

28 January 2022  
Level 6  
CRIMINAL LITIGATION  
Subject Code L6-18

## 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.**

## Question 1

Reference: Question relates to **CASE ONE – KARL LOVELL** of the case study materials.

- (a) Advise Karl Lovell in relation to the proposed VIPER procedure, including your role, the implications of the exercise and of any choices he may have.

**(7 marks)**

Following the completion of the VIPER procedure, Karl Lovell is picked out by one of the three witnesses. The police now wish to interview Karl Lovell in relation to the allegations against him. Karl Lovell's DNA, together with that of at least two other males, has been found on the handle of a knife recovered at the scene of the alleged offence. Karl Lovell tells you that he was ordered by a senior gang member to take the knife to the scene of the ambush, but he is not prepared to say anything that might implicate any other gang member.

- (b) Explain to Karl Lovell how the interview will be conducted.

**(6 marks)**

- (c) Advise Karl Lovell of his options in responding to police questions and the implications of each option.

**(6 marks)**

Following the interview and the completion of other enquiries in relation to other alleged offenders, Karl Lovell is charged with an offence of wounding with intent contrary to s.18 Offences Against the Person Act and an offence of possession of a bladed article in public. Another member of the gang, aged 19, is also charged with possession of the same article. No other charges are preferred at this stage. Karl Lovell is bailed to appear at court.

- (d) Explain the court, or courts, in which Karl Lovell will make his initial appearance, will be tried if he maintains a plea of not guilty, and will be sentenced if he pleads or is found guilty.

**(9 marks)**

**(Total: 28 marks)**

## Question 2

Reference: Question relates to **CASE TWO – JOE CLARKE** and to **DOCUMENTS 1 and 2** of the case study materials.

Joe Clarke continues to deny any involvement and maintains his plea of not guilty to both charges. Initial Details of the Prosecution Case have been served.

- (a) Explain the nature of the initial appearance before the court, the criteria on which the court will make its decision and the factors which should influence Joe Clarke in the exercise of any option he may have.

**(9 marks)**

In the event, the case is to proceed in the Crown Court. A date is set for the Plea and Case Management Hearing. Joe Clarke is granted conditional bail but fails to appear for this hearing. A warrant, not backed for bail, is issued for his arrest. He subsequently telephones to explain that he sustained a head injury at work the previous day and was kept in hospital for observation in relation to potential brain damage.

- (b) Explain the legal consequences of failing to appear before the Crown Court and the actions which should be taken by Joe Clarke to mitigate the position.

**(6 marks)**

You attempt to contact Kate Ehiogu to obtain a witness statement. You ascertain that she is currently employed as a chambermaid on a cruise liner, the Jacaranda Princess, and is not due to return to the United Kingdom until well after the anticipated trial date. You speak to her by satellite phone, and she confirms that she spent 23 November with Joe Clarke, although there was a period of about 50 minutes in the late afternoon when he said he had things to do and left her alone. She thinks this was between 16.30pm and 17.30pm. She confirms her date of birth as 23 June 1998.

- (c) Explain how Kate Ehiogu's evidence can be put before the court

**(7 marks)**

Joe Clarke informs you that, while he was originally unwilling to identify the friend who he says was the owner of the cash found in his flat and gave him the motorbike, since he was concerned that he might be exposing him to investigation and prosecution, he has spoken to this person, who he names as Dominic Price, and Dominic Price is willing to give a witness statement. You make an appointment to see Dominic Price, but the account he gives of events is inconsistent and unconvincing. Eventually you ask him whether he is telling you the truth, and he admits that Joe Clarke asked him to make a statement, although he was not involved with the cash or the motorbike and was simply trying to help out a friend.

- (d) Explain what action you should take in light of this development.

**(5 marks)**

**(Total: 27 marks)**

**Turn over**

### Question 3

Reference: Question relates to **CASE TWO – JOE CLARKE** and to **DOCUMENTS 1 and 2** of the case study materials.

(a) Draft the defence statement.

**(8 marks)**

Kevin Jones has now pleaded guilty and has been sentenced for his part in the robbery. The prosecution has served on you a statement by Kevin Jones, in which he asserts that the robbery was planned by himself, Joe Clarke, and another man who was subsequently killed in a road traffic accident. Joe Clarke's role was to dispose of the proceeds after they had been transferred to him, so that the actual robbers would not be in possession of anything suspicious. Joe Clarke reasserts to you that he was not involved in the planning or commission of the offence and reminds you that Kevin Jones and he have a history of animosity. He suggests that Kevin Jones is seeking to implicate him in order to protect the real perpetrator.

(b) Explain the issues of law, evidence and procedure that will need to be resolved at trial and how you would anticipate that defence counsel will deal with these in the interests of Joe Clarke.

**(14 marks)**

**(Total: 22 marks)**

#### Question 4

Reference: Question relates to **CASE THREE – MARLA BRATHWAITE** of the case study materials.

(a) Explain the procedure for applying for a representation order for Marla Brathwaite and the criteria that will be utilised to determine the application.

**(5 marks)**

(b) Explain the legal criteria that will be applied when considering whether Marla Brathwaite acted in self-defence.

**(6 marks)**

Marla Brathwaite is convicted of the offence of assault occasioning actual bodily harm to Emma Sanderson. Sentencing is adjourned for the production of a pre-sentence report. This report indicates that Marla Brathwaite has had anger management issues in the past and would benefit from specific interventions in this respect. The Royal Navy has indicated that Marla Brathwaite will not be considered for entry for a period of five years as a result of the conviction. Marla Brathwaite is currently still unemployed and is in receipt of Universal Credit. She has been providing significant care to her mother, who suffers from Multiple Sclerosis and requires a high level of support. The report confirms that Marla appears to show genuine remorse in relation to the offence and is assessed as being at a low risk of reoffending.

(c) Outline the points that you would make in a plea in mitigation on behalf of Marla Brathwaite.

**(7 marks)**

In their reasons for finding the case proved, the magistrates use language which strongly suggests that they have misunderstood the correct legal test for self-defence. You consider that there are legitimate grounds for an appeal against conviction. However, the sentence they have imposed is, in your opinion, significantly more lenient than might be expected.

(d) Advise Marla Brathwaite on the procedure for appeal, on the powers of the appellate court and of any considerations that she should take into account when considering whether to appeal.

**(5 marks)**

**(Total: 23 marks)**

**End of Examination Paper**