



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, 2019-2020, 29th edition, Robert G. Lee, Oxford University Press, 2019.**
- 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. Define the relationship between Parliament and the Executive, and critically assess whether or not that relationship adequately demonstrates the separation of powers.

(25 marks)

2. (a) Evaluate the extent to which Parliament succeeds in safeguarding the rights of individuals, when evidence is improperly obtained.

(15 marks)

- (b) Analyse the powers that the police have in order to obtain and retain evidence such as fingerprints and DNA.

(10 marks)

(Total: 25 marks)

3. Discuss the grounds of irrationality and proportionality, and critically assess how they can be used by the Administrative Court to stop a public body abusing its powers.

(25 marks)

4. 'Parliamentary privilege is an essential part of our parliamentary democracy.' (2012, House of Commons cm/3818).

Assess, with reference to the above statement, whether the exercise of Parliamentary privilege is a threat to the rule of law.

(25 marks)

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

Question 1

Eugene travelled from Mozambique to London for a job interview at a university. He was staying at a friend's flat, while the friend was away on holiday. The interview lasted all day and Eugene returned to the flat in the early evening. Just before he arrived, Eugene was stopped by two police officers, who said that they wanted to question him about what he was doing in this neighbourhood, where he lived and what he did for a living. Eugene was very reluctant to talk and tried to walk past them.

One officer grabbed Eugene forcibly by the arm, swung him around and said that he was going to have to search him. Eugene was frightened and submitted to a search of his suit jacket, pockets and briefcase. At this point, the police officers told Eugene that they were conducting investigations in the area due to a large number of burglaries and robberies. In Eugene's briefcase, they found, among notes for the interview and his CV, a map of central London with streets from his friend's flat to the site of the job interview highlighted. The officers only then identified themselves and told Eugene that they were arresting him and that he would have to go to the police station with them.

They forced Eugene into their car, causing him to bump his head. On arrival at the police station at 7:30 pm, Eugene was questioned for over three hours without a break. Eugene was hungry and thirsty, but he was given nothing except a cup of tea. When Eugene requested time to pray, the officers questioning him just laughed. The police officer who arrested him told Eugene that he could telephone for a solicitor, if he thought it would help him. After a short break, Eugene was again questioned for one hour. In the interview, they challenged Eugene about photographs stored on his mobile phone, which showed streets around the university where he had had his interview. Interviews continued through the night.

Later that night, the officers went to the flat where Eugene was staying and entered it with Eugene's key. They found nothing incriminating except for a small amount of cannabis. On their return to the police station, the officers charged Eugene with possession of a controlled substance. He was then released on bail.

Advise Eugene on the legality of the police actions and whether their actions amount to a breach of his human rights.

(25 marks)

Turn over

Question 2

In 2018, Parliament passed the (fictitious) Local Growers Act 2018 ('the Act'). S.1 of the Act requires local authorities to establish 'local growers' associations. S.2 of the Act states its purpose as being 'to support local farms and small growers and reduce the impact of climate change'. S.3 of the Act authorises local authorities to appoint members but requires that a minimum of three members of the association must be growers in the local authority area. Applicants for membership can also include persons who are not actual local growers, as long as they have a demonstrable interest in sustainability. The association has the power under s.4 to grant preferential licences at local markets.

Michael is a farmer who applied to become a member of his local growers' association. The local authority's website instructs interested parties to complete an online application, and states that decisions will be made one week following the closing date for applications. It also states that unsuccessful applicants will receive feedback as to who was appointed and why their own application was unsuccessful. Michael waited three weeks after the closing date for a response to his application. When he telephoned to enquire, he was told that appointments had been made in the previous week. Michael has since discovered that only three people were appointed, none of whom are local growers. One of those appointed is Andrea, who is the CEO of Farming Market, an importer of fish and meat supplying supermarkets and wholesalers, and a major supporter of the local authority's objective to develop an out-of-town supermarket and shopping centre.

