPL'), an importer of mangos from Indonesia, fair trade certification, even though it had not been certified under the old scheme. In giving reasons for its decision, the TCA stated that the grant of certification to MPL would boost trade with Indonesia. The Justice in Development Coalition ('JDC') (fictitious), a pressure group that has campaigned nationwide for a fairer world trading system, believes that the TCA's decision is seriously flawed.
- (iii) The TCA recently sent a letter to Integrity Goods Ltd ('Integrity'), an importer of crafts from Bolivia, rejecting its application for Fairtrade Certification, even though it had been certified under the old scheme for five years. The TCA gave no reasons for its decision.

Advise Freedom, JDC and Integrity whether each may make a claim for judicial review of the decisions affecting them and whether any such claim is likely to succeed.

(25 marks)

Question 2

3 July at 10.15pm

An argument flared up between two groups of drinkers at the Mayfair Arms, a pub in Leeds. People became very angry, a fight broke out and someone produced a knife. While the fight was in progress, the police arrived to discover that some of the drinkers were fighting each other in the street outside. One of those involved was bleeding profusely from his neck, and shouting that he had been stabbed by a man in a red T-shirt. PC Kamal grabbed the arm of Edgar, who was involved in the fighting; Edgar was wearing a red T-shirt and his clothing was covered in blood.

Edgar pulled away, trying to punch one of the other group, but was bundled, by PC Kamal, into the back of the police van and taken to the nearest police station. When Edgar asked what was going on, PC Kamal replied: 'We're taking you away, lad, because you're a drunken hooligan!'

3 July at 10.45pm

At the police station Edgar asked the custody officer, Sergeant Carter, to let his wife, Jane, know where he was but Sergeant Carter refused, claiming that Jane might try to destroy evidence. She told Edgar that he was under arrest for attempted murder at the Mayfair Arms and would be detained for questioning. She also told Edgar that she wanted to take his fingerprints. Edgar refused, so Sergeant Carter forcibly took them.

4 July at 9am

Edgar remained in police custody. PCs Kamal and Borden went to the Mayfair Arms. As it was closed, they knocked on the door. The proprietor, Tasha, opened the door and the PCs told her that they were going to search the premises, as they believed they might find a knife there. Tasha told them that this was unlikely and she did not want them to carry out the search, but they insisted. She blocked the entrance, but the PCs nonetheless managed to enter the premises. No offensive weapon was found, but Tasha was arrested for obstructing the officers in the course of their duty.

Assume that nothing else of legal significance occurred.

Consider whether the police acted lawfully in the above events.

(25 marks)

Turn over

Question 3

Paul is the Secretary of State for Technology and Innovation (fictitious). Officials in his department have recently overseen the development of a new information technology system to be used by the civil service. However, as a result of corruption and administrative errors within Paul's department, the project has grossly exceeded its budget. Several MPs have tabled questions in Parliament about this, and there have been calls in the national press for Paul to resign.

Veronica, one of Paul's Cabinet colleagues, has been invited to take part in a radio programme, in which the problems with the information technology system are to be discussed. Veronica's personal view is that the project has been mismanaged and should be scrapped. She intends to mention this during the programme. The Cabinet has already decided to continue with the implementation of the project.

- (a) Advise Paul and Veronica as to the constitutional consequences arising from the above facts.

(12 marks)

The implementation of the project continues, but further problems arise and the costs escalate dramatically. Against the wishes of the Prime Minister a parliamentary debate is held, to consider the future of the project. Following the debate, the House of Commons narrowly passes a vote of 'no confidence' in the Government.

- (b) Advise the Prime Minister as to the constitutional consequences of this vote.

(7 marks)

During the debate that preceded the 'no confidence' vote, Liam, an opposition MP, accused Paul of deliberately defrauding the taxpayer of millions of pounds and of money-laundering. Liam's accusation was reported in several newspapers the following day.

- (c) Advise Paul whether he is able to sue Liam and the newspapers for defamation.

(6 marks)

(Total: 25 marks)

Question 4

Charles Ross is a local councillor of two years' standing, having been elected to Bellville District Council following an election campaign in which he promoted his strict views on morality and family values. He has young children, and his wife enthusiastically supported the campaign.

The following article appeared last week in The District Mail, a local newspaper:

Charlatan Charles's Callous Capers

'Self-professed upholder of morality, Councillor Charles Ross, was yesterday exposed as a serial adulterer, when details of his steamy private life emerged. Our investigations reveal he has had a number of extra-marital relationships over the past year with women he has then cruelly abandoned.

Information from a source close to him suggests his saucy shenanigans are so out of control that he has recently started having treatment for sex addiction at the exclusive private clinic The Cloisters in nearby Milnerton.'

The article went on to give details of Charles's affairs and was accompanied by a photograph of him walking in the grounds of The Cloisters. The content of the article is factually correct.

Charles immediately brought proceedings against the paper in the High Court, alleging that his right to privacy had been infringed. The District Mail has, however, stated that it was asserting its right to freedom of expression.

Explain the basis on which Charles may bring his claim and the basis on which The District Mail may seek to defend it.

(25 marks)

End of Examination Paper

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