

## CASE STUDY MATERIALS

January 2017  
Level 6  
CRIMINAL LITIGATION  
Subject Code L6-18



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 18 – CRIMINAL LITIGATION\*

### CASE STUDY MATERIALS

#### Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

#### Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or text books except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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\* 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**

## **CASE STUDY MATERIALS**

### **ADVANCE INSTRUCTIONS TO CANDIDATES**

You are a trainee lawyer at Kempstons LLP and you work in the criminal litigation department. The firm has a standard 2010 Criminal Legal Aid Contract and participates in several Duty Solicitor Schemes. Among the cases which you are currently handling are the following:

#### **CASE ONE – RAMON DELAP**

This client, aged 35, has recently been arrested on suspicion of criminal damage. Bank premises in Luton have been targeted. The damage includes broken windows and obscene graffiti which indicates that the perpetrator believes that the banks have stolen money from him and are generally acting dishonestly.

Kempstons has been contacted as own solicitor via the Duty Solicitor Call Centre. Ramon Delap has a history of mental health issues and has been treated both as an inpatient and an outpatient at local psychiatric hospitals. Your notes of the information given by the police form **DOCUMENT 1**.

#### **CASE TWO – JAMES SWIFT**

This client, aged 27, has been charged, jointly with David Lee (for whom Kempstons does not act) with a total of five offences of dwelling house burglary. He is on conditional bail and is due to make his first appearance at Luton magistrates' court tomorrow. The prosecution advanced disclosure is summarised as **DOCUMENT 2**. The client gave a 'no comment' interview but submitted a written statement, and this is reproduced as **DOCUMENT 3**. The client has no previous convictions.

#### **CASE THREE – GEMMA JONES**

This client, aged 22, has been charged with theft of a gold bracelet which is valued at £400, and is the property of her grandmother. The client accepts that she did take the bracelet and sold it to a jeweller in order to obtain money to buy drugs.

However, she asserts that she had her grandmother's permission and therefore denies theft. The bracelet is of particular sentimental value to the grandmother, as it is her only memento of her first fiancé, who was killed serving with the British forces in the Suez crisis.

The client is on unconditional bail and is due to make her first appearance at Luton magistrates' court tomorrow.

#### **CASE FOUR – ENDA BRIGGS**

This client, aged 16, has been charged with one offence of robbery and three offences of theft from the person, each involving a top-of-the-range smart phone with the total value of the stolen property being £1,750. The prosecution case is that the client is the leader of a group of youths of the same age or slightly younger who were involved in these offences. The count of robbery arises from an incident when one member of the group (it is not alleged that it was Enda) pushed what is described as a small kitchen knife against the midriff of the victim, when he initially refused to hand over his phone.

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The victims in relation to the theft counts were verbally threatened and intimidated by the presence of a number of perpetrators, but no actual violence was used, and there is no suggestion of weapons being carried or used. The offences took place late in the evening in a secluded area between a bus stop and the housing estate which it serves. None of the property has been recovered.

The offences occurred approximately 12 months ago, but it has only recently come to light who the offenders are. The client is being looked after by the local authority. At the time of the offences, he had been placed with foster parents but the relationship with them was breaking up due to what was described as 'aggressive and unpredictable behaviour by Enda, including verbal and physical threats to his foster mother and one of her children, and a serious deterioration in school attendance and performance'. He was removed from this placement nine months ago and spent three months in residential care.

Since then, he has been placed with alternative foster parents and is now making much better progress both at home and at school. He has previously been the subject of a Youth Referral Order in relation to an assault on a fellow pupil at school some two years ago, but has no other findings of guilt.

The client is due to make his first appearance at Luton Youth Court in a few days' time.

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**DOCUMENT 1**

Police have been investigating a total of eight incidents of criminal damage at various banks in Luton. There is a pattern, in that on each occasion obscene graffiti has been spray-painted on the bank frontage with various allegations of theft and dishonesty on the part of the banks. In most cases, windows have also been damaged due to stones being thrown at them. All of the incidents took place at night. There is no eyewitness evidence but there is CCTV coverage, and recognisable images have been recovered in relation to three of the incidents.

Suspicion fell on Delap after the banks were asked to disclose whether they had received any complaints originating in the Luton area by customers or others. Two banks produced correspondence allegedly from Delap in which he made various extravagant allegations that the banks had misappropriated substantial sums of money, in one case from his bank account and in another case from his late mother's account. In both cases, the bank has no evidence that either Delap or his mother ever had any account with them. The complaints are rambling and inconsequential.

**DOCUMENT 2**

There are five charges each of burglary on five different dates in relation to five separate residential properties. In all of the cases, the burglaries took place while the residents were away on holiday, and in each case the intruder alarm system was neutralised. There are statements from all of the owners detailing the property stolen. In each case, this comprises watches, jewellery and other valuables. The total value in respect of all of the burglaries is £50,000.

There is a statement from the officer in the case, who states that his enquiries show that all of the properties had an alarm system, linked to a central control point, which was installed by Olton Alarms. There is also a statement from the managing director of Olton Alarms, confirming that in each case the alarm system was installed by David Lee, who worked as an alarm installer for the company prior to being dismissed for poor timekeeping in September 2016.

There are a number of further statements from members of the public who noticed a car parked at two of the burgled properties at about the time of the offences. From the registration number given, the car has been traced and the registered keeper is Marina Swift. She has informed the police that she is currently working in Germany and left the car in the custody of her nephew, James Swift.

There is a further statement from the cashier at a petrol filling station close to the scene of a third burglary who recalls serving the driver and passenger of the same car. She has given a full description, and in a VIPER identification procedure picked out David Lee but not James Swift.

James Swift's fingerprints have been found in the car in and around the driver's seat, and David Lee's fingerprints have been found, but only around the nearside passenger seat.

James Swift has recently purchased a new car with £20,000 cash, although he is understood to be unemployed and in receipt of income-based Jobseeker's Allowance.

**Turn over**

**DOCUMENT 3**

I deny any involvement with the offences of burglary which have been put to me. I agree that my aunt Marina Swift asked me to look after her car while she was working abroad. She agreed that I could use the car and I did so from time to time before I bought my own car a month or two ago.

I do know David Lee. We were at school together, and since then we have played for the same pub football team. On a number of occasions over the past few months I have allowed David to borrow my aunt's car. He explained that his own car was off the road and he needed transport to get to work. I know he is now working as a self-employed electrician so I was happy to help, once I had checked that he had insurance.

I did not accompany him on any of these journeys and I had no knowledge of exactly where he went. I had no reason to believe that he was using the car for anything other than legitimate reasons. I am currently unemployed and have recently bought a car for £20,000 cash. This money represented gambling winnings. Last summer, when I was still working, I went on holiday to Las Vegas and I won \$50,000 on a slot machine in a casino. This is the money I used to buy the car.

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