



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 2018-2019, 28th edition, Robert G. Lee, Oxford University Press, 2018.**
- 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**

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

1. Evaluate the importance of conventions to the UK constitution.

(25 marks)

2. Analyse what impact the following have had on UK law:
 - (a) the law of the European Union during the UK's membership of the EU;

(17 marks)
 - (b) international law.

(8 marks)

(Total: 25 marks)

3. Analyse, to what extent, devolution in Scotland has impacted upon the doctrine of Parliamentary Sovereignty.

(25 marks)

4. Evaluate how satisfactorily the law strikes a balance between press freedom and the protection of privacy.

(25 marks)

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

Question 1

Ainsley was the Progress Party's candidate for Parliamentary elections in the constituency of Kempston-on-Thames. His main rival for the seat was Beatriz, who represents the Utopia Party. Both the Progress Party and the Utopia Party are registered political parties. During the election campaign, a local poll placed Beatriz in the lead, mainly due to her perceived support for 'traditional family values'.

Ainsley was furious, and the following day he made a speech in Kempston-on-Thames town square. During the speech, he claimed that Beatriz 'has three failed marriages behind her' and 'is a known participant in group sex'. In fact, Beatriz has been married just once and there is no evidence that she has ever been involved in 'group sex'.

Ainsley won the election by a small margin. After drinking heavily at the post-election victory party, Ainsley got into his car and began driving home. PC Clare, a police constable who was patrolling in her police vehicle, became suspicious, after seeing Ainsley's car being driven erratically. She pulled Ainsley over and noticed, on speaking to him, that his breath smelled strongly of alcohol. PC Clare told Ainsley, 'You're under arrest – I can smell the booze from here and you're far too tipsy to drive', and immediately took him to the police station.

At the police station, Ainsley was breathalysed and found to be three times over the legal blood alcohol limit. Sergeant Davies, the custody officer, told Ainsley that he was under arrest for being drunk in charge of a motor vehicle. Sergeant Davies also authorised Ainsley's detention on the basis that this was reasonably necessary to obtain evidence of the offence for which Ainsley was under arrest, by questioning him.

At this point, Ainsley said to Sergeant Davies: 'I'm a wealthy man. How about you lose the breathalyser evidence and I'll make you £5,000 richer?'

Explain:

- (a) whether Beatriz has any rights to challenge the election result; **(9 marks)**
- (b) whether the initial arrest of Ainsley by PC Clare was lawful; **(9 marks)**
- (c) any offence that Ainsley may have committed in offering £5,000 to Sergeant Davies. **(7 marks)**

(Total: 25 marks)

Turn over

Question 2

Felicity is a prominent businesswoman, who owns General Household Goods ('GHG'), a major high street retail chain with over 200 stores across England. In December 2018, Ian, a journalist who works for the 'Daily News' newspaper was sent an email from an anonymous account, alleging that Felicity had been stealing money from the GHG pension fund, which pays pensions to retired GHG employees.

Ian replied to the email, asking for more information. He received an email in response, which contained documents purporting to be bank transfers showing large sums of money being transferred from the pension fund to an offshore account in Felicity's name. The email did not identify any sources or explain how the documents had been obtained. Ian, under pressure from his editor Karim to find a major news story, wrote an article that was published two days later in the Daily News. Under the headline 'Felicity the fraudster', the article stated as a fact that Felicity was 'no more than a common thief, stealing the hard-earned cash of millions of pensioners'.

Two weeks later, it was established by a rival newspaper that the Daily News article was entirely incorrect. There was no evidence of Felicity taking money from the pension fund, and the documents provided to the Daily News were exposed as forgeries.

Jenna, a Member of Parliament, was furious when she read that the Daily News article was wrong. During that afternoon's Parliamentary session, Jenna stated to the House of Commons that: 'the editor of the Daily News is a misogynist and I think the only reason he prints these articles is to stir up hatred against women'. Jenna later repeated her statement in a television interview.

Advise Felicity and Karim as to any claims in defamation they may make.