Michael submitted an appeal to the local authority and was told to appear with other appellants before an appeals committee the next day. In accordance with instructions, Michael submitted a written statement of his appeal, including the reasons why he considered himself a suitable candidate for membership of the local growers' association. At the appeal hearing, Michael was told that his wife, who had accompanied him as per the instructions he was sent, was not allowed in. The appeal panel consisted of three people. Michael was given two minutes to present his appeal. The questions that the panel asked him convinced Michael that they had not read his written submission.

Three weeks later, Michael was informed that his appeal had been unsuccessful. Michael has now approached the Eco Farmers Group, a local body to which he belongs.

(a) Advise Michael whether there are sufficient grounds on which he can make a claim for judicial review regarding his application and appeal and Andrea's appointment, as well as the likelihood of his success.

(15 marks)

(b) Outline the procedural issues that Michael will face in making a claim for judicial review, including an analysis of whether the Eco Farmers Group can make the claim on his behalf and on behalf of other local growers.

(10 marks)

(Total: 25 marks)

Question 3

'Save The Orangutans' (a fictitious group) was established in 2014 to protest against the practice of keeping orangutans in cages in zoos, and to urge members of the public to boycott zoos that keep orangutans in cages.

The group were planning a procession through London. They intended to distribute leaflets and talk to members of the public. There would also be pickets outside zoos in three different locations throughout England and Wales. Participants at the pickets would encourage members of the public not to go into the zoo and would ask them to sign petitions.

The police in London feared that the procession might result in public disorder. They told the organisers that the procession would have to take a route that avoided areas in the centre of London, as well as other congested shopping areas. However, the organisers were unhappy with the specified route as it would have gone through business districts where it was unlikely to draw much interest. The organisers decided to go ahead with their original plan, and the procession took place in the centre of London.

Sam was one of the organisers of the London procession. He was approached by the police at the scene and was asked to move the procession away from a small public park, where there were many parents with small children playing. At that point, the procession had an estimated 400 participants and, before Sam could act, they had entered the park. The police saw an opportunity, while the procession was confined in the park, to bring the demonstration to an end, and they formed a cordon around the park. No one was allowed to leave the park, and Sam saw many distraught children. However, it was difficult to distinguish parents from the procession participants. The participants had posters and leaflets with disturbing photographs of injured and diseased orangutans. Sam and several other participants were arrested by the police, but Sam was not sure on what grounds he had been arrested.

While this was happening, a coach with 150 people was making its way towards the London Zoo. The passengers included a large number of children who belonged to the Youth Wildlife Protection Group (a fictitious group), along with their parents and some teachers. The coach was stopped by the police who, after a short search of the coach, directed the driver to turn the coach round and return it to where it came from. When challenged by some of the passengers, the police officer had answered that their presence might have created a breach of the peace.

Assess the legality of the police actions in this scenario.

(25 marks)

Turn over

Question 4

In an effort to protect children from the potential harms of social media, the Minister for Children, Andrea, proposed the (fictitious) Protection of Children at School Bill ('the Bill'). The Bill was then discussed in the Cabinet prior to being presented to Parliament. Some of Andrea's colleagues are concerned that Parliament will reject the Bill, because it imposes strict controls on the use of social media by children and potentially raises issues of human rights. Andrea thinks that there is sufficient support in Parliament to pass the Bill.

- (a) Advise Andrea whether it is possible to present the Bill to Parliament regardless of her colleagues' concerns about human rights issues and explain the constitutional consequences of doing so.

(10 marks)

The (fictitious) Protection of Children at School Act 2018 ('the Act') is eventually enacted by Parliament. S.10 of the Act stipulates that social media accounts for children can only be set up by the school that a child is attending. Schools in England and Wales are authorised to make decisions as to whether a child should, or should not, be permitted to set up a social media account. Since the Act was passed, there have been complaints from many parents, who feel that such decisions should lie with them and not the schools.

Amy and Ben have a daughter named Charlie, aged 13, who attends her local state comprehensive high school. Charlie made a request to her school to authorise and set up a social media account, and this was accepted by the school. The school said its decision was lawful under s.10 of the Act. Amy and Ben are very upset about this; they say that the school is in breach of their 'human rights' as parents.

- (b) Explain to Amy and Ben how the Human Rights Act 1998 is relevant to their argument, should the matter go to court.

(15 marks)

(Total: 25 marks)

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