



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: MANDY PRICHARD** in the case study materials.

- (a) Advise Mandy Prichard of the forms of public funding which may be available to her and the process for obtaining them.

(8 marks)

Mandy Prichard confirms to you that she fully accepts responsibility for her involvement in the offence. She is very remorseful and wants to get the matter over with as soon as possible.

- (b) Advise Mandy Prichard of her options in relation to the proposed interview under caution and the consequences of each.

(6 marks)

Mandy Prichard is charged with an offence of theft of £2,000 from her employer and bailed to appear at court. She indicates that she intends to plead guilty.

- (c) Explain the procedure at the initial hearing and the criteria that will be applied when exercising the powers of the court.

(7 marks)

In the event, the magistrates retain jurisdiction, but adjourn for a pre-sentence report. When this is obtained, it confirms that Mandy Prichard does fully accept responsibility for her offending and shows both remorse and an insight into her behaviour. She is assessed as being at a low risk of reoffending and as being suitable to undertake an unpaid work requirement.

- (d) Outline the matters you would include in a plea in mitigation on behalf of Mandy Prichard.

(8 marks)

(Total: 29 marks)

Question 2

Reference: Question relates to **CASE TWO: ASHWELL SINCLAIR and Document 1** in the case study materials.

The conditions attached to Ashwell Sinclair's bail included a condition not to go within 800 metres of Bedford station (covering the location where the offence occurred). Some days before the date of the first scheduled appearance at court, you are informed that Ashwell Sinclair has been arrested for breach of his bail condition and is being held by the police with a view to being brought before the court.

Ashwell Sinclair informs you that he accepts that he was within the relevant area, but did not appreciate that the condition prevented him from walking through the area, as opposed to loitering or remaining there.

- (a) Explain the powers of the court to deal with Ashwell Sinclair, any representations you will make on his behalf, and how the powers are likely to be exercised.

(8 marks)

Ashwell Sinclair continues to deny any involvement with the offence.

- (b) Explain the options as to where the case will be tried and the criteria to be applied.

(7 marks)

The police seized Ashwell Sinclair's mobile phone when he was arrested. They have not disclosed any information relating to it. Ashwell Sinclair instructs you that he did use his phone at the time of the offence, but in a different location.

- (c) Explain the steps that can be taken in relation to the mobile phone data and the failure of the police and/or prosecution to make this data available.

(7 marks)

(Total: 22 marks)

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Question 3

Reference: Question relates to **CASE TWO: ASHWELL SINCLAIR and Document 1** in the case study materials.

- (a) Explain whether the information at your disposal indicates any irregularity in the procedures adopted by PC Khan and, if so, what impact this will have on the proceedings.

(8 marks)

The complainant, Trevor Hendricks, did not make an identification in a VIPER procedure, but a second eyewitness has come forward who observed the robbery taking place and then saw the assailant running towards and past him. This witness has made a positive identification of Ashwell Sinclair in a VIPER procedure.

Forensic examination of the laptop bag did not result in any usable DNA or fingerprint samples. The data relating to the mobile phone has been disclosed and is inconclusive.

- (b) Identify the legal and evidential issues in this case, indicating how you would address them in order to represent the interests of Ashwell Sinclair.

(12 marks)

(Total: 20 marks)

Question 4

Reference: Question relates to **CASE THREE: MICHAEL JONES** in the case study materials.

On the day fixed for his first court appearance, Michael Jones confirms to you that he proposes to plead not guilty to all charges.

(a) Explain how the court will deal with the question of allocation.

(9 marks)

In the event, the case has been allocated to the Crown Court. Michael Jones sends you a text message to the effect that Junior Moray, who made a statement identifying him as the driver, now wishes to retract that statement. Shortly afterwards, Michael Jones arrives at your office with Junior Moray.

(b) Explain the actions that you should take in this situation.

(6 marks)

Michael Jones is eventually convicted of dangerous driving and aggravated vehicle taking.

(c) Explain the powers of the court in relation to Michael Jones' driving licence.

(6 marks)

You consider that the trial judge wrongly dealt with issues relating to whether or not Junior Moray should be treated as a hostile witness. Furthermore, you consider that the sentence of detention in a young offender institution imposed on Michael Jones falls outside the relevant sentencing guidelines.

(d) Explain the procedure for appeal, and the criteria that will be applied by the appellate court when considering the appeal.

(8 marks)

(Total: 29 marks)

End of Examination Paper

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