



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: GEORGE DIXON and Documents 1–3** of the case study materials.

DS Rowan informs you that he does not propose to interview George Dixon at this stage but, intends to arrange for an identification procedure. George Dixon will be bailed pending the outcome of this procedure.

- (a) Advise George Dixon as to the identification procedures that may be adopted, indicating which are most likely to be undertaken in the circumstances, what his options are in relation to participation in these procedures, and your role in protecting his interests.

(8 marks)

James Quaide and Barry Corkish have both made a positive identification of George Dixon. Barry Corkish has also made a positive identification of Terry Wiggins. The police are now ready to interview George Dixon. George Dixon informs you that he stands by what he stated to you originally and continues to deny any involvement in the offence.

- (b) Advise George Dixon as to his options in relation to the interview and the consequences of adopting each of them.

(8 marks)

In the event, George Dixon instructs you that he wishes to give a 'no comment' interview, but to present a written statement.

- (c) Draft an appropriate statement.

(8 marks)

George Dixon has been charged with burglary in relation to this matter. He is jointly charged with Terry Wiggins. Both men have been remanded in custody pending their initial appearance before the magistrates' court.

George Dixon asks you whether you will arrange to interview James Quaide, who, he states, has informed him via a mutual friend that he wishes to retract the evidence he has given to the police, and will say that he has had no dealings with George Dixon in the period prior to the burglary.

- (d) What response will you make to this request?

(6 marks)

(Total: 30 marks)

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Question 2

Reference: Question relates to **CASE ONE: GEORGE DIXON and Documents 1–3** of the case study materials.

Prior to the initial appearance of the defendants in the magistrates' court, the prosecution has served a number of statements and other documents. These are summarised below – you may assume that all formalities are in order:

- Mark Maddrell, General Manager, King Charles Building Supplies: Premises secure at close of business on 18 May 2019 with intruder alarm set and guard dogs on patrol. On arriving at 08.00, 20 May 2019 premises insecure. Intruder alarm disabled and guard dogs dead. Police notified. Maddrell produces digital recording from CCTV system and produces records confirming the amount of cash in the safe and the quantity, value and serial numbers of missing items of stock.
- Various statements in relation to Mercedes van MC68 GGV and producing documents confirming hire by Carole Wiggins.
- Barry Corkish, retired police sergeant: Describes walking his dog early on 19 May 2019 and seeing two strangers standing by the side of the road. Description given. They were picked up by a Mercedes van, part of the registration being 68GGV. Then describes identification of George Dixon.
- Official police record of identification procedure.
- Veterinary evidence of post-mortem examination of the guard dogs. Cause of death was strychnine poisoning in each case, and meat at the scene was contaminated with strychnine.
- Statement of DS Rowan relating to the arrest of George Dixon and his interview following the identification procedure.
- Statement of James Quaide (covering the matters mentioned in **Document 1**).
- Evidence of the finding of the Ford Transit van and its contents, including a glove. Forensic evidence confirming the obtaining of DNA from the glove and the matching of one sample to George Dixon's reference sample held on file and to a sample obtained by DS Rowan and confirming the presence of DNA from a second individual.

Following George Dixon's initial appearance, the case has been allocated for trial in the Crown Court. George Dixon continues to maintain a plea of not guilty.

- (a) Explain the function of, and procedure at, the initial appearance before the Crown Court.

(5 marks)

Terry Wiggins has now entered a plea of guilty. The prosecution has served a copy of his statement on you. In summary, he is now admitting that he planned and carried out the burglary and asserts that he did so together with George Dixon and a third man, who he is not prepared to identify.

George Dixon continues to maintain his plea of not guilty, and instructs you that Terry Wiggins is falsely implicating him, presumably because he believes that he will get extra credit for his guilty plea by doing so. You have interviewed the night porter at the Topham Hotel, but he is unable to recall whether or not he saw George Dixon leaving work on 19 May 2019.

- (b) Identify the issues of law, evidence and procedure which are relevant in this case, and indicate how you would expect counsel for the defence to deal with these matters at trial.

(16 marks)

George Dixon is convicted of burglary. Counsel has advised that in her opinion there was a significant misdirection by the trial judge.

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

(7 marks)

(Total: 28 marks)

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Question 3

Reference: Question relates to **CASE TWO: ASHWINI SODHA** of the case study materials.

Ashwini Sodha denies the offences.

- (a) Explain in which court or courts Ashwini Sodha may be tried and, if appropriate, sentenced.

(5 marks)

Ashwini Sodha is further bailed on the same conditions to a trial date following her initial appearance. Some days later, you receive a telephone call from the police, advising you that Ashwini Sodha has been arrested. She was seen by a patrolling officer with a large group of teenagers at the entrance to the park where the alleged offence took place.

The police are not prepared to grant bail and propose to put her before the court the following morning. When you speak to Ashwini Sodha at court before her appearance, she tells you that she had completely forgotten about the condition to keep away from the park and had gone there with a group of friends. She asserts that there was no connection with the original incident, and in particular, she was not looking for the victim for any reason.

- (b) Explain the powers of the court to remand Ashwini Sodha on this occasion, the likely representations of the prosecution, and the representations you will make on her behalf.

(9 marks)

At a pre-trial hearing, the prosecution and defence agree that in relation to the charge of theft, the substantial issue is whether or not Ashwini Sodha was dishonest in taking the mobile phone. The case is listed for trial before a bench of lay magistrates.

- (c) Explain the direction which the legal adviser should give to the bench in relation to the burden and standard of proof on the issue of dishonesty.

(6 marks)

(Total: 20 marks)

Question 4

Reference: Question relates to **CASE THREE: KEVIN BROWN** of the case study materials.

Kevin Brown continues to maintain that he is not guilty.

- (a) Explain the procedure for allocation of this case for trial, the criteria on which the court will make its decision, and how Kevin Brown should exercise any options he may have.

(11 marks)

In the event, the case is allocated to the Crown Court.

- (b) Advise Kevin Brown as to his entitlement to legal aid.

(5 marks)

Some weeks before the trial date, Kevin Brown advises you that he is in fact guilty of the offences and wishes to change his plea to guilty. He has also reimbursed the club for the losses it has sustained.

- (c) Outline the matters that you would include in a plea in mitigation in this case.

(6 marks)

(Total: 22 marks)

End of Examination Paper

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