



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**

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

1. 'The classic conception of separation [of powers] requires an independent judiciary. An independent judiciary is viewed as the guardian of individual liberty and the rule of law.'

(Lisa Webley and Harriet Samuels, *Complete Public Law: Text, Cases, and Materials*, 4th edn, Oxford University Press, 2018, para. 5.4.1)

Evaluate the above statement, analysing the relationship between the judiciary and the other branches of the government in the UK and analysing the extent to which the judiciary 'is viewed as the guardian of individual liberty and the rule of law'.

(25 marks)

2. (a) Explain the extent to which the UK Parliament has devolved power to Scotland.

(10 marks)

- (b) Analyse the impact of the devolution of powers to Scotland on parliamentary sovereignty.

(15 marks)

(Total: 25 marks)

3. Analyse whether the law on defamation places excessive restrictions on the freedom of the press.

(25 marks)

4. Analyse how the courts use the principle of proportionality and irrationality in judicial review proceedings and, in particular, when considering claims based on breaches of Convention rights (as defined in the Human Rights Act 1998).

(25 marks)

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

Question 1

Tuesday 9 June 2020 11 am: During a robbery at a branch of Rhodes Bank in Mosstown, a cashier was wounded by a shot fired by the robber. From the descriptions of the robber, the police suspected he was Peter McLeish, who had a previous conviction for armed robbery. Witnesses also reported that the robber had sustained a leg injury during the robbery. Inspector Otieno instructed all police officers in Mosstown to arrest Peter on suspicion of armed robbery.

Tuesday 9 June 2020 4.30 pm: PC Wright saw Peter, who was limping, entering a block of flats and followed him to his flat. Peter slammed the door of the flat in PC Wright's face. PC Wright told Peter that he was investigating an armed robbery and asked Peter to open the door. Peter swore at PC Wright and refused him entry. PC Wright then broke the door down and entered the flat.

PC Wright then told Peter that he was under arrest. Peter asked, 'What for?' and PC Wright replied, 'Because you're a dangerous villain'. PC Wright then called for a car and Peter was taken to Mosstown police station.

Tuesday 9 June 2020 5 pm: The custody sergeant, Sergeant Lloyd, told Peter that he was under arrest for armed robbery and told him he would be detained, as this was necessary to secure or preserve evidence relating to the robbery at Rhodes Bank. Peter asked to see a solicitor, but Sergeant Lloyd told him that Superintendent Shore had given written authorisation delaying Peter's right to see a solicitor for 36 hours, to prevent Peter from tipping off any potential accomplices.

Meanwhile, PC Frost went to Peter's flat and searched it, to see if she could find the revolver used in the armed robbery, as the police had received a phone call from a person saying they had seen a man carrying a gun in the vicinity of Peter's flat earlier that day. While looking for the revolver, PC Frost discovered a large amount of jewellery, which matched the description of jewellery that had been stolen from a local jewellers. She then took the jewellery to the police station.

Peter was left in his cell and given some food and water.

Thursday 11 June 2020 4 am: Inspector Otieno charged Peter with armed robbery and theft.

Assume that nothing further of legal significance occurred.

Advise Peter whether the action taken by the police was lawful.

(25 marks)

Question 2

Damian West is a student and a leader of 'Fees Must Fall!' ('FMF'), a group which campaigns for the abolition of university tuition fees. Two days after the government announced a significant increase in university tuition fees, Damian organised a march from the FMF's headquarters at a central London college along major roads to the Department for Education ('DfE'). He gave notice of the date, time and route of the march to the police the day before it took place.

The Metropolitan Police Commissioner was concerned about disruption along the route, as this had occurred during previous marches by FMF. She therefore made an order re-routing the march along the back streets, to minimise any disruption.