(25 marks)

Question 3

Massive Corporation Limited ('MCL') is a large employer in the town of Riverside. In April 2019, MCL announced that it would be moving much of its production to Asia and making half of its workforce redundant in Riverside.

At a workers' meeting on Tuesday 7 May, Natalie, an MCL employee, proposed that the MCL employees hold a protest march that weekend, on Saturday 11 May. Natalie agreed to organise the march. On Thursday 9 May, Natalie sent an email to PC Robertson, a Riverside police officer she knew, telling her of the planned march, which would proceed from the town park to outside the MCL factory via Smithfield Road.

On Saturday 11 May, Natalie and around 100 other MCL employees began marching along their proposed route. PC Robertson, who was the most senior police officer present, approached Natalie and told her, 'You can't march down Smithfield Road. There's a big football match taking place and you'll block the traffic.' Natalie asked the other employees to follow an alternative route avoiding the football ground, but around half of the protestors ignored Natalie and continued down Smithfield Road.

As the marchers neared the MCL factory, a group of police officers surrounded the marchers and used 'kettling' tactics to contain them in a small area to the side of the road. While most of the marchers remained calm, one employee, Olisa, was incensed and began arguing with one of the police officers, PC Sakahashi. PC Sakahashi is of Japanese heritage. Olisa shouted at PC Sakahashi, 'Of course you Asians want us to lose our jobs' and then threatened her: 'I'm going to smash your face in'.

Olisa was arrested. However, while no other protestors behaved violently, the police kept the kettle in place for a further six hours, and it was only late at night that the remaining marchers were released.

Advise the parties as to any legal issues relating to the Public Order Act 1986, the Crime and Disorder Act 1998 and the Human Rights Act 1998.

(25 marks)

Turn over

Question 4

In 2018, Parliament passed the [fictitious] Music Festivals (Regulation) Act 2018, ('MFRA 2018'). The purpose of the Act was stated by the government to be:

'to provide greater regulation of music festivals and to protect both festival-goers and the general public'.

- Under MFRA 2018 section 2, the Act applies to all 'Regulated Music Festivals'. This is defined under the same section as 'an organised gathering where live music is played to an audience'.
- Under section 48 of the MFRA 2018, a Regulated Music Festival may only take place if granted a licence by the local council.
- Under section 49 of the MFRA 2018, local councils when granting such licences 'have the power to impose reasonable conditions regarding the time and location of any Regulated Music Festival, for the purpose of avoiding anti-social behaviour or excessive nuisance to the local community'.
- Under section 50 of the MFRA 2018, such conditions may only be imposed where the audience consists of at least 100 people.

In March 2019, Northchester Council was made aware of two musical events that have been organised for August 2019 in the town of Northchester.

The first event is a large dance music festival, 'Dancefest', which is proposed to be held from 9pm Friday night to 9am Sunday morning, with 36 hours of non-stop dance music. Around 1,000 people are expected to attend. The festival is to be held in Bishop's Green, a large open space in the middle of a residential area. In May 2019, the Council announced that the festival would be granted a licence pursuant to the MFRA 2018 without any conditions, 'as it is our policy never to interfere with weekend events'. Local residents have since formed a protest group called 'No Noise in our Neighbourhood' ('NNN').

The second event is 'Jazzfest', a festival of jazz music organised by Violet. Violet has booked the 80-person capacity South Hall and plans to sell 75 tickets for the festival. The event is planned to run from 7pm to 10pm on a Tuesday evening. South Hall is in the centre of Northchester in a mainly commercial area. In May 2019, the Council announced that it was granting a conditional licence to Jazzfest pursuant to the MFRA 2018 and that it would only be allowed to run until 8pm. Violet believes that this is because Waqaas, the landlord of a local pub and a councillor who was part of the committee that imposed the condition, is holding a jazz-themed pub quiz at 8pm on the same evening and is worried that Jazzfest will affect his business.

Advise NNN and Violet whether either may make a claim for judicial review of the decisions affecting them and whether any such claim is likely to succeed.

(25 marks)

End of Examination Paper

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