On the day of the march, Damian led the group along the original route and they then stood chanting for a few minutes outside the DfE. Although most of the protestors then dispersed, a small group of about 20 remained outside the DfE. Isabel, a well-known MP and vociferous opponent of FMF, walked past on her way to the House of Commons. As she did so, Damian and most of the other protestors chanted, 'Smash her face in! Smash her face in! We're going to smash your face in, wicked witch!' When Isabel heard the chanting, she made a rude gesture at them, shrugged her shoulders and carried on walking past them.

(a) Advise Damian whether he has committed any criminal offences.

(12 marks)

Now assume that Damian was lawfully arrested at the protest and charged with offences in relation to his conduct set out above. His trial before a jury is due to take place at the Inner London Crown Court in three weeks' time. Yesterday, the following editorial appeared in the print and online editions of The Argus, a national newspaper.

Reality Check Needed!

Today's students have never had it so good. Many more than ever before are able to attend university and obtain degrees so they can pursue prosperous careers. Yet some want to ruin it all and waste taxpayers' money on policing their ridiculous demonstrations. The courts should deal harshly with any demonstrators caught breaking the law, such as that student leader and rabble-rouser Damian West. Let's hope the jury does its job!

(b) Advise The Argus whether, by publishing this article, it has committed contempt under the Contempt of Court Act 1981 or the common law.

(13 marks)
(Total: 25 marks)

Turn over

Question 3

In order to encourage regeneration of town and city centres, Parliament passed the Urban Centres (Regeneration) Act 2019 ('the Act') [fictitious]. Under the Act, local authorities are given power to grant or refuse planning permission for retail and leisure developments in city centres under a new 'fast-track' procedure.

Section 14 of the Act also provides that any decision of a local authority, 'including decisions as to whether they have jurisdiction' relating to the grant or refusal of a licence 'shall not be questioned in any legal proceedings whatsoever'.

- Alquist Developments plc ('Alquist') applied for planning permission for a new retail development in the centre of Cradock. Four months ago, Alquist received a letter from Cradock City Council addressed to Alquist's chief executive, Lydia, refusing planning permission. The letter was only opened last week, as Lydia had been away from work for five months after being injured in a car accident. The letter stated:

'We have been directed by the Foreign Affairs Committee of the House of Commons to refuse planning permission for your development, to discourage trade links with the [fictitious] Republic of Sangala due to the human rights abuses in that country.'

Alquist imports some of its building materials from Sangala, the government of which has been criticised by the United Nations for imprisoning hundreds of opposition politicians.

- Support our Centres ('SOC') is a nationwide pressure group in the UK, working to ensure that all towns and cities have vibrant centres.

SOC is upset, as it has just discovered that Brackenfell City Council granted planning permission last week, using the 'fast-track' procedure, to McGill Properties plc ('McGill') for a retail development on the outskirts of Brackenfell.

SOC has also discovered that the son of the chair of Brackenfell City Council's planning committee is the Chief Executive Officer of McGill.

Advise Alquist and SOC whether each may make a claim for judicial review and, if so, the grounds they would rely on and any remedies they would seek.

(25 marks)

Question 4

Emily Kirkman is a prominent campaigner against gambling and has frequently called for the closure of casinos and online gambling websites.

Last week, the following article appeared in the Daily Globe ('the Globe'), a national newspaper.

Emily's Excruciating Escapade!

Emily Kirkman has for many years campaigned against what she calls 'the evils of gambling'. Six months ago, she announced that she was dropping out of active campaigning due to 'ill-health'. The Globe can now exclusively reveal the nature of that 'ill-health'. Emily is herself a gambler! Acting on a tip-off, Globe photographer Zaf Younis took a trip to Emily's home town of Shrewsbury and took this snap of Emily emerging from a Gamblers Anonymous meeting. Yes, look carefully, it really is Emily. Your secret is out, Emily!

The article was accompanied by a photo of Emily emerging from a non-descript building, wearing dark glasses and with a baseball cap pulled low over her forehead.

Emily now intends to bring proceedings against the Globe for breach of her right to privacy.

Explain the basis on which Emily may bring her claim and the basis on which the Globe may seek to defend it.

(25 marks)

End of Examination Paper

